

REGISTRATION AND CONTROL OF FISHING BOATS IN THE  
NINETEENTH CENTURY

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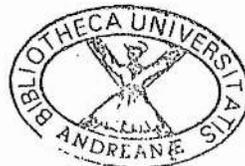
# *Registration and Control of Fishing Boats in the Nineteenth Century*

by **Matthew Tanner**

in fulfilment of the requirements of the degree of M.Phil. for the University  
of St. Andrews

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# *Registration and Control of Fishing Boats in the Nineteenth Century*

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## *Registration and Control of Fishing Boats in the Nineteenth Century*

### **Abstract:-**

Controlling fishermen at sea has been a difficult problem for British and continental Governments alike. This study shows how legislation was introduced during the nineteenth century whereby a framework was created to allow the authorities to control the behaviour of individuals at sea. The goals of the study are three-fold. Firstly to identify the problems facing the fishermen and the legislators in the nineteenth century. Conflicts and depredations between fishermen at sea were common during the nineteenth century and they can be divided into certain categories. Secondly to describe in detail the practical application and working of the measures which were applied to remedy them. The system of fishing boat registration and the numbering and lettering of fishing boats was the key to any successful policing system. And thirdly, to study the detailed working of a fishing boat register. For this purpose samples were taken from the Dundee and Arbroath register to understand the system and to consider the value of the fishing boat registers as a historical resource. These registers are an under-used resource which hold much specific information about individual boats and owners; this information does not appear in the well-known Fishery Board Reports, and it can answer questions on the patterns of boat use and ownership at the individual or regional level.

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John Doig, Jim Lindsay and the Scottish Fisheries Museum, Ian Flett (City of Dundee Archive), Dr. Quintin Cutts, The National Library of Scotland, The British Library, St. Andrews University Library, Fishery Officer of Mallaig

I, Matthew Richard Tanner, hereby certify that this thesis, which is approximately 38500 words in length, has been written by me, that it is the record of work carried out by me and that it has not been submitted in any previous application for a higher degree.

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## *Introduction*

Controlling fishermen at sea has been a difficult problem for British and continental Governments alike. This study will show how legislation was introduced during the nineteenth century whereby a framework was created to allow the authorities to control the behaviour of individuals at sea. The goals of the study are three-fold. Firstly to identify the problems facing the fishermen and the legislators in the nineteenth century; secondly to describe in detail the practical application and working of the measures which were applied to remedy them, and thirdly to consider the value of the fishing boat registers as a historical resource.

The British Isles and especially Scotland are particularly well-endowed with a large area of shallow continental shelf within easy range of the coastline. These waters have been some of the most prolific fishing grounds in the world, and the conditions in these seas are ideal for the abundance of the main food fishes such as cod, haddock and herring. Small boats fitted for daily journeys can have just as much success here as boats designed for longer sojourns in distant waters. It is therefore hardly surprising that there should be great competition both between native and between native and foreign fishermen for access to this resource. Throughout the nineteenth century confrontations and disputes between fishermen at sea were widespread. Fishing grounds close inshore were always considered to belong exclusively to the individual nation, and fishing there by foreigners had been jealously resented for many years.

As early as 1415 the King of Denmark complained to Henry V of England about the behaviour of English fishermen working close to the Danish possession of Iceland.<sup>1</sup> Nonetheless in the sixteenth century Queen Elizabeth I was forced to issue an Order in Council to try and control the excesses of the English fishermen by appointing officers to take bonds for good behaviour from men sailing for Iceland. Eventually the Danes took control of the Iceland fishing directly and would only permit fishing under licences from the Danish king.<sup>2</sup> The kings of Scotland had always tried to prevent foreign boats from fishing too close inshore, and foreigners were usually restricted to a distance of about 14 miles, or just hull down on the horizon. At the same time however, French, Dutch, Flemish and Swedish boats were used to fishing with little restriction in English waters.<sup>3</sup>

An important aspect of the story is the attempt to offset and rival the domination of the Dutch fishing fleet over the annual herring fishery in the North Sea. It was only in the Firth of Clyde that there was any big fishery carried on by native Scots. James V took executive action to discourage Dutch fishermen from Scottish waters:

“...the Hollanders, having only a verbal licence to fish at twenty-eight miles distance cam neere the shore into the mouth of the Furth of Edenborough, and ther fished in despight of the kings command. Then the King sent out men of warre and took so manie of them that he sent a barilful of their heads into Holland w<sup>th</sup> their names fixed to their forheads uppon cards.”<sup>4</sup>

