

The Canadian-American Contest for the Great Lakes Fish Harvest, 1872-1914

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Neglected in the history of the Canadian-American experience on Great Lakes waters, the acerbic and at times violent interaction between American commercial fishers and defenders of Canadian fish resources deserves attention. As tenders of the nets competed for the rich harvests of the Inland Seas, friction, minor incidents, and bad feelings developed notably after 1870, escalated during the late nineteenth century, and reached a climax in the first decade of the twentieth. This paper proposes to explain the reasons for and nature of that conflict and to depict some of the major and minor episodes arising from the clash of nationals. Finally it illustrates how and why the Canadians and Americans tried and failed in their efforts to establish international cooperation designed to minimize frictions and to preserve the marine resource.

The rise and climax of the Canadian-American contest for the Great Lakes catch paralleled the changing economic fortunes of the commercial fishing industry. Production escalated from 39.3 million pounds in 1872 to 80 million in 1880 to 146 million in 1889. In the nineties production slackened, attained the 146 million mark in 1899 and then totals again sagged until the First World War years.¹ The great tensions between American and Canadian fishers on Lake Erie came following the marked decline in yields for the lakes as a whole in the early 1890s and the severe depression beginning in 1893. Again tensions flared in the first decade of the twentieth century when harvests of whitefish and sturgeon continued to show a fluctuating downward movement in Erie's American waters while its Canadian waters showed an increase in whitefish yields. Simultaneously, a more vigorous economy and a decline in the total catch of Great Lakes whitefish combined to produce higher prices for this

¹ Margaret Beattie Bogue, *Fishing the Great Lakes: An Environmental History, 1783-1933* (Madison, Wisconsin, 2000), 48, 257; Norman S. Baldwin, Robert W. Saalfeld, Margaret A. Ross, and Howard J. Buettner, *Commercial Fish Production in the Great Lakes, 1867-1977*. Technical Report no. 3 (Ann Arbor, Michigan, 1979), 186.

prize catch putting more and more pressure on the resource.²

Before the 1870s the issue of American Great Lakes fishermen casting their nets in Canadian waters apparently created little concern. They had done so for decades, and American merchant entrepreneurs, especially those based in Detroit dealt in fish harvested in Georgian Bay, and Lakes Huron, St. Clair, and Erie in the mid 1830s. Detroit served as the principal market for salted Great Lakes fish where Canadians and Americans alike brought their catch.³ Commercial fishing before 1850, given its small volume and the harvesting technology of the day posed no threat to the bountiful fish population. Limited market demand, vast waters, lightly populated areas adjacent to the lakes, and the problems of transporting the catch to distant population centers combined to dispel territorial concerns about who was fishing in whose waters.

At mid century those circumstances were about to change. As population increased markedly around the shores of Lakes Ontario, Erie, and Michigan and as railroads penetrated the region, fanned out in all directions, and provided access to ever larger markets, the Great Lakes fishing industry grew. From the experimental large scale commercial operations of the 1830s it had evolved into a sizeable business by 1872. That is the first year when both the Canadian and American governments reported production figures. These showed a combined total catch of 39,330,000 pounds valued \$1,819,849. Canadian authorities cited a harvest of 7,080,000 pounds and the Americans roughly 32,000,000 pounds. These figures underestimate the size of the catch taken in both American and Canadian waters. U.S. fishermen operated across the boundary and American buyers dealt directly with Canadian fishers who failed to report their total catch to Dominion overseers. United States authorities believed that the data they recorded for 1872 were probably 25 per cent below the actual catch from their waters.¹ In that year for the first time due to the work of James Milner, a biologist working for the U.S. Commission of Fisheries, the size and character of the American Great Lakes fishing industry became a matter of record. His findings show the nature of the explosive growth in the American industry after 1860 which is significant to note because it contributed greatly to the clash of national interests over the fisheries. Milner's report, based on collection of written records, correspondence, and extensive field work around the lakes, revealed a well organized and developing industry of a size unimaginable to Great Lakes fishermen at mid century. The prosperity years of the 1850s, the stimulus of Civil War demands, and the spread of population and railroads had created a veritable revolution.

Over and above the data on production and value, Milner described an American industry organized by hustling entrepreneurs large and small wherein dealers who in general processed and marketed the catch, but who also engaged in fishing operations, occupied positions of influence and control. They collected the harvest from fishermen and local

² Walter Koelz, "Fishing Industry of the Great Lakes." In U.S. Commissioner of Fisheries, *Report*, 1925, Appendix 11 (Washington, 1926), 591-593.

³ Bogue, *Fishing the Great Lakes*, 29-31.

Bogue, *Fishing the Great Lakes*, 35.

merchants and dealers, funneled it into primary market centers, exerted much influence over prices and quality, and often acted as the fishermen's suppliers of gear, boats, food, clothing, and other necessities on credit if needed. So important were they in the organization of the industry that when Milner wanted to estimate the catch in American waters, he went to the large dealerships concentrated in 15 locations, the very large clusters being in Chicago, Buffalo, Detroit, Sandusky, Toledo, and Cleveland.⁵ Dealers grew in importance in the succeeding decade. The Canadian Great Lakes fishing industry developed a smaller, similar marketing structure with Toronto as the principal market, but to a very large degree its fishermen sold their catch directly or indirectly to American dealers and their Canadian affiliates, primarily those located in Detroit and Buffalo. Most of the catch supplied a rapidly growing American market. The Great Lakes fishing industry came under American dominance well before the heyday of commercial fishing in the 1880s.

In 1872 the newly created Dominion government, well aware of the potential for a much expanded role for American commercial fishing in Canadian waters, tried to forestall trouble as early as 1872. The Minister of Marine and Fisheries in that year called for negotiation of a cooperative plan whereby Canada and the United States could protect the fish resources of the Great Lakes. The following year, the minister called for establishment of uniform regulations given the "manifest decline of the fisheries on the American shores of the Great Lakes." In 1873 he plead for cooperation in a forceful statement: "At present the unrestricted and destructive manner in which fishing is carried on by United States citizens near our water boundary, compels us to allow greater privileges to Canadian fishermen than consist with the due preservation of fish." In 1875 a further plea for cooperation took the diplomatic route via the U.S. Department of State asking for a meeting with state governors. Failing to get results, the Canadians put the idea on hold for fifteen years.¹

These advocates of cooperation were well aware that the very different fishery policies of Canada and the American Great Lakes states posed a threat to the success of theirs and to the fish population of the lakes. Each state bordering the Great Lakes regulated the lake fisheries within its boundaries. All had adopted open entry, unlicensed commercial fishing policies for Great Lakes waters with only very minor protective features. Anyone who wanted to harvest fish and sell them could do so. Laissez faire led to a highly competitive free for all among entrepreneur dealers and fishers in American waters that depleted the resource. Canadians dubbed it fishing by "the American plan."

The newly created Dominion of Canada on the other hand adopted a regulated fishery policy. The Fishery Law of 1868 called for licenses and leases, and set forth regulations which included closed seasons and sizes for net mesh specified by species, protection for spawning grounds, restrictions on dam blockage, and anti-pollution provisions, to mention only some

⁵ James W. Milner, "Report on the Fisheries of the Great Lakes: The Result of Inquiries Prosecuted in 1871 and 1872," in U.S. Commission of Fish and Fisheries, *Report*, 1872-1873, Appendix A, 42d Cong., 3d sess., 1872, S. Misc. Doc. 74 (Serial 1547), 6-7.

