

1908.*

AGREEMENT EFFECTED BY EXCHANGE OF NOTES CONCERNING
NEWFOUNDLAND FISHERIES.

Signed at London, July 15-23, 1908.

The British foreign office to the American Ambassador.

FOREIGN OFFICE, *July 15, 1908.*

YOUR EXCELLENCY, On the 18th ultimo Your Excellency proposed on behalf of the United States Government that, as arbitration in regard to the Newfoundland fisheries question could not be arranged before the forthcoming fishery season, the "modus vivendi" of last year should be renewed with the same elasticity as before for the parties concerned to make local arrangements satisfactory to both sides.

I have the honor to inform Your Excellency that the Newfoundland government, having been consulted on the subject, have expressed the desire that the herring fishery during the ensuing season should be commenced on the same principles as in the season of 1907, and formally undertake to permit during this year the conduct of the herring fishery as last year.

As the arrangements for last year were admittedly satisfactory to all concerned in the fishing, His Majesty's Government hope that the United States Government will see their way to accept this formal assurance on the part of the Newfoundland government as a satisfactory arrangement for the season of 1908. If this course be adopted it would seem unnecessary to enter into any further formal arrangements, seeing that the communication of this assurance to the United States Government and its acceptance by them would be tantamount to a modus vivendi.

I have the honor to be, with the highest consideration, your excellency's most obedient, humble servant,

FOR SIR EDWARD GREY,
LOUIS MALLET.

His excellency the Honorable Whitelaw Reid, etc., etc., etc.

The American ambassador to the British foreign office.

AMERICAN EMBASSY, *London, July 23, 1908.*

SIR, The reply, in your letter of July 15, 1908, to my proposal of June 18th, for a renewal of last year's modus vivendi for the ap-

* See modus vivendi 1909, p. 844.

proaching Newfoundland fisheries season, with the same elasticity as before for local arrangements, has been duly considered.

I am gratified to learn that the Newfoundland Government was so well satisfied with the result of these arrangements under the *modus vivendi* for last year that it offers a formal undertaking that the American fishermen shall be permitted to conduct the herring fisheries this year in the same way.

It is proper to observe that our fishermen would have preferred last year, and would prefer now to work the fisheries with purse seines, as heretofore, as provided in the *modus vivendi*. But they yielded last year to the strong wishes of the Newfoundland Government in this matter, and joined in the arrangement under the elastic clause at the close of the *modus vivendi* by which, with the approval of the British and American Governments, they gave up the use of purse seines in return for certain concessions. I must reserve their right to this use, as heretofore enjoyed, as not now abandoned, and therefore to be duly considered in the pending arbitration before the Hague Tribunal.

But with this reservation and with the approval of my Government, I now have pleasure in accepting the offer that the herring fishery during the ensuing season shall be conducted on the same principles as in the season of 1907, and the formal undertaking against interference with this by the Newfoundland Government, as a substantial agreement on my proposal of June 18th.

We unite also with you in regarding this exchange of letters as constituting in itself a satisfactory agreement for the season of 1908, without the necessity for any further formal correspondence.

I am glad to add that Mr. Alexander of the United States Fish Commission, will be sent again this year to the treaty shore, and that my Government feels sure that, through his influence, there will be general willingness to carry out the spirit of the understanding, and work on the lines of least resistance.

I have the honor to be, with the highest consideration, Sir, your most obedient humble servant,

WHITELAW REID.

The right honorable Sir EDWARD GREY, Bart., etc., etc., etc.

[MODUS VIVENDI BETWEEN THE UNITED STATES AND GREAT BRITAIN
IN REGARD TO INSHORE FISHERIES ON THE TREATY COAST OF NEW-
FOUNDLAND.^a

AGREEMENT EFFECTED BY EXCHANGE OF NOTES AT LONDON SEPTEMBER 4-6, 1907.

The American ambassador to the British foreign office.

AMERICAN EMBASSY, London, September 4, 1907.

SIR: I am authorized by my Government to ratify a *Modus Vivendi* in regard to the Newfoundland fishery question, as follows:

It is agreed that the fisheries shall be carried on during the present year substantially as they were actually carried on for the most of the time by mutual agreement, under the *Modus Vivendi* of 1906.

^a Reprinted in State Department print of *modus vivendi*, 1908.

(1) It is understood that His Majesty's Government will not bring into force the Newfoundland foreign fishing vessels act of 1906, which imposes on American fishing vessels certain restrictions in addition to those imposed by the act of 1905, and also that the provisions of the first part of Section One of the act of 1905, as to boarding and bringing into port, and also the whole of Section three of the same act, will not be regarded as applying to American fishing vessels.

(2) In consideration of the fact that the shipment of Newfoundlanders by American fishermen outside the three-mile limit is not to be made the basis of interference or to be penalized, my Government waives the use of purse seines by American fishermen during the term governed by this agreement, and also waives the right to fish on Sundays.

(3) It is understood that American fishing vessels will make their shipment of Newfoundlanders, as fishermen, sufficiently far from the exact three-mile limit to avoid reasonable doubt.

(4) It is further understood that American fishermen will pay light dues when not deprived of their rights to fish, and will comply with the provisions of the colonial customs law as to reporting at a custom house when physically possible to do so.

I need not add that my Government is most anxious that the provisions of this *Modus Vivendi* should be made effective at the earliest possible moment, and that, in view of this, and of the actual presence of our fishing fleet on the treaty shore, we do not feel that an exchange of ratifications should be longer delayed. But my Government has every desire to make the arrangement, pending arbitration, as agreeable as possible to the Newfoundland authorities consistent with the due safeguarding of treaty rights which we have enjoyed for nearly a century. If, therefore, the proposals you have recently shown me from the Premier of Newfoundland or any other changes in the above *Modus Vivendi* should be proposed by mutual agreement between the Newfoundland authorities and our fishermen, having due regard to the losses that might be incurred by a change of plans so long after preparations for the season's fishing had been made and the voyage begun, my Government will be ready to consider such changes with you in the most friendly spirit, and if found not to compromise our rights, to unite with you in ratifying them at once.

I am glad to be assured by you that this note will be considered as sufficient ratification of the *Modus Vivendi* on the part of my Government.

I have the honor to be, with the highest consideration, Sir, Your most obedient humble servant,

WHITELAW REID.

The Right Honorable Sir EDWARD GREY, Baronet, &c &c &c

The British Foreign Office to the American Ambassador.

FOREIGN OFFICE, September 6th, 1907.

YOUR EXCELLENCY. I have the honour to acknowledge the receipt of Your Excellency's note of the 4th instant, containing the terms of the *Modus Vivendi* with regard to the Newfoundland fisheries,—which you are authorized by your Government to ratify.

I am glad to assure your Excellency that His Majesty's Government agrees to the terms of the *Modus Vivendi* and that your Excellency's note will be considered by His Majesty's Government as a sufficient ratification of that arrangement on the part of His Majesty's Government.

His Majesty's Government fully shares the desire of your Government that the provisions of the *Modus Vivendi* should be made effective at the earliest possible moment, and the necessary steps will be taken by His Majesty's Government to secure its observance.

His Majesty's Government takes note of the conciliatory offer of the United States Government to consider in a most friendly spirit any changes in the *Modus Vivendi* which may be agreed upon locally between the Newfoundland authorities and the United States fishermen and which may be acceptable both to the United States Government and to His Majesty's Government.

I have the honour to be, with the highest consideration, Your Excellency's most obedient humble servant,

E. GREY].

His excellency The Honorable WHITELAW REID, &c &c &c