CANADA

RENEWED CANADIAN PROPOSALS FOR THE REGULATION OF FISHERIES

711.428/676

The British Ambassador (Geddes) to the Secretary of State

No. 193

Washington, March 16, 1922.

Sir: In your note of October 17th last respecting the so-called Sockeye Salmon Fishery Treaty you were good enough to point out that, since it seemed certain that the treaty in its present form could not receive the approval of the Senate and therefore could not be ratified, the only practicable course appeared to be to withdraw it. You drew my attention to the very strong opposition to this agreement which existed in the West, particularly on the part of the authorities of the State of Washington. In conclusion, you added that in the existing situation you did not feel that you were in a position to suggest any modifications, the adoption of which would make possible the ratification of the treaty.

The substance of your note I immediately communicated to the Canadian Government. On October 30th the latter informed me that the Canadian Marine and Fisheries Department were, in the circumstances, most anxious to see what could be done to save these fisheries by direct cooperation with the Fisheries Board of the State of Washington. There being no other course possible I agreed that an endeavour to save these fisheries should be made on the lines suggested.

This plan was duly adopted and Conferences between the Fisheries Board of the State of Washington and representatives of the Canadian Marine and Fisheries Department took place at Vancouver on the 12th and 13th of December. Unfortunately it was not found possible to reach any agreement. There was not, it appears, any inability on the part of the parties concerned to agree as to the immediate steps which should be taken, but the Washington State Board found itself unable to give any assurance that fishing would be adequately controlled in the future. Both sides were of opinion

\footnote{For previous correspondence concerning the regulation of fisheries, see Foreign Relations, 1921, vol. 1, pp. 258 ff.}

\footnote{Foreign Relations, 1921, vol. 1, p. 294.}
that the conditions were sufficiently serious to justify the stopping of all sockeye fishing in the Fraser River System for at least five years; but the representatives of the Marine and Fisheries Department felt that such a very drastic course should not be taken unless there was some reasonable assurance that, when fishing was resumed, purse-seines—which have proved so destructive—would be eliminated from the waters amongst the islands in the Gulf of Georgia and that trap-nets and gill-nets would be properly regulated.

The wisdom of such provisions can scarcely be doubted. It was not because of any divergence on this point that the conference failed, but because of the inability to give such an assurance as regards the future. The difficulty of so doing is about as great in Canada as in the State of Washington, seeing that Dominion fishery regulations are subject to change by Order-in-Council. Indeed the failure of this conference strongly emphasised the fact that the protection of these fisheries is a matter that can be properly dealt with only by treaty between the two countries.

The course of these negotiations shows clearly that the Provincial authorities of British Columbia are not in a position to deal with this matter by direct negotiations with the authorities of the State of Washington. The failure of a conference at which both sides were in accord as to the measures which should be taken to protect these fisheries would seem clearly to emphasise the necessity for a treaty to deal with this matter and, this being so, it would seem possible that the State of Washington would no longer be disposed to oppose the ratification of the treaty.

I venture therefore to draw your attention again to this question in the hope that you may be disposed to consider the wisdom of presenting the treaty once again to the Senate and I should be grateful if I might be furnished in due course with an expression of your views in regard to this question which, in the light of what I have stated above, appears now to have entered a new phase.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

711.428/053

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, March 28, 1922.

EXCELLENCY: I have the honor to inform you that on June 6, 1921, the Senate of the United States agreed to a resolution requesting the President to negotiate on behalf of the United States a treaty or
treaties for the protection from unnecessary destruction, through wasteful practices, devices and methods of capture, of salmon in the waters of the Pacific Ocean off the coasts of the United States including the Territory of Alaska, and of the Dominion of Canada, beyond the limits of the territorial waters.\(^3\)

The Secretary of Commerce informs this Department that from facts disclosed by the investigation of the Bureau of Fisheries he is led to believe that the regulation of salmon fishing beyond the three-mile limit of the coasts of the United States, Canada and Alaska should be controlled by a treaty, by which the two governments would undertake to prevent the landing of fish taken beyond the three-mile limit and to provide for suitable penalties for attempts to make such landings.

The Secretary of Commerce has brought to the attention of this Department facts which seem to show that cooperative action by the Governments of the United States and Canada for the protection of these deep sea salmon fisheries is desirable.