Nevertheless by the middle of the sixteenth century it was usual for as many as two thousand Dutch herring busses to assemble in Shetland for the season, and the high quality of their cure ensured the hegemony of Dutch herring in the market-place.<sup>5</sup> James VI tried to make inroads upon the Dutch in 1609/10 by introducing legislation that banned foreign fishermen from British shores unless they paid a duty. The Dutch made strong representations and claimed an ancient right to fish the North Sea. The British boats however were generally small and undecked, not at all a suitable means with which to replace the large Dutch suppliers. One immediate consequence was the failure of the supply in 1610, and the Government was forced to back down in the face of Dutch naval escorts for their fishermen.<sup>6</sup> The Dutch domination of the North Sea fishery was one of the commercial factors that led to the three Dutch Wars of the seventeenth century<sup>7</sup>, and the Dutch fishermen came under great pressure. Admiral Robert Blake captured a large number of Dutch busses off Buchan Ness in 1652, and in 1653 no Dutch vessels voyaged to the annual fishery.<sup>8</sup> By the end of the seventeenth century a severe blow had been struck against the Dutch predominance in the herring fishery.

Clearly a balance needed to be sought between the aspirations of some countries of the North Sea to exercise dominion and fishing rights within the waters adjacent to their land, and a perceived general right among others of freedom to travel and to catch fish wherever they may be. Justinian is reported to have stated “*usus maris publicus et proprietatis nullius*”<sup>9</sup>, and this precept was a point of argument, even war, between nations. For example, during the sixteenth century Denmark claimed that the waters between herself and her possessions of Norway and Iceland should be considered as territorial waters. This was challenged by Elizabeth I of England in 1602 quoting “the law of nations which alloweth of fishing in the sea everywhere.”<sup>10</sup>

Not long afterwards Hugo Grotius wrote “*Mare Liberum*”<sup>11</sup> in which he advocated unrestricted freedom of the seas for all. He was answered in 1631 by John Selden in “*Mare Clausum*”, who argued that nations could indeed own and control parts of the sea. Bynkershoek in his “*De dominio maris*” of 1702 suggested the compromise that a nation could only exercise complete control over that area of the sea that it could defend directly from the shore. This was taken to be the range of a cannon shot; a distance considered to be about three miles<sup>12</sup>. The legislation tabled during the nineteenth century generally uses a territorial limit defined as three geographical or nautical miles<sup>13</sup> (5.56 kilometres) from the low water mark. Nevertheless this limit could never be entirely satisfactory. The Kings of Scotland

often insisted on Dutch busses staying at greater distances than the fourteen miles he had allowed, and in 1671 the Earl of Orrery was forced to request a Fifth Rate from London to protect the Irish fisheries from the incursions of the French fishermen.<sup>14</sup>

The Duke of York sent instructions to his naval commanders at sea in 1661 to the effect that they were to sail to Yarmouth Roads where they were to ensure the protection and security of the fishery. England was at peace with Holland, but at the height of the herring season trouble flared easily. The orders from the Duke stated:

“...And you are to take care that no prejudice be done unto them either by one to another, or by foreigners in sailing over or amongst their netts, or by any other voluntary or unnecessary disturbance of their fishing. And you are to require and oblige all foreigners to keep at a convenient distance from the English shore that so there may be room for His Majesty’s said subjects to follow their Fishing without any molestation of strangers...”<sup>15</sup>

The Duke does not include instructions as to how these requirements were to be achieved. Fishermen had to hunt wherever the fish chose to lie, and the problem for the legislator was how to control fisherman outside territorial waters where national writs do not generally run.

Confrontation at sea in the nineteenth century is well-documented in the official papers and publications. Chief among these must be the Fishery Board Reports. An act of Parliament set up the Commissioners of the Herring Fishery in 1808,<sup>16</sup> and from that time until the end of the century they and their successor bodies [known as the Fishery Board] produced a detailed annual report on the fishing industry. These reports are an invaluable source for the year by year problems and successes for the fishing. They cover a period over which the fishing was transformed from the basis of many small boats in numerous creeks and harbours all round the coastline, into a major industry with large investments being made in efficient sailing and steam boats.