⁶ Canada, *Sessional Papers*, 1873, no. 8, 67; 1874, no. 4, lxxvii; 1875, no. 5, lxi; 1876, no. 5, xxiv-xxvi.

restrictions designed to conserve the fish resource. Furthermore, fishers must buy licenses and work within specified areas under the surveillance of fishery overseers. Those who did not comply might have licenses revoked and be compelled to pay fines.

Thus fishermen of the Great Lakes operated on a divided playing field where different regulations applied for American and Canadian waters. Canadians claimed their system was superior to the wastrel ways of Yankees, and that they were indeed conserving the resource. This would have been even more true if they had been able to enforce the law more fully, but the realities of cost, natural impediments, and a lack of public conviction that the fish resource should be carefully husbanded for future generations made its application fall short. Meanwhile, the pressures and methods of aggressive American entrepreneurs worked to the detriment of the Canadian regulated fishery, and eroded the Dominion's resource.

In the 1880s commercial fishing on the Great Lakes confirmed the thinking of Canada's policy makers. Then the industry reached an all time high in the number of boats operating and persons at work on the water and on shore. Broad application of steam and refrigeration technology, larger capital investments, the growth of larger units of production, processing, and national distribution characterized this heyday of American commercial fishing. The harvest escalated in tonnage, but its indexed total market value did not.¹

As they sought greater profits, and as the catch of preferred commercial species declined from competitive, wasteful overfishing and ever increasing changes in the marine habitat in home waters, American dealer entrepreneurs escalated operations in the Canadian Great Lakes. The growing scarcity of the prime market catch in U.S. waters, whitefish, triggered the movement to the north. For example, in light of the decline of whitefish production on Lake Michigan where gill net steamers numbering 82 in 1885 had revolutionized the harvest, almost half the tugs left the lake and departed for Georgian Bay, Canada's richest Great Lakes fishing ground. By 1890 the effects of the heyday on whitefish and sturgeon populations of the Great Lakes plainly showed. Both had declined notably and would continue to do so in succeeding decades.¹

By the onset of the depression in 1893, expansion and consolidation in the American commercial Great Lakes industry had led to the emergence of three large groups of American dealers which controlled the harvesting and marketing of most of the Canadian and American Great Lakes catch. Cleveland and Sandusky dealers dominated western Lake Erie. Buffalo dealers controlled the yield from parts of eastern Lake Erie, Lakes Huron and Ontario, Georgian Bay, and most of the waters connecting Lakes Huron and Erie. The A. Booth Packing Company of Chicago controlled most of the harvest from Lakes Michigan and Superior.

The growth and dominance of American commercial fishing produced a rising tide of anti-American feeling among those Canadians who tended the nets on the inland seas and led to a major expression of anti-Americanism and a crackdown on poaching, 1893-96. Hard

Bogue, *Fishing the Great Lakes*, 48.

Statement based on data compiled from Baldwin, *et al.*, *Commercial Fish Production*.

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times following the panic of 1893, the political reality of the Conservative party losing its momentum and power, and the rise of the Liberals added fuel to the ensuing confrontation.

Charles Hibbert Tupper, a Harvard trained lawyer from Nova Scotia, served as the Conservative government's minister of marine and fisheries 1888-1894. Committed as he was to making the fishery policy established by the law of 1868 effective, he advocated stricter enforcement, a greater scientific input into policy making, investigation and study to determine how regulations should be modified to conserve the fish, and he strongly supported cooperation between Canada and the United States to create uniform regulations for Great Lakes waters by international agreement. Surely one set of rules for all fishers properly enforced would go far to control overfishing, waste, and a rising resentment among Canadian fishermen for their government's rules and regulations while the Americans had none.⁹

His department launched an investigation of the status of Ontario's fisheries in 1892 and 1893 which clearly revealed the anti-American feeling prevalent among fishermen. The investigating commission having made on-site visits to ports around Lake Ontario, Lake Erie, Lake Huron, Georgian Bay, and Lake Superior concluded among its major findings: "That the American fishermen trespass in our waters is clear from the evidence. This irregular and illegal fishing is chiefly carried on in Lake Erie, and the lower end of Lake Huron. It is the cause of much discontent and irritation among our Canadian fishermen."¹⁰

The commission's report included the testimony of the hundreds of witnesses given before the fishing industry fully felt the impact of the depression beginning with the panic of 1893. Georgian Bay fishermen rankled over the behavior of Detroit firms engaged indirectly in fishing under the terms of a lease granted by the Canadian government. They overfished, fished out of season, and in general disregarded regulations thus spoiling the fisheries. They resented American dominance of the industry; they blamed American tariff regulations which eliminated the possibility of Canadian firms marketing the catch directly in the United States; they complained about Canadian fishery regulations and many advocated eliminating them to make competition with American fishermen more equitable. They denounced the way log rafts moving from North Channel and Georgian Bay waters across the lake to supply Michigan mills left a mass of ground-off bark spoiling fish nets and smothering feeding grounds. Canadian fishermen working the waters of the North Channel of Lake Huron deeply resented American fishermen who came with tugs into their waters and took tons of fish out of season when Canadian fishers by law had to abstain from the harvest. These are examples from Lake Huron-Georgian Bay testimony.¹ Commission findings from Lake Erie testimony also mirrored deep discontent with American ways, their dominance of the industry, and how American fishing craft consistently year in and out crossed into Canadian waters with their gill nets and set them particularly in the vicinity of Point Pelee on the west and Long Point on

⁹ Bogue, *Fishing the Great Lakes*, 218, 240-241.10

Dominion Fishery Commission on the Fisheries of the Province of Ontario, "Report," in Canada, *Sessional Papers*, 1893, no. 10C*, Part I, p. xi. Hereafter cited as *Fisheries of Ontario Report*.

¹¹ *Fisheries of Ontario Report*, I, 140-143, 189, 230.; II, 79-80, 85, 110-112, 120- 122.

the east.'

The commission confirmed what fishery overseers, fishermen, lighthouse keepers, and patrol boat captains had said, underscored criticism of fishery administration in the House of Commons, and bolstered complaints in the flood of petitions from fishermen begging for change. Frictions were greatest where Canadian and American fishermen operated in very close proximity, at the narrows connecting the lakes, such as in the Niagara River area; on the St. Clair River, Lake St. Clair, and the Detroit River; and in the North Channel of Lake Huron. As depression conditions deepened in 1894 and continued in 1895 complaints mounted, and the Department of Marine and Fisheries found the chance for success of its newly reformed regulations very poor and the quest for uniform fishery rules for all Great Lakes waters in jeopardy.

The department opted to come down hard on the escalating activities of American poachers in Lake Erie as one way of protecting the resource and gaining support for its policies from a patriotic public. Hopefully, this would offset the utterly damning claims of office-hungry Liberals in the House of Commons and in the press where they unleashed an avalanche of vitriolic criticism on the Department of Marine and Fisheries. Critics extolled the virtues of the poor hardworking fisherman, no matter how poorly the stereotype fitted reality, and condemned the Minister of Marine and Fisheries as an oppressive tyrant, much like the Czar of Russia, persecutor of Jewish peoples.¹³ It wasn't fair for American fishermen to fish without restraint while the Canadians must abide by restrictions. They repeated it over and over again. "It isn't fair."