Fishermen are, by various devices, taking salmon that are distinctly immature. A conservative estimate is that at least 50 per cent of the catch beyond the three-mile limit is of that character. The taking of these immature fish results in great waste. The immature fish which are being taken weigh from five to ten pounds each, while if left until maturity, the weight would run from twenty to twenty-five pounds each. There is also waste resulting from the spoiling of fish, due to the fact that practically all that are taken by trawl or purse seine in the open ocean are feeding, and their stomachs are filled with food. In a comparatively short time after [being] taken from the water, auto-digestion sets in, and the fish soon become soft and take on a disagreeable odor. There is further waste resulting from injury to the fish that are hooked but not landed.

From investigations made, it seems quite certain that salmon do not start for the inland waters until they are mature. Consequently, if fishing of the character indicated is allowed to continue, salmon fishing in the coastal waters will soon be destroyed.

I should be pleased to be informed as to any views which the British Government or the Canadian Government may be disposed to communicate with reference to the conclusion of a treaty with the United States having for its purpose the protection of the salmon fisheries of the Pacific Ocean in waters beyond the three-mile limit off the coasts of the United States, Alaska and Canada.

Accept [etc.]

CHARLES E. HUGHES

\(^3\) *Congressional Record, June 6, 1921, vol. 61, pt. 3, p. 2136.*
The British Ambassador (Geddes) to the Secretary of State

No. 327

WASHINGTON, April 29, 1922.

Sir: With reference to the note which you were so good as to address to me on March 28th in regard to the negotiation of a treaty or treaties for the protection of salmon fisheries beyond the limits of the territorial waters, I have the honour to inform you that I have now received a despatch from the Government of Canada setting forth their views in regard to this matter. The Canadian Government share the view of the United States Government that it is necessary for the proper protection of salmon fisheries that they should be adequately controlled beyond as well as within, territorial waters. Both Governments have already agreed that it is essential that they should join their efforts in preserving and building up the salmon fisheries of the Fraser River System, and with that object a treaty was signed as long ago as the 25th May, 1920. This treaty, however, has not yet been ratified by the Senate of the United States, although the fisheries of that System, which admittedly could be made one of the most important to both countries on the Pacific Coast, are rapidly deteriorating year by year. Further, both countries have agreed on the necessity for joint efforts to saving the halibut fisheries of the Pacific Coast and a treaty to that end has been awaiting signature since October, 1919, Canada having on several occasions in the meantime urged that the treaty should be completed. While, therefore, the Canadian Government are prepared to consider details for a treaty for the protection of salmon in extraterritorial waters, they are of opinion that the even more important treaties for the protection of the Fraser River salmon fisheries and of the Pacific halibut fisheries and for the settlement of other matters should first be completed.

I have [etc.]

A. C. Geddes

The British Ambassador (Geddes) to the Secretary of State

No. 337

WASHINGTON, May 19, 1922.

Sir: With reference to my note No. 223 of March 22nd of the discontinuance of the privileges accorded during the period of the war to Canadian fishing vessels in United States ports, I have the honour to inform you, at the request of the Government of Canada, of the arrangements which they have made in view of the fact that legal authority no longer exists to continue to allow United States fishing vessels privileges conferred by the Order-in-Council of the 8th of March, 1918, under the War Measures Act, which has

*Not printed.
now ceased to be effective. The Government of the Dominion have decided for the present year to make available for United States fishing vessels visiting ports on the Atlantic coast of Canada the licenses contemplated by Chapter 47 of the Revised Statutes of 1906, which are usually known as modus vivendi licenses. In communicating this information to me the Government of Canada have requested that I should again press upon your attention the desirability, not only of ensuring the proper protection of the salmon fisheries of the Pacific Coast, but also the Fraser River salmon fisheries and the Pacific halibut fishery. It is pointed out by the Canadian Department of Marine and Fisheries that the Fraser River salmon fisheries, which should, in the aggregate, be worth in both countries not less than $30,000,000 annually, under existing conditions are not worth one-third of that amount and are annually rapidly nearing the point of commercial exhaustion. The Pacific halibut fishery, the greatest the world has known, is also in an exceedingly serious condition, it being admitted on all sides that it can be saved only by proper international action. The Government of Canada reiterate their previously expressed opinion that the best interests of both the Dominion and the United States of America would be served by the removal, from the list of unsettled questions, of that of the granting of privileges to the fishing vessels of either country in the ports of the other. They again emphasise the desirability that negotiations for the settlement of all outstanding fishery questions between the two countries should be taken up anew at the earliest possible moment.