The Board reports vary considerably in coverage but not in style. This partly reflects the changing remit of the Board as it becomes responsible for different areas of the industry in the course of the century<sup>17</sup> The biggest change is the move from being responsible for fisheries throughout the UK. to being solely responsible for the Scottish industry. This first occurred in 1869 The result of this for the fisheries in England and Wales was that no replacement was created until 1888, when District Sea Fishery Committees were set up to fulfil some of the Board’s regulatory functions<sup>18</sup>.A consequence is that after this date the reports are almost entirely focused on Scotland. When the Board was reconstituted as the Fishery Board for Scotland in 1882<sup>19</sup> the reports increased greatly as a huge wealth of

statistics and information was published. Thus for the last thirty years of the century the main source of information on the events in the industry is completely Scottish-centric.

By comparing these reports with the parliamentary papers detailing the evidence from official enquiries a picture has been built up of the often acrimonious relations enjoyed by the fishermen with each other. In the course of the study it became apparent that most of the incidents described could be boiled down into two categories of dispute. Firstly, different sets of fishing gear in close proximity on the same grounds, irrespective of the fishing methods in use, were simply not compatible. Secondly, the animosity of one branch of fishermen towards another, whether they be foreign or British, when they are perceived to be taking fish from waters or in ways which are feared to be detrimental to the livelihood of the former. Thus, foreign fishermen are prevented from seeking fish inside territorial waters which were considered to be exclusive to one nation; and fishermen using non-traditional methods are resented too by those using more traditional gear.

The actual causes of conflict were usually different for drifters and for trawlers, but the solution was sought in the same way. International conventions with neighbouring countries were negotiated and enacted. These prescribed rules of behaviour for fishermen outside territorial waters which attempted to prevent the occurrence of both categories of dispute. Much was learned from the operation of the first convention<sup>20</sup> and over the century, and with very variable success, a body of legislation was built up to enable the control of fishermen at sea.

However, while the delineation and enforcement of specific territorial waters through the conventions served to exclude foreign vessels from encroaching in home waters, the policing of native fishermen was more difficult. Discrimination by exclusion of foreign fishermen was fair enough, but discrimination against one class of British fishermen as opposed to another could only be justified when overwhelming national interest might call for it. Yet where national interests were not so much at stake, a means of effective policing at sea to prevent damage to boats and injury to people at loggerheads with each other had to be found. Policing by consent became a distant goal, and the introduction of additional regulations served to create new offences which had then to be policed.

Serious disturbance and difficulties, especially in Loch Fyne and the Clyde in the middle of the century, served to make legislators shy away from tight regulation. The principle that every man has a right to fish where, when and how he pleased was one which appealed to men who believed in the doctrines of free trade and the freedom of individual entrepreneurs. Two important Royal Commissions<sup>21</sup> in the seventh decade of the century declared their belief in unrestricted fishing rights and the second recommended a minimalist system for effective control. This included the proper identification of fishing boats, a modified form of the rules from the first convention, and any direct intervention strictly

limited to where it was absolutely necessary.<sup>22</sup> The chairman of the second Royal Commission was Sir James Caird who was known to be an ardent Free-Trader and a friend of Bright and Cobden<sup>23</sup>.

However, the caveat, of a fishery only requiring strict control when it was clearly in the national interest, had to be invoked towards the end of the century. The huge growth in the numbers and sophistication of trawlers, and increasing scientific evidence which seemed to suggest that the result of unlimited trawling would be the impoverishment of the fishing grounds, led to bans on trawling in certain areas. The freedom of the fisherman to fish where he liked, subject to behaving according to the international conventions, was removed from the trawlerman. Eventually this ban included areas outside territorial waters too, so that the trawler was subjected to the galling sight of foreign fishermen catching fish in an area where he was not allowed to go.

The keystone for all the measures aimed at controlling the behaviour of fishermen was the numbering, lettering and registering of fishing boats. Only in this way could a boat and its owner be effectively identified when transgressing any of the rules. The basic structure was set up by the first international convention of 1843 but it was the Sea Fisheries Act of 1868 which refined the system which in its main points has been in use ever since. Nevertheless, such a system was always open to abuse by unscrupulous fishermen concealing or falsifying their numbers when at sea.