The Tupper administration embarked on a campaign to control American poaching on the north shore of Lake Erie in November 1893 by sending Fred Kerr, its Hamilton overseer, in the steam launch *Dolphin* along the north shore of Lake Erie following the Canadian closed season for whitefish and trout to survey the extent of American poaching and to apprehend poachers and confiscate boats, nets, and fish taken." The cruise in the western end of Lake Erie lasted from 20 to 30 November when the weather became so bad that the *Dolphin* having sailed from Pelee Island to Rondeau remained in port. While cruising around Pelee Island Kerr "observed fishing tugs and in every direction sein barges to no end." He pursued the American tug *G. C. Oggle* as it made tracks for American waters, overtook and seized it. Its captain told Kerr that at least ten American tugs were fishing in Canadian waters prior to the *Dolphin's* arrival, but on learning that a cruiser was being sent "immediately took up their nets for new pastures." Kerr found and removed a number of illegal American gill nets in the same vicinity. He thought that while the cruise had been difficult it had been worthwhile. As directed he learned all he could about fishing in American waters and gave a

¹² Fisheries of Ontario *Report*, Part I, xxx-xxxi.

¹³ Canada, House of Commons, *Debates*, 27 March, 1893, 3204.

¹⁴ National Archives of Canada (NAC), Records of the Department of Marine and Fisheries, Record Group (RG) 23, Deputy Minister of Marine and Fisheries to Fred Kerr, Fishery Overseer, Hamilton, Ontario, 11 October 1893, file 466, part 1, frames 2-5, Microfilm Reel T-2845 .

scathing critique of "free fishing." The devastation was so apparent.'

The department reviewed the Kerr reports for 1893 and concluded in early January 1894 that "the main source of injury to the Lake Erie fisheries is the poaching done by United States tugs." Edward E. Prince, Dominion Commissioner of Fisheries, advocated a much heavier patrol than had been used heretofore, and assignment of the cruiser *Petrel* to Lake Erie patrol for part of the season manned by crewmen in uniform. Also he thought the department might use a decoy, a boat built and painted to look exactly like a U.S. fishing boat in making arrests and seizures.¹⁶ On 4 January 1894, the Department of Marine and Fisheries alerted Lake Erie lighthouse keepers to watch for U.S. fishermen and tugs operating in Canadian waters and report the information. The Minister called for a plan of action for the *Petrel* and the *Dolphin*. The cruiser *Petrel*, built at Owen Sound in 1892, was a screw steamer 116 feet long with a 22 foot beam and a 10 foot 3 inch deep hold, 192 gross tons. Its maximum speed was 10 knots per hour. It carried a crew of 23 men and officers.¹⁷ She was placed under the command of Captain Edward Dunn, a seasoned Georgian Bay mariner with more than a quarter century of experience sailing the Great Lakes.¹⁸ The *Dolphin* was a smaller vessel, a steam launch. The commanding officer of the Fisheries Protective Service, furnished Captain Edward Dunn of the *Petrel* 10 Spencer rifles, 10 Colt revolvers, and 10 cutlasses.¹⁹ Two of each went to the captain of the *Dolphin* and the *Petrel* retained the balance. Enforcement officers had to be prepared to deal with American fishermen, known as an audacious and potentially dangerous lot. The *Petrel* also carried a seven pound cannon on deck. By seasons end, the two steam powered enforcement vessels had chalked up an impressive record.

On April 30 the *Petrel* began a newsworthy season with a cruise of Lake Erie's north shore. In a comedy of errors and misunderstandings, on 8 May 1894, Dunn apprehended approximately fifty wealthy American businessmen and professionals primarily from Cincinnati, Dayton, and Springfield, Ohio, members of the Dayton Pelee Club, fishing with hook and line from rowboats off Pelee Island in Canadian waters without licenses, arrested them, and towed their yachts, the *Visitor* and the *Leroy Brooks*, to Amherstburg. All those apprehended were detained, the fishermen for only a few hours, the captains for longer. Rufus H. King, president of the club, wrote an extended letter to the Minister of Marine and Fisheries explaining the events as he understood them. The Canadian Privy Council, convinced that there had been no intent to break the law, decided in July 1894 to fine each

NAC, RG 23, Fred Kerr, Lake Erie Report, 1893, File, 466, part 1, frames 10-33, MReel T-2845.

¹⁶ NAC, RG 23, E.E. Prince, Notes on Overseer Kerr's Report of Protective Cruise on Lake Erie, frames 35-42, file 466, part 1, MReel T-2845.

¹⁷ Canada, *Sessional Papers*, 1910, no. 22, 352.

¹⁸ Fisheries of Ontario Report, I, 161-162.

¹⁹ NAC, RG 23, Memorandum, Work of *Petrel* and *Dolphin* on Lakes, Captain O.V. Spain, 19 March 1894; Same to H.W. Johnson, Halifax, 27 March 1894; Same to Captain Edward Dunn, *Petrel*, 4 April 1894, frames 26-28, 40, 51, file 467, part 1, MReel T-2846.

vessel \$40 and the costs connected with the seizure.'

While the Pelee Island incident involved a minor offense in the view of most Canadians, including Captain Dunn, the American press around Lake Erie registered considerable interest and excitement. Some editors took the position that American fishermen could stay out of trouble by staying out of Canadian waters. Others accused the Canadians of being very heavy handed. What were Canadians in a patrol cruiser with a cannon on deck doing arresting fishermen in rowboats? The American state department regarded the incident as a clear violation of Canadian law in Canadian waters and refused to take action as some Lake Erie hotheads advocated.

The *Detroit News* saw the humor in the incident and printed a front-page cartoon lampooning the affair entitled "Battle of Lake Erie (1894)" and captioned "We have met the enemy and we are theirs." It pictured the *Petrel's* deck bristling with uniformed, armed crewmen and captain brandishing pistols and cutlasses and with the manned cannon and even a Gattling gun trained on the fishing boats ready to fire! A poem followed, praising the Canadian action and showing popular distaste for the wealthy in depression times:

'Rah for the gallant Petrel; 'Rah for the Petrel's men;
 Here's to their red hot visit; Here's may they come again!
 It's rather a butt-end visit; but who in hades cares.
 Since the big guns frowned from the portholes on bunch of millionaires!
 Go for 'em Johnny Crapaud; go for 'em Bob Canuck;
 Truss 'em up Johnny Thompson, swinge' em just for luck."

Later in May the *Dolphin* seized the American tug *Grace*, while it was fishing illegally off Port Colborne, an effort to control American poaching with a completely different result, a legal contest involving a difference of opinion about the location of the vessel at the time of arrest. **On** 23 July Captain Dunn seized another American steamer off Point Pelee, the *Louise* and took her to Amherstburg. This action failed because its owner, Post and Company of Sandusky, presented a convincing case that the vessel had not broken either fishing or customs regulations. The *Louise* was released.²²

Captain Dunn definitely discouraged American poaching when on 17 November he seized 107 American gill nets containing nine tons of fish, mainly herring, and on November 26 an additional twenty American whitefish gill nets with a very small catch, both in the vicinity of the Canadian islands in the west end of Lake Erie.²³ The Sandusky press sprang to life, reporting that their fishermen were indignant. They had worked in American waters

²⁰ NAC, RG 23, Rufus J. King to Minister of Marine and Fisheries, 8 May 1894; extract from Report of the Privy Council, 16 July 1894, file 1261, part 1, frames 15-20, 91-95, MReel T-3144.

²¹ *Detroit News*, 11 May-1894. Courtesy the Burton Historical Collection, Detroit Public Library.
 NAC, RG 23, File 46, part 1, frames, 56-122, MReel T-2672.