I venture accordingly again to draw your attention to these matters in the hope that you may be disposed to urge upon the competent authorities of the United States Government the desirability of reopening negotiations with the Government of Canada at the earliest possible date.

I have [etc.]

A. C. Geddes

The British Ambassador (Geddes) to the Acting Secretary of State

No. 667

WASHINGTON, August 29, 1922.

Sir: In my note No. 337 of May 18th [19th], in regard to arrangements being made by the Canadian Government to permit the continuance of certain privileges accorded to United States fishing vessels, I had the honour again to bring to Mr. Hughes' attention the earnest desire of the Canadian Government that negotiations for the settlement of all outstanding fishery questions between the United States and Canada should be taken up anew at the earliest possible moment. This matter continues to be one of grave concern to the
Government of Canada and I now have the honour at their request to bring the following representations to your attention.

The Canadian Government have noted with regret that there appears to be little likelihood that the United States Government will find it possible at an early date to arrange for the signing of the draft treaty concerning port privileges of fishing vessels, protection of halibut fishery, lobster fishing, etc., a copy of which was transmitted to Mr. Lansing with Mr. Lindsay's note No. 815 of November 10th, 1919. It will be remembered that Article VII of that draft treaty provides for the protection of the rapidly declining halibut fishery of the Pacific Coast by the enforcement of a close season by the two countries for halibut fishing from the sixteenth of November in each year to the fifteenth of February following, both days inclusive, for a term of years. It further provides for joint investigation into the life history of the halibut as well as for the appointment of a Joint Commission to supervise such investigations and to recommend such modifications in the close season as the information that would be obtained might indicate to be necessary. The report of the International Fisheries Commission on which this draft was based shows that there was remarkable unanimity of opinion amongst those engaging in the different branches of the fishery on both sides of the line, as to the wisdom of this close season, and the experience of intervening years has served to emphasize the urgent need of it, if this fishery, which is of great value to both countries, is to be saved from commercial exhaustion.

The Canadian Government regrets indeed that the United States Government has not found it possible up to the moment to deal finally with this treaty as a whole. In view, however, of the importance to both countries of affording the halibut fishery proper protection and of the fact that there is apparently no difference of opinion in either country as to the wisdom of steps for such protection being undertaken at once, they are anxious to ascertain whether the United States Government is prepared at an early date to enter into a treaty which will deal with the Pacific halibut fishery alone in the manner contemplated by Article VII of the draft treaty, with the modifications in detail necessitated by dealing with it as a separate issue.

It would be superfluous for me again to emphasize the importance to both countries of an early settlement in regard to this matter and I should accordingly be most grateful if you would be so good as to inform me whether this proposal of the Government of Canada is agreeable to the United States Government.

I have [etc.]

(For the Ambassador)

H. G. Chilton

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, December 14, 1922.

EXCELLENCY: With further reference to your Embassy's note No. 667 of August 29, 1922, I have the honor to inform you that this Government would be glad to conclude with His Majesty's Government a convention which will deal with the Pacific halibut fishery alone in the manner contemplated by Article VII of the draft treaty concerning port privileges of fishing vessels, protection of halibut fishery, lobster fishing and tariff on fresh fish, which was transmitted to this Department with your Embassy's note No. 815 of November 10, 1919.⁶

Using Article VII of the draft prepared in 1919 as a basis, I have caused to be prepared a draft of a convention for the protection of the Pacific halibut fishery, copies of which are enclosed.⁷

The departure of greatest consequence in the enclosed draft from the proposals with regard to the halibut fishery embraced in Article VII of the draft prepared in 1919 is in the provision in Article I which relates to the disposal required to be made of halibut that may be taken during the proposed close season by fishermen engaged in fishing for other species of fish. It appears to this Government that large opportunity for evasion of the prohibition against fishing for halibut during the close season and escape from the penalties which will be prescribed for violations of the prohibition would exist under the provisions which were proposed in the draft of 1919 permitting halibut taken incidentally while fishing for other species of fish during the close season to be retained and landed and to be sold fresh in the port where landed or to be shipped or transported from the port of landing, provided they are first frozen, canned, or cured. In lieu of these provisions the draft which I herewith present provides in Article I that halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited may be used for food for the crew of the vessel by which they are taken and that any portion thereof not so used shall be landed and immediately turned over to officers of the Department of Commerce of the United States or of the Ministry of Marine and Fisheries of the Dominion of Canada, who will be duly authorized to receive and sell them and required to pay the net receipts into the public treasuries. It is believed that this procedure will operate as an efficient deterrent of evasions of the close season because under it the opportunity for

⁷ Not printed.
private profit by the sale of halibut taken during the close season is removed.