It is essential for the effective working of a numbering system to have a comprehensive register of all fishing boats which give the details of the craft and its owner. These register books survive in many places today where they constitute a much under-used historical resource. For this study register volumes were examined in detail from three different ports; Dundee, Arbroath, and Broadford, in order to build up a preliminary picture of the working of the system by the registrars. A sample of one hundred records was taken from the 1887 books at Dundee and Arbroath and these were used to consider how useful the information within the registers might be for historians. An examination of the equivalent book for Broadford was made to check whether there was much difference in the operation of the register on the West coast and to look at a register that had been set up specifically for the Sea Fishing Boats (Scotland) Act of 1886.

The volumes selected for examination were each from 1887 since this was the year when a modified register layout became operational under the Sea Fishing Boats (Scotland) Act. An assessment of the effect of this act could thus be seen in the register books. The act introduced the idea that the fishing registers could be useful in more ways than purely the efficient policing of fishing boats. The initial idea was to enable poor crofters in the highlands and islands of Scotland to be able to take advantage of Government loans for boats by mortgaging them<sup>24</sup>. The new style register provided a form of proof of title to

allow this to happen in places where access to the services of a lawyer was not possible. However the loans proved to be less than successful, and the new services provided by the 1887 registers do not seem to have even come near to displacing the traditional methods of transferring property within fisher communities either in the crofting districts or on the East Coast. The discussion of the samples taken from the registers of Dundee and Arbroath are presented as a reconnaissance. A detailed examination of the working in the register book by the registrar shows both the idiosyncrasies and constancy within the entries. Although the samples are small the differences between the two ports seem to be quite clear. The samples seem sensitive to these differences which suggests that the differences between boats from other ports which had not readily been apparent, may be illuminated by the study of fishing boat registers.

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- 1 March 1952 p.2
  - 2 Ibid.
  - 3 Ibid. p.4.
  - 4 From ms. in the PRO. State Papers vol. CLII #63, as quoted in MacKenzie 1903.p.304
  - 5 Anson 1950.p.2. The season ran from St. John day, June 24, until St. Catherine Day, November 25, or until Christmas.
  - 6 March 1952 p.4.
  - 7 1652-4; 1664-7; 1672-4.
  - 8 March 1952 p.8.
  - 9 "The use of the sea is public property and the possession of no-one" - Unreferenced citation in Johnstone 1905.
  - 10 Kemp 1976 p.518
  - 11 In 1609
  - 12 Ibid.
  - 13 This is the Admiralty Nautical Mile that is taken to be the average distance of one minute of latitude at the equator and at the poles, 6077 feet, rounded up to 6080 feet.
  - 14 9th June 1671. Admiralty & Naval Affairs 31 May 1660 - March 1674. Privy Council Records 6.1. PRO. In Robinson 1950.p.37

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- 15 Ibid., 9th August 1661. Robinson 1950.p.36.
- 16 By the Act for the encouragement of the British White Herring Fishery. 1808.48 Geo.IIIc.110.
- 17 See note "Fishery Board" in Bibliography.
- 18 By the Sea Fisheries Regulation Act 1888. 51 & 52 Vict.c.54
- 19 By the Fishery Board (Scotland) Act 1882. 45 & 46 Vict.c.78
- 20 Finally ratified in 1843.
- 21 The Report of the Royal Commission on operation of the acts relating to the trawling for herrings on the coasts of Scotland. 1863; and the Report of the Royal Commission appointed to enquire into the sea Fisheries of the United Kingdom. 1866.
- 22 Originally to the constricted waters of Upper Loch Fyne and the bays near St. Ives only.
- 23 Sir James Caird 1816-1892. Supplement to the Dictionary of National Biography.
- 24 Under the Crofters Holdings (Scotland) Act 1886.

# *Chapter One*

## *Disputes at Sea - Driftersmen*

In April 1889 Queen Victoria confirmed an Order in Council by which it was expressly forbidden:

“for any person on board or belonging to any British or Foreign fishing boat to discharge or present any firearm, or discharge any stone, ballast, coal, bottle, missile, or thing at any other sea fishing boat or boats, or at any person or persons on board of or belonging to any fishing boat or boats, or use any threatening, abusive, or obscene language to attack, intimidate or molest any other person on board of or belonging to any fishing boat or boats, or do any act likely to provoke a Breach of the Peace, or make any person or persons to do any of the aforesaid things.”<sup>1</sup> A penalty of £10 would be incurred for a breach of this order.

The necessity for such a strongly worded regulation was clear to the Government of 1889, but the problem was not new. Conflict and dispute at sea amongst the fishermen of Europe were commonplace for a large part of the nineteenth century and the seeds of rivalry had been sown long before.