²³ Report, Captain Edward Dunn, Canada, *Sessional Papers*, 1895, no. 11a, 73-76.

and the *U.S. Fessenden* would investigate. Trouble might well ensue if the *Petrel* and the *Fessenden* met for their crews disliked each other. The *Fessenden* made the survey, and unable to settle the matter referred it to the state department for clarification, but the maps there also failed to make the division of waters clear. The question went on hold. The issue of the boundary line, apparently a source of real confusion, led to protracted controversy in the years following.' Earlier in 1894 Captain Dunn had seized 77 American gill nets containing 1400 pounds of pickerel and herring found in waters between Rondeau and Port Stanley.'

Captain Dunn without question had a very interesting tour of duty in 1894, seizing vessels and grappling for gill nets, and investigating rumors of American activity from many sources: a Department of Indian Affairs official reporting the boasts of Dunkirk, New York tug captains about fishing in Canadian waters very close to Long Point, a Cleveland fish dealer's tattle tales about his competitors, a Leamington light keeper's observations of net settings and liftings in the dim hours of dusk and dawn. J.E. Quick, light keeper at Point Pelee, visited Sandusky in December 1894, returned, and reported, "A good many are very much put out about the seizure of the tug *G. C. Oogle*. The gill net fishermen intend to use fast tugs and carne fire arms and fish in Canadian waters when and where they please. I do not think those are Idle threats for the gill net fishermen from the states are a determined lot of fellows and will do most any thing to accomplish their ends."

In the following year, 1895, the *Petrel* got a late start on fishery patrol "owing to the backward nature of the season." Captain Dunn knew this was unfortunate for as Pelee Island's fishery overseer had written, Americans living close to the boundary carefully watched the *Petrel's* movements. When absent he noted, "They come over into Canadian waters and set their nets. If they can manage to avoid detection for two or three days, they most generally catch fish enough to pay for the nets and have good wages for there work, if we do seize the nets." Therefore nets should be seized promptly.' Without question American tug owners were wily. They employed an agent in Amherstburg who purchased confiscated nets and boats for them, and represented them in other ways."

Captain Dunn to the consternation of Cleveland fishing companies, succeeded in

²⁴ NAC, RG 23, Clippings, *Sandusky Reporter*, 11 November 1894; *Sandusky Register*, 25 November, 19 December 1894. frames 24-25, file 1593, part 1, MReel T-3168.

NAC, RG 23, Captain E.E. Dunn to Edward E. Prince, 8 May, 1894, file 1593, part 1, frames 240-241, MReel T-3168.

²⁶ NAC, RG 23, J.S. Webster to Minister of Marine and Fisheries, 21 May 1894, frame 2, file 1365, part 1, MReel T-3151; John Kingsborough. Cleveland, Ohio to William Smith, Department of Marine and Fisheries, 1, 16, 30 January; 12 May 1894, frames 1,4. 5. 10-13,28, 29; Forest H.S. Conover, Lightkeeper at Leamington to Deputy Minister of Marine and Fisheries, 19 May 1894, frames 32-34; J.E. Quick, Lightkeeper to Minister of Marine and Fisheries, 19 December 1894, frame 7, file 46, part 1, MReel T-2672.

²⁷ NAC, RG 23, James E. Quick, Fishery Overseer, Pelee Island to John Hardie, Acting Deputy Minister of Marine and Fisheries, 23 January 1895, frame 24, file 1064, part 1, MReel, T-3122.

²⁸ NAC, RG 23, Memorandum, E.E. Prince, November 1895, frame 110, file 1593, part 1, MReel T-3168.

seizing 182 American gill nets in the vicinity of Rondeau in May 1895 before being called to special duty during the first two weeks of June to help apprehend Americans dumping bargeloads of garbage and sewage wastes into the Canadian waters of the Detroit and Niagara Rivers. Once back to more routine duties, he continued by seizing large quantities of American gill nets off Long Point in July and 136 near Pelee Island in early November. There on 8 November he seized an American tug from Lorain, Ohio, the *Telephone*, along with 84 gill nets. The Department of Marine and Fisheries ordered it confiscated. According to Captain Dunn it has been apprehended several miles within Canadian waters "fishing on the best of our spawning grounds in Lake Erie," where during spawning season Canadians were forbidden to fish. The boat owner said he was sorry and pointed out that other U.S. boats were further into Canadian waters but escaped the *Petrel* because they had swifter vessels. The Department was unimpressed with the plea of poverty, a plea "made in every case," noted E.E. Prince, "when these poachers are caught. As a rule these vessels are owned by wealthy Sandusky Companies." The tug was condemned and sold." A few days after apprehending the *Telephone* Captain Dunn seized an American fishing skiff in the same general area, near the "Hen and Chickens" off Point Pelee Island and forty four gill nets, another action destined to spark owner complaint to the American state department.'

In contrast to 1894 and 1895 the *Petrel* and the *Dolphin* both experienced less eventful enforcement seasons in 1896. On Lake Erie the *Petrel* made far fewer net seizures, none between 1 May and 14 October, and took no tug boats into custody. Captain Dunn believed that the patrol back and forth along the Erie shore had been very effective in discouraging American poaching. He noted: "Large numbers of American tugs were frequently observed at work, but always in their own waters, as many as 25 tugs being seen in a single day." The major net seizures happened on 14 October when the *Petrel* retrieved 106 nearly new American gill nets in the Long Point vicinity; on 28 October when Captain Dunn took 14 sturgeon and 8 herring gill nets close to Wind Mill Point near Buffalo; and on 20 November with the retrieval of 62 American gill nets east of Pelee Island, making the total reported for the year 190. Lighthouse keepers and Canadian fishermen agreed that the patrol had been effective.'

During first few years of the Canadian crackdown on illegal American fishing, U.S. fishermen reacted with loud, indignant complaints, arguments about location of the boundary line, and appeals to the state department to protect their interests. The press in Lake Erie's south shore cities reported events fully. Expecting challenges and criticisms, Canadian

NAC, RG 23, Correspondence on this case is found in frames, 71-72, 75-76, 82-90, 93, 124-125; Memorandum: re Seizure of U.S. Tug *Telephone*, Edward E. Prince, 14 Nov. 1895, frame 77-78, file 1593, part 1, MReel T-3168.

NAC, RG 23, Report of Work Performed by *Petrel* in 1895, Captain Edward Dunn, Canada, *Sessional Papers*, 1896, no. 11a, 65-66; Dominion Commissioner of Fisheries to Captain Dunn, 17 February 1896, Captain Dunn Report and Maps; Report to Governor General in Council, 27 March 1896, frames 162, 183-198, 212-224., file 1593, part 1, MReel T-3168.

³¹ Report, Captain Edward Dunn of the *Petrel*, Canada, *Sessional Papers*, 1897, no. 11a, 243-244, quote 244.

officials stressed due caution in making seizures, very careful legal procedures, thorough investigations in every contested case, and they followed established court procedures to settle disputes no matter how large or small. They kept a wary eye on American newspapers, and the Department of Marine and Fisheries carefully preserved American press reports relating to fishing disputes.

Net and tug seizures did taper off 1896-1901. Captain Dunn attributed this in part to his decision in 1897 to make irregular runs so that American boats would find it harder to predict the location of the *Petrel*.³² The decline in net and tug seizures in these years also reflected good fish harvests until the 1901 season perhaps making ventures into Canadian waters less worth the risk. Captain Dunn reported in December 1901 that while net seizures that season had risen during the year "I think the fishermen as a whole are more inclined to observe the law, at least while the *Petrel* is in commission, than formerly. They do not dispute the legality of the seizures, as in former years, and have frequently asked me to indicate the boundary line for them."³³ Yet continued reports of American tugs in Canadian waters which escaped before the *Petrel* could apprehend them and Americans fishing Canadian waters early in spring and late in fall when dominion patrols were out of commission belied his optimism.