In Article III of the draft transmitted herewith provision is made for the appointment of an international fisheries commission of the character which would have been appointed under Article IV of the Convention for the Protection of the Sockeye Salmon of the Fraser River System and which under the provisions of Article VII of the draft treaty concerning port privileges of fishing vessels, protection of halibut fishery, lobster fishing and tariff on fresh fish would have been charged with the supervision of the investigation of the halibut fishery, if those two proposed conventions had been perfected. It is believed that the provisions of Article III of the draft enclosed herewith for the appointment of this commission and the investigation into the life history of the Pacific halibut fishery meet the suggestions which were made in your Embassy’s note No. 667 of August 29, 1922, with reference to the appointment of such a commission and the making of an investigation and in these particulars would carry out the recommendations of the American-Canadian Fisheries Conference, 1918.

By Article I of the enclosed draft, the term after which the close season may be modified or suspended by a special agreement would be three years instead of four as was contemplated by Article VII of the former draft and by Article V the period after which the convention might be terminated on notice by either party would be five instead of fifteen years. It is believed that within the shorter periods the two governments would have available for their consideration the results of the investigations of the joint commission which should aid them in establishing a system of permanent protection of the halibut fishery, and that in general the proposed shorter terms are better adapted to the purposes of a convention dealing with the halibut fishery alone than the longer terms which were accommodated to the conditions concerning port privileges of fishing vessels and other subjects as well as to the halibut fishery.

I should be pleased to be informed of the views of the British and Canadian Governments with reference to the draft which I herewith enclose, and should this draft be acceptable to them to proceed to the signature of the convention at an early date in order that it may, if possible, be submitted to the Senate for its advice and consent to ratification during the present session with a view to establishing the close season in November of next year.

Accept [etc.]

CHARLES E. HUGHES
The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, May 17, 1922.

EXCELLENCY: On January 21, 1920, the Governments of the United States and Canada referred to the International Joint Commission for investigation and report under the terms of Article IX of the Treaty of January 11, 1909, relating to boundary waters, certain questions with respect to the improvement of the St. Lawrence River between Lake Ontario and Montreal for navigation and for the development of water power. The Commission made a report bearing date of December 19, 1921. For convenience I may call attention to the following recommendations which the Commission submitted after setting forth the results of its investigation:

"In harmony with its conclusions as outlined in the foregoing report the commission recommends:

(1) That the Governments of the United States and Canada enter into an arrangement by way of treaty for a scheme of improvement of the St. Lawrence River between Montreal and Lake Ontario.

(2) That the New Welland Ship Canal be embodied in said scheme and treated as a part thereof.

(3) That the proposed works between Montreal and Lake Ontario be based upon the report of the engineering board accompanying this report, but that before any final decision is reached the report of the board, together with such comments, criticisms, and alternative plans as have been filed with the commission be referred back to the board enlarged by other leading members of the engineering profession, to the end that the whole question be given that further and complete study that its magnitude and importance demand, and that after completion the administrative features of the improvement be carried out as set forth in recommendations 7 and 8 hereof.

(4) That there shall be an exhaustive investigation of the extent and character of the damage through flowage involved in the plan of development finally adopted.

(5) That, assuming the adoption of the plans of the engineering board, or of other plans also involving a readjustment of the international boundary, in order to bring each of the power houses on its own side of the boundary, appropriate steps be taken to transfer to one country or the other, as the case may be, the slight acreage of submerged land involved.

(6) That Canada proceed with the works necessary for the completion of said New Welland Ship Canal in accordance with the plans already decided upon by that country.

*For previous correspondence concerning the St. Lawrence waterway, see Foreign Relations, 1920, vol. I, pp. 400 ff.
*See ibid., p. 413 (footnote 26).
**Printed in S. Doc. 114, 67th Cong., 2d sess.
(7) That such ‘navigation works’ as do not lie wholly within one country or are not capable of economic and efficient construction, maintenance, and operation within one country as complete and independent units, be maintained and operated by a board hereinafter called ‘the International Board,’ on which each country shall have equal representation.
(8) That such ‘navigation works’ as lie wholly within one country and are capable of economic and efficient construction, maintenance, and operation as complete and independent units be maintained and operated by the country in which they are located with the right of inspection by the said international board to insure economy and efficiency.
(9) That ‘power works’ be built, installed, and operated by and at the expense of the country in which they are located.
(10) That, except as set forth in recommendation (11), the cost of all ‘navigation works’ be apportioned between the two countries on the basis of the benefits each will receive from the new waterway: Provided, That during the period ending five years after completion of the works—and to be known as the Construction Period—the ratio fixing the amount chargeable to each country shall be determined upon certain known factors, such as the developed resources and foreign and coastwise trade of each country within the territory economically tributary to the proposed waterway, and that that ratio shall be adjusted every five years thereafter and based upon the freight tonnage of each country actually using the waterway during the previous five-year period.
(11) That the cost of ‘navigation works’ for the combined use of navigation and power over and above the cost of works necessary for navigation alone should be apportioned equally between the two countries.”

It will be observed that the Commission recommends that an arrangement be entered into by way of a treaty for a scheme of improvement of the St. Lawrence River between Montreal and Lake Ontario, and that the works contemplated by such arrangement be based upon the report of the Board of Engineers which accompanied the report of the Commission.

The Board of Engineers submitted specific recommendations with regard to the improvement of navigation and the development of water power. The Board’s recommendations and discussions deal with the project in five divisions and comprehend details of construction and estimates of costs thereof. The Board limited itself to the specific investigation entrusted to it with regard to a survey of the St. Lawrence River from Montreal to Lake Ontario. The International Joint Commission has recommended that the New Welland Ship Canal be embodied in and made a part of the project under consideration.

The report of the Joint Commission and the accompanying report of the Board of Engineers have doubtless by this time been considered by the Canadian Government. I am authorized by the President to state that he favors the negotiation of a treaty to be framed
on the basis of the report of the Joint Commission, or such modifications as might be agreed upon, and I should be glad to be informed whether the appropriate British and Canadian authorities are disposed to undertake the negotiation of such a treaty.

Obviously much study would be required to frame a comprehensive agreement to govern the joint operations of the Governments of the United States and Canada with respect to the execution and the financing of the proposed work. Appropriate preliminary studies and investigations could probably be carried on by a joint commission of experts designated by the two Governments and charged with the framing of a projet of a treaty.

I venture further to suggest that, if it should not be deemed desirable to formulate in the first instance a treaty embracing a complete plan for the execution and the financing of the project, it might be practicable to conclude a treaty, pledging the two Governments to undertake the execution of the project on the basis of the recommendations submitted by the International Joint Commission, or such modifications as may be agreed upon, and making provision for a joint commission charged with the duty of formulating such a complete plan, which should be subject to the approval of the two Governments prior to the beginning of the work of construction.

I should be glad if you would take the necessary steps to obtain and communicate to me the views of the appropriate British or Canadian authorities with respect to the foregoing suggestions.

Accept [etc.]

CHARLES E. HUGHES

711.42157 Sa 20/106

The British Ambassador (Geddes) to the Secretary of State

No. 481 WASHINGTON, June 3, 1922.

Sir: With further reference to the note you were so good as to address to me on May 17th, in regard to the St. Lawrence River Improvement Scheme, I have the honour, at the request of the Government of Canada, to inform you of the substance of an approved Minute of the Privy Council for Canada respecting this matter. The competent authorities of the Canadian Government have advised the Governor General that they have not, up to the present, had an opportunity to give to the report of the International Joint Commission, and the accompanying report of the Board of Engineers appointed to examine the subject, that careful consideration which their importance merits. Moreover, having regard to the magnitude of the project and the large outlay of public money involved, the Canadian Government is of opinion that it is not considered expedient to deal with this matter at the present time.

I have [etc.]

A. C. GEDDES

11 The British Embassy had informed the Department by telephone May 31 of the contents of this note.