One very notable tug seizure in this five year period of relatively fewer enforcement problems, 1896-1901, deserves attention. On 23 August 1900, Captain Dunn seized the *Kate Wilson* off Long Point as its crew lifted nets in Canadian waters. Dunn took no chances. He took the captain-owner on board the *Petrel* where he then logged the position of the seizure. He put his acting second officer and three men on the tug. The *Kate Wilson* then sailed to Port Stanley where it was put in charge of the custom's officer. What makes the seizure notable is that the tug was fishing for the A. Booth Company of Chicago, a huge powerful American company attempting to control all fresh water fishing in North America, organized in 1898 as a \$5.5 million corporation.³⁴ It proceeded to pull political strings to have the boat released, retaining a Toronto lawyer and member of the House of Commons, Leighton McCarthy, to handle the case. McCarthy appealed directly to the Minister of Marine and Fisheries quoting a "hard luck" letter from the company about the captain, "a representative gentleman, but poor. All that he has in the world is his fishing tug and I ask you for our Company and humanity's sake to do everything you possibly can to have the Canadian Government release this boat to Mr. Wilson." McCarthy went on to point out that the Booth Company carried on large operations in his constituency and elsewhere in the dominion and that it had ways of securing support for the Liberals in the coming election. The *Kate Wilson* was released in the spring of 1901 after payment of costs and a nominal fine.³⁵

³² Canada, *Sessional Papers*, 1898, no. 11a, 288.

³³ Canada, *Sessional Papers*, 1902, no. 22, 285.

Bogue, *Fishing the Great Lakes*, 73.35

NAC, RG 23, Leighton McCarthy to Sir Louis Davies, Minister of Marine and Fisheries, 8 September 1900, file 1593, part 1, frame 294-295; Correspondence and memoranda, 23 August 1900-April 1901, frames 267-364, MReel T-3168.

The fishing seasons in 1902 and 1903 presented Captain Dunn with real challenges, the most difficult years in the enforcement experience during the early twentieth century, years of persuasion by rifle. His report for 1902 season when the catch from Lake Erie was light recorded seizure of 998 nets, more than in any preceding year since 1895, and one small fishing tug, the *Minnie Nelson*, out of Erie, Pennsylvania. Captain Dunn noted that the vessel's captain was reluctant to come alongside when requested and that he had to "use a little persuasion with a rifle." The boat was released in November 1902 after the owner paid a \$200 fine and \$386 in costs.³⁶

Edward E. Prince notified the Minister of Marine and Fisheries about the severity of the poaching problem in early October 1902. He told of Captain Dunn's recent reports citing the problem of "whole fleets of boats deliberately crossing the line and fishing one or two miles on our side. The attempts at violation are becoming systematic and on seeing the "PETREL" one vessel signals to another. The nearer vessel Captain Dunn reports 'blew several whistles, which were answered all along the line as far as we could hear and boat after boat ran across the line tooting their whistles at us when they were across.'" Dunn was told to double his efforts to seize poachers.¹

In his report for the 1902 season Captain Dunn noted:

The American fishermen were never so persistent in their poaching as they have been the past season and there is no doubt they have a well organized system of signals and also use the telegraph and telephone wires extensively. I am informed they have paid agents on some of the line boats to let them know when and where they saw the *Petrel* and also in some of our own ports; and when I inform you that ninety seven tugs were registered and fished out of the port of Erie alone, many of them as speedy, or nearly so, as the *Petrel* she being very conspicuous and not as speedy as I could wish, makes the protection of Lake Erie a very difficult task to perform and can only be partially successful.

He concluded with this gloomy prediction.

I think that unless some arrangement can be made with the various states bordering on the lakes to have uniform laws and regulations to be strictly enforced, the time is not far distant when the fisheries will not be worth protecting. Most of the American tugs have steam lifters which will take in

NAC, RG 23, Captain Edward Dunn to the Dominion Commissioner of Fisheries, 2 October 1902, file 1593, part 1, frames 409-410; correspondence and accounting of costs, frames 422-424, 449,451, 461, 465-467, MReel T-3168.

NAC, RG 23, Memorandum, Edward E. Prince to the Minister of Marine and Fisheries, 14 October 1902, file 1593, part 1, frame 413, MReel T-3168.

the nets three times as fast as by hand. Some of the Canadian tugs are following suit. They are now literally taking the fish out of the water by steam.³⁸

The year following turned into an even more challenging one for this seasoned Georgian Bay ship's captain. American fishermen responding to an unusually light catch from Lake Erie waters and prices for herring and perch double those of 1899 sought the riches of Canadian waters as never before.³⁹ Dunn proceeded as he had been directed at the close of the previous season to make even greater efforts to stop the poaching. The *Petrel* seized over a thousand American nets set in Canadian waters and three tugs, the *Juliet* in May, a small owner operated vessel from Buffalo, the *Kitty D*, a 14 ton fishing tug operating out of Buffalo, in July, and the *Star of Erie* in October. The hot pursuit of the *Silver Spray* in August created a very hostile feelings between American and Canadian fishermen.

In the case of the *Juliet* seizure made 5 May 1903, the owners sought help from both sides of the border, the House of Commons, the House of Representatives, a justice of the New York supreme court, and the American state department. The case led John Hay, U.S. Secretary of State, to request the return of the boat on the understanding that a "union of fishermen at Buffalo" would pay fines and costs. The issue was settled within the month. Canadian authorities had released the *Juliet* before receipt of Secretary Hay's request. 40

With the 3 July 1903 seizure of the *Kitty D*, a much larger and more valuable boat, Raymond Prefontaine, Minister of Marine and Fisheries, decided to exact the maximum penalty as a deterrent to the marauding Americans. In the past the procedure in seizures had been to detain, fine, and release poaching tugs. This time he proposed to use the maximum legal penalty, to confiscate the boat and order it sold." An expensive, painful, and embarrassing sequence of events followed as the owners of this new boat, built in the preceding year, 63 feet long, 14 net tons, valued at \$4,000 to \$5,000, pulled out all stops to have the *Kitty D* returned to them. They went to the U.S. state department for help and Secretary John Hay authorized the U.S. Consul General at Ottawa to hire a lawyer to represent the owners in condemnation proceedings.

Both sides did their homework, the defense gathering testimony completely at odds with official accounts from tug captains at Dunkirk, New York and using some information gathered by a United States cruiser. The Canadians carefully re-identified the seizure site and sent a secret service inspector to Dunkirk to mingle undercover with fishermen on the docks and in the bars. He came up with precious little and reported, "They all condemn the Petrel

³⁸ Canada, *Sessional Papers*, 1903, no. 22, 281.39

Walter Keolz, "Fishing Industry of the Great Lakes," 591.

⁴⁰ NAC, RG 23, Correspondence in file 1593, part 2, frames 6-53, MReel T-3168.

⁴¹ NAC, RG 23, Raymond Prefontaine, Minister of Marine and Fisheries to Charles Fitzpatrick, Minister of Justice, 3 May 1904, file 1593, part 2, frames 253-254, MReel T-3168.

and Captain Dunn and everything that is Canadian."⁴²

The location of the seizure became the central issue, the Canadians contending it happened well within their waters, and the lawyer for the *Kitty D* owners insisting it occurred in American waters. In the process the commanding officer of the Canadian fisheries protection service in an in-house memorandum blamed Dunn for not having placed a buoy at the exact spot or anchored until the weather cleared making land visible and expressed his complete exasperation with low pay for sailors. He contended that year after year he had been forced to hire "nice, clean young fellows" without training or experience as sailors to man the *Petrel*. After one season he noted, "They are immediately grabbed off by people on the United States side, who give them better wages; consequently they do not return to us next season, and the same game starts again."⁴³

The *Kitty D* defense lawyer, W.M. German, a member of parliament from Welland, fully cognizant of these circumstances so impressed the judge in the court of the first resort at Welland in the fall of 1903 that he ruled for the tug owners. The government appealed to the Supreme Court of Canada which reversed the decision. But the matter did not rest there. The tug owners received permission to have the British Privy Council's judicial committee review the case. In December 1905 it ruled in favor of the owners of the vessel accepting the argument that Captain Dunn had incorrectly identified the point of seizure. In June 1908 the case closed when the owner received \$3,000 in damages from the Canadian government."⁴⁴

The *Kitty D* seizure on 3 July 1903 created far less of a stir in the press than the *Silver Spray* incident on 13 August following. It occurred when Captain Dunn spotted the vessel in Canadian waters close to Long Point. He decided he had a chance of apprehending it before it could cross to the American side. As he described the events:

I ran so as to intercept her which they saw we would do, they then turned and made direct for us, but did not check their speed. I gave the signal to stop and fired a rifle shot across their bows, and stopped the 'Petrel' . They did not check but made direct for us. I again signaled to them to stop and fired another shot. I called to him to stop and showed him the rifle. He crouched down in the pilot house and passed on our starbord side not more than thirty feet away. I then fired three shots at the Tug, and some of my men did also, but they kept right on and crossed the line. This tug 'Silver Spray' was

⁴² NAC, RG 23, R.G. Chamberlin, Inspector of Secret Service, to Col. A.P. Sherwood. 13 September 1903, file 1593, part 2, frame 122, MReel T-3168.

⁴³ NAC, RG 23, Memorandum, Capt. O.V. Spain, 27 October 1903, file 1593, part 2, frames 204-205, MReel T-3168.

⁴⁴ NAC, RG 23, Correspondence and memoranda relating to *Kitty D* case found in file 1593, part 2, frames, 63-68, 94-95, 122, 130, 178,204-253,268, 272-273, 275, 280, 395-400,404,414-417, 434, 444, 464, 488, 571, 573, 614, MReel T-3168.

formerly an excursion boat and I think can out run the 'Petrel.'"

The *Erie Daily Times* recounted the incident in vivid detail reporting that eight or nine shots struck the *Silver Spray* two hit the pilot house one passing very close to the captain, others hit the smoke stack, the water closet, and the hurricane deck. One crewman, hit on the nose by a bullet, or a flying splinter suffered a "copious flow of blood." The captain who claimed to be looking for lost nets told the press, "I mean to report the affair to the state department at Washington." Thoroughly disgusted with the account of the *Silver Spray's* captain, Dunn retorted, "About the only truthful statement made to the press by the captain of the steamer *Silver Spray* was that the American fishermen had more nets in Canadian waters than the *Petrel* could take out in two weeks."

When called upon to defend his actions Dunn replied: "With regard for the necessity of firing upon the Tug I beg to say that unless I had done so my usefulness here would be at an end, and the slowest tug among them could easily keep us from getting on board or put a tow line on them, by simply backing and filling." His commanding officer highly approved of Dunn's actions and opined that a shot from the *Petrel's* seven pounder gun would probably have been more effective than rifle fire. But as Captain Dunn noted, the gun was purely ornamental, "no sights or balls were ever furnished me for it, it has only been used for saluting [the royal birthday and Dominion Day]."48

The incident stirred anger and determination. The *Petrel* was obviously too slow and too highly visible to arrest poachers, common knowledge for several years. Captain Spain, Commander of the Fisheries Protection Service, recommended that construction of a faster vessel should be started immediately and meanwhile a 16 knot launch went into use to surprise poaching Americans. Erie and Dunkirk newspapers, Captain Dunn noted, carried reports that fishermen were arming to defy the *Petrel* which he doubted they would but added, "The *Petrel* is in no shape to meet such an event, the men have not been drilled and the arms are not what they should be." Commander Spain recommended hiring a drill sergeant to train them.'

The incident stiffened American fishermen's determination to resist Canadian authority. They intimidated Canadian fishermen into believing that if they helped Captain Dunn, Yankee fishers would seize their nets. When Captain Dunn tried to hire tugs to help with the work in the eastern end of the lake their owners refused for fear of American⁴⁵

NAC, RG 23, Captain. Dunn to Colonel F. Gourdeau, 13 August 1903, file 1593, part 2, frame 109, MReel T-3168.

⁴⁶ NAC, RG 23, *Erie Daily Times*, 13 August 1903, file 1593, part 2, frame 111, MReel T-3168.

⁴⁷ Canada, *Sessional Papers*, 1904, no. 22, 296.

" NAC, RG 23, Captain Dunn to F. Gourdeau, Deputy Minister of Marine and Fisheries, 13, 20 August 1903; Memorandum for the Deputy Minister of Marine and Fisheries, O. G. V. Spain, Commander Fisheries Protection Service of Canada, 21 August 1903, file 1593, part 2, frames 106, 109-110, 113-114, MReel T-3168.

NAC, RG 23, Captain Dunn to F. Gourdeau, Deputy Minister of Marine and Fisheries, 20 August 1903; Memorandum for Deputy Minister of Marine and Fisheries, O.G.V. Spain, Commander Fisheries Protection Service of Canada, 21 August 1903, file 1593, part 2, frames 109-110, 113-114, MReel T-3168.

fishermen's retaliation. He wired Captain Spain on 30 September, "The owner of the one I got for one day, informs me he has been threatened by an American fisherman that the fisherman will come over and blow up or burn his boat if he assists me in future. This has frightened him, he will not go again. If a tug is to be used it will have to be got from a distance." Despite threats of American fishermen and little help from frightened Canadian fishers, the 1903 season in Canadian waters closed with Captain Dunn's seizure of hundreds of illegal nets and the tug *Star of Erie* on 14 October carrying 28 nets and a quantity of fish in Canadian waters as its captain admitted. Condemned in court proceedings at St. Thomas, this two year old tug, 44 feet long, 12 wide and 5 deep equipped with a steam boiler was sold for \$1,000 in March 1905. This time the seizure, condemnation, and sale procedure worked as the Canadian government wished.⁵¹

In contrast to 1903 the *Petrel's* work during 1904 proved less troublesome. Captain Dunn thought the crackdown on American poachers and the fact that the fishing season turned out to be markedly better combined to make his nearly 14,000 miles of patrol duty along Lake Erie's north shore much less eventful. American poachers were far less persistent. "The lesson given them last year has had a good effect and although poaching was done they did not come so far over the line as formerly," he concluded. Net seizures totalled 719.⁵² On 15 November he transferred his crew to the newly completed small third-class cruiser *Vigilant*, a steel twin-screw steamer 175 feet long, 22 wide, with a 10 foot deep hold, equipped with electric lights and a powerful search light. It had a speed capability of 14 knots per hour, and used a crew of 30 men and officers.'

The new vessel proceeded to protect Canada's Lake Erie fisheries in 1905 beginning its patrol on 24 April. Routine net confiscations followed until 7 June when it accidentally rammed and sank an American tug, the *Grace M*, rescuing all but two of the crew who drowned. This was the kind of accident no one wanted to happen. Very full records of the event including statements by Captain Dunn and Captain William Galbraith of the *Grace M* make it very clear that the tug was fishing in Canadian waters and that its captain took full responsibility for the collision, having disregarded the *Vigilant's* signals and warning shots and tried to escape. In the chase that ensued he left the wheel at a crucial time and Captain Dunn with engines in full reverse lightly struck the side of the tug as it passed directly across his bow. It rolled and went to the bottom. Rescue efforts ensued. Dunn carefully marked the collision site and then sailed to Port Stanley to report the accident. Diplomacy played a very minor role when the owners tried to find out if they could recover the relatively new tug worth about \$2,800. Captain Galbraith plead ignorance of the boundary line because he had been

⁵⁰ NAC, RG 23, Captain E. Dunn to Capt. O.G.V. Spain, 30 September 1903, file 1593, part 2, frame 174, MReel 3168.

⁵¹ NAC, RG 23, Memorandum. A.W. Venning, 22 October 1903; E.L. Newcombe, Dominion Department of Justice to Deputy Minister of Marine and Fisheries, 1 Feb.; 17 March 1904, file 1593, part 2, frame 191, MReel T-3168.⁵²

Canada, *Sessional Papers*, 1905, no. 22, 299.

⁵³ Canada, *Sessional Papers*, 1910, no. 22, 352.

a Lake Ontario fisherman unfamiliar with Lake Erie waters. The incident is yet another illustration of meticulous Canadian legal propriety in its actions both on the water and in gathering testimony from the *Grace M's* captain and crew.'

On 12 September the *Vigilant* seized a Booth Company tug fishing off Long Point. In making his statement to Canadian authorities to the effect that he was fishing in Canadian waters, the captain of the *Bertha Cockrell* claimed he had been told initially to stay out of Canadian waters by the manager at Erie and later that order had been changed because other tugs were getting fish in Canadian waters. The tug was condemned and sold in November.'

On 15 September Captain Dunn seized the *E.G. Oggle* of Erie after using signals and rifle shots to stop her. With the help of a skillful lawyer who earlier had secured the release of another tug fishing for A. Booth and Company, Leighton McCarthy of Toronto, a member of the house of commons, the *Oggle's* owners got the vessel released the following spring after payment of \$700.⁵⁶

On 17 September the *Vigilant* in pursuit of the *Harry D. Barnhurst* of Erie which had refused to stop fired a total of 22 rifle shots into the tug. It got away." American fishing tugs relied on speed and daring in their contest with Canadian patrols. According to one newspaper story in 1905 they also used decoy tugs to position themselves ahead of fishing tugs, and by acting suspiciously they waylaid the patrol vessel while the poachers escaped." During the first year of patrol using the *Vigilant*, Captain Dunn chalked up a record of three tug and 383 net seizures during what had been a light fishing season. Probably the speed of the *Vigilant*, the *Grace Msinking*, and a demonstration of long needed American support in controlling the poachers contributed to what Captain Dunn believed at year's end to produce greater poacher caution.⁵⁹ The United States government sent out a revenue cutter to restrain its poaching fishermen. By mid October it had apprehended one tug.'

Another positive development came with an expression of support for the Canadians in the *Cleveland News* in September. American fishermen had joked about the big, slow Canadian patrol vessel *Petrel* and about the rifle shots across their bows as they sped for American waters, a sporting game. The Cleveland paper warned, "The fisherman who desire to demonstrate a great international principle should keep very near the line of demarcation between a good laugh and an exploded boiler." The feature writer in an article headed "Courting Trouble" warned that Canadians had the wrong idea of American public opinion

NAC, RG 23, Documents of the *Grace M* incident are found in file 1593, part 2, frames 283-285, 295-297, 305-309, MReel T-3168.

NAC, RG 23, File 1593, part 2, frames, 323-330, 347, 388, MReel T-3168.

⁵⁶ NAC, RG 23, File 1593, part 2, frames 332, 337-338, 367-69, 430, 437-38, MReel T-3168.

NAC, RG 23, Captain Edward Dunn to R.W. Yenning, 19 September 1905, file 1593, part 2, frame 346, MReel T-3168.

⁵⁸ NAC, RG 23, Clipping, fall 1906, paper and date not preserved, file 1168, part 1, frame 424, MReel T-3134.

⁵⁹ Canada, *Sessional Papers*, 1906, no. 22, 313-314.

⁶⁰ NAC, RG 23, Memorandum, Re Sunken United States Fishing Tug *Grace M*, by A.W. Yenning, 10 October 1905, file 1593, part 2, frame 362-363, MReel 3168.

about these episodes. What else could they conclude when they read this comment in a Detroit newspaper: "American fishermen make a regular practice of dropping their nets in Canadian waters, and the only disgrace that can possibly attach to the act, in the popular mind, results from getting caught." Not so, said the Cleveland writer. Patriotism did not condone such law-breaking. He went further to designate the poaching American fisherman as "a man without a country. There is no flag available for his assertion of right, or gun ready to assail his pursuer"⁶¹

Optimism characterized Captain Dunn's Lake Erie patrol report for 1906. Poaching was definitely down. He believed that in part a better harvest accounted for this. Also a Cleveland fish dealer reported that after Dunn seized some of his nets in Canadian waters, the U.S. customs officer at Cleveland seized his tug and fined him substantially. When the owner appealed to Washington, the federal government sustained the customs officer's actions. This was not the first documented example of cooperation between U.S. and Canadian authorities to punish poachers, nor would it be the last.⁶²

In October Captain Dunn met at Erie with Captain Claytor of the U.S. revenue cutter *Morrill* who had been directed by the federal government to discuss the location of the Lake Erie international boundary line as noted in American hydrographic charts. Captain Claytor agreed with Captain Dunn's views on location, and proceeded to place five temporary buoys on the line as a deterrent to poaching. Moreover, Erie and Dunkirk fishermen went on strike in 1906, a cause for decreased American tug activity in Canadian waters that would happen over and over.⁶³ Counterbalancing these hopeful bits of evidence, the Canadian patrol had to contend with the development of ever faster tugs used in what one newspaper called "the war of the fishermen and the Canadian revenue service down on Lake Erie."⁶⁴

Was the worst of the problems with American poaching on Lake Erie over? In 1907 the dominion opted to enlist the help of Ontario in apprehending poaching Americans. Once the 1898 British privy council decision had awarded Ontario and not the dominion the right to license fishermen, the province had begun to develop a fleet of modest sized faster enforcement vessels for the Great Lakes which grew to seven by 1910 assigned to critical areas of American poaching.⁶⁵ In 1907 by order-in-council the dominion authorized the province to arrest poaching Americans, further strengthening protection for Lake Erie. Less than a month after receiving the authority, Ontario seized a poaching American tug and five

⁶¹ NAC, RG 23, Clipping, *Cleveland News*, September 1905, file 1593, part 2, frame 351, MReel T-3168.

⁶² NAC, RG 23, O.G.V. Spain to Captain Dunn, 21 November 1903, file 1593, part 2, frame 220, MReel T-3168.

⁶³ Canada, *Sessional Papers*, 1908, no. 22, 314. Bogue, *Fishing the Great Lakes*, 273-274.

NAC, RG 23, News clipping, 1906, file 1168, part 1, file 1168, part 1, MReel T-3134.

⁶⁵ Ontario, *Sessional Papers*, 1911, no. 13, Game and Fisheries Department, *Fourth Annual Report*, 1910, 98-130.

gangs of nets at Point au Baril on Georgian Bay.' The fishing seasons of 1907 and 1908 produced less turmoil, yet it soon became apparent that the *Vigilant* was so large and visible that poachers could and did outrun it. Smaller, faster vessels would do the job better on Lake Erie noted a dominion inspector of fisheries in his 1911-12 report.'

Yankee fishers continued to cast their nets in Canadian waters. In 1913 the *Vigilant* seized more than 800 of them." It continued to patrol Erie's north shore in succeeding years, until 1921. Dominion patrols of Lake Erie ceased the next year and enforcement became Ontario's sole responsibility, added to its long on-going battle to control the many American fishermen poaching in the waters of Lakes Huron, Superior, and elsewhere.' With 32,000 square miles of Great Lakes waters to protect, inadequate funding and a lack of public commitment in addition to the very difficult physical realities of enforcement especially in areas like the North Channel and Georgian Bay, partial success was about the best that could come from Ontario's efforts. Precisely the same kinds of problems and results characterized the experience of the Great Lakes states once they began to show interest in protection of dwindling fishery resources and in enforcement of regulations in the early decades of the twentieth century.

The clash between poaching Americans and Canadian enforcement authorities on Lake Erie in the early years of the century underscored the importance of defining the water boundary. A treaty between the United States and Britain in 1908 authorized a clear delineation of the division of all Great Lakes waters, a task completed in 1913, simplifying the line somewhat but not materially changing it.'

The American fishermen's invasion of Canadian waters most notably on Lake Erie highlighted the need for American-Canadian cooperation to manage fish resources. Their protection required a system of cooperative supervision and management for the badly Balkanized waters of the Great Lakes, lying as they did within the jurisdiction of two national governments, one province, and eight states. As already noted, the Canadian Department of Marine and Fisheries understood the problem in 1872 and began making overtures to accomplish this. But Americans, then caught up in vast freewheeling economic expansion, characterized by unbridled competition turned a deaf ear.

Charles Hibbert Tupper tried again, realizing as he did that the excesses of commercial fishing in the 1880s had greatly weakened the fish stocks of the lakes and that the Canadian system of a regulated fishery on the Great Lakes had fallen under American entrepreneurial control. The Canadians and Americans did agree by an exchange of notes in

66 NAC, RG 23, Ontario Superintendent of Game and Fisheries to Deputy Minister of Marine and Fisheries, 5 May 1911, file 1593, part 3, frame 137, MReel T-3169; Ontario, *Sessional Papers*, 1908, no. 32, Department of Game and Fisheries, *First Annual Report*, 1907, 56.

⁶⁷ Canada, *Sessional Papers*, 1913, no. 22, 263.

⁶⁸ NAC, RG 23, Compiled, file 1593, part 3, frames 245-267, MReel T-3169.

69 A.B. McCullough, *The Commercial Fishery of the Canadian Great Lakes* (Ottawa, 1989), 85.70

Don Courtney Piper, *The International Law of the Great Lakes: A Study of Canadian-United States Cooperation* (Durham, N.C., 1967), 16-17.

1892 to appoint a joint commission to conduct a study and to report on desirable regulations to prohibit destructive fishing, to prevent pollution and obstructions detrimental to fish life, and to establish and enforce close seasons. It also studied the feasibility of restocking contiguous waters.

The commission conducted an elaborate on-site investigation and made an extended detailed report and recommendations, a very large portion of which dealt with the Great Lakes. The agreement was advisory in nature and nothing came of it. Neither the Liberals who took control of government in 1896, having defeated the Conservatives in a campaign strongly critical of fishery policy as administered by Charles Hibbert Tupper nor the Republicans who elected William McKinley of Ohio, a very strong supporter of business interests, had any disposition to implement the Commission recommendations.'

Again in 1908 as part of the growing concern over the mounting disagreements and problems relating to using shared waters, the fishermen's conflicts on Lake Erie being a case in point, diplomatic efforts focused on joint regulation of fisheries, the unfinished business of 1892. Without question, the conflict on Lake Erie spurred the effort as did the genuine concern of Sir Wilfrid Laurier and Theodore Roosevelt about conservation of marine resources. This time the nations drew up and ratified a treaty for joint regulation of the fisheries in shared boundary waters. It too died a slow death amidst wrangling inspired by adamantly opposed American commercial fishing interests. Finally the British acting on behalf of Canada withdrew it in 1914.⁷²

Why did the efforts of 1892 and 1908 fail? Fishermen of both nations shared a conviction that regulations were inherently unfair because they could not be equitably enforced. He who obeyed the law lost out to the law breaker who reaped the harvest. They also repeatedly claimed that it was a God-given right to fish, and that regulation interfered with it. What is more the fishing interests thoroughly understood the political process. They knew how to lobby, how to enlist the help of their members of parliament and the congress, how to make their voices heard at provincial and state levels, and how to play the parts of their federal systems off against each other. They prevailed and preferring as they did to use nature's bounty then and let future generations take care of themselves, they contributed greatly to ruining the resource. No determined, organized, and well led public support to save the fish opposed them.

Beyond the many ways the contest between Americans and Canadians for the Lake Erie fish harvest dramatically underscored the need for international co-operation, it demonstrated the excesses to which fish harvests could be pushed once the resource began to decline and prices for wholesaler and consumer rose. Moreover, the contest on Lake Erie⁷¹

Margaret Beattie Bogue, "To Save the Fish: Canada, the United States, the Great Lakes, and the Joint Commission of 1892," *Journal of American History* 79 (March 1993), 1429-1454; Bogue, *Fishing the Great Lakes*, 238-249.

⁷² Bogue, *Fishing the Great Lakes*, 312-320; Kurkpatrick Dorsey, *The Dawn of Conservation Diplomacy: U.S.-Canadian Wildlife Protection Treaties in the Progressive Era* (Seattle, 1998), 51-104.

provides perspectives on a larger segment of Great Lakes fishery history, the operations of A. Booth and Company as the principal producer and marketer on the lakes, where it controlled most of the tug fleet. Finally it provides a first hand vignette of fishing the waters of Lake Erie, from the 1890s to the outbreak of World War I. The shallow fertile waters of Erie year after year produced the largest harvest of the five Great Lakes drawing upon its seemingly inexhaustible cornucopia of fish. Small wonder that there fishers engaged in the greatest competition for the catch using ever more sophisticated technology in ways that seriously weakened the fish population. English born Captain Edward Dunn who strove to drive the Yankees south into American waters predicted accurately when he said in 1902, "Unless some arrangement can be made with the various states bordering on the lakes to have uniform laws and regulations to be strictly enforced, the time is not far distant when the fishing will not be worth protecting." How right he was. That time approached in 1925 when the "impossible, the incredible," happened, the great herring crash. "The herring of Lake Erie, suddenly and without warning, gave out." They never recovered.

" Captain Edward Dunn, "Annual Report of the Cruiser *Petrel* for 1902," in Canada, *Sessional Papers*, 1903, no. 22, 281; Walter Koelz, "Fisheries of the Great Lakes, General Review," in U.S. Commissioner of Fisheries, *Report*, 1927 (Washington, 1927), Appendix 7, 661.