The falling of the final curtain upon the Napoleonic Wars in 1815 allowed Europe to breathe freely at last, and the Treaty of Paris of the same year settled a peace across Europe that was to continue for many years. However the wars had had a disastrous effect on the British fishermen. They had closed the continental markets for British cured herring for a long time and the demands of the Royal Navy for prime seamen from the fishing fleet had further weakened the industry. Along the southern and eastern shore of England the effect of the long wars does not seem to have improved after 1815. Indeed the situation became worse with the advent of peace and the reappearance of continental fishermen into waters where they had not fished for some years.

In 1817 a select committee was appointed to examine the fisheries of the South Devon coast,<sup>2</sup> and one of the witnesses was moved in his evidence to declare:

“I wish to propose that some measure should be adopted for the better protection of boats, nets and lines etc. and for preventing fishermen from wilfully injuring each other...The fishermen are sometimes in the habit of cutting away or setting adrift the craft belonging to others when in their way; for which the law provides no remedy.”<sup>3</sup>

It transpired that not only was there no law to control the behaviour of fishermen of any nationality at sea, but a fisherman also had no rights over his catch until it was directly in his possession, and not merely on his hooks or in his net. Therefore, anyone could raid the nets and lines and carry off the captured fish with impunity.<sup>4</sup>

These problems were not going away, and in the annual report of the Fishery Board in 1821, the Commissioners noted:

“The Commissioners have again had their attention turned to the injuries sustained by the fishermen and curers on the East Coast from the encroachments and improper practices of the Dutch and other Foreign fishing vessels; and they have thought it their duty to recommend in the strongest manner to the Lords Commissioners of the Treasury the propriety of measures being adopted for preventing the recurrence of evils complained of.”<sup>5</sup>

Again the Fishery Board were moved to raise the matter in the following year:

“In the Report of their proceedings the Fishery Board adverted to the complaints they had received of the encroachments of the Dutch busses on the British Fishery ground...Further complaints have been received by the Fishery Board in the present year; but they have now the pleasure of reporting that their lordships have caused the matter to be represented to the Government of the Netherlands; and from the measures in progress on this important question, they anticipate the happiest result to the interests of the British Fishery.”<sup>6</sup>

Nevertheless complaints continued against Dutch vessels fishing close to the Scottish coast, and so the King of the Netherlands issued a decree prohibiting his subjects from fishing within six miles of the shore.<sup>7</sup> Diplomacy, not war, was now the order of the day, and by 1824 the Dutch vessels were operating a six mile limit upon the British coasts.<sup>8</sup> But this single nation agreement was not in itself sufficient to meet the sore needs of British fishermen. The six mile limit operated by the Dutch was only a small part of the ocean, and it only applied to the vessels of one foreign country. No improvement in the state of the Channel fisheries was discernible and by the early 1830's questions were being asked at Westminster. So the Government appointed a Select Committee<sup>9</sup> to look into the complaints and petitions it was receiving from the coasts.

This committee restricted itself to the concerns raised with them by men along the coast between Yarmouth and Lands End, and reported in 1833 that they had received petitions from eight different fishing communities.<sup>10</sup> Upon enquiring they had immediately found that the Channel fisheries and the associated businesses were “...generally in a very depressed and declining state,...especially over the last eight years”<sup>11</sup>; (after the agreement had been reached with the Dutch crown.) Fortunately, the committee recognised some of the

more long term problems facing the fishermen. They identified three main causes for the sorry state of the fisheries. Firstly, the extensive interference and aggression of French fishermen on the coasts of Kent and Sussex; secondly, the large quantity of foreign caught fish illegally imported and sold in London; and thirdly, the scarcity of fish in the Channel.

However before considering these problems and the proposed solutions the committee deliberated upon a piece of legislation that had had important ramifications for the fisherman and which until very recently had greatly restricted his ability to compete with foreign fishermen for the same fish. The Smuggling Act<sup>12</sup> had been introduced to allow the Customs and Excise to clamp down on the propensity of fishing boats and others to engage in smuggling while in the course of their more legitimate business. This act gave to the Commissioners of Customs a discretion to grant or refuse licences to any vessel by which it could be prescribed for her just how far from the home port she was allowed to sail. The regulations came from a letter<sup>13</sup> from the London Custom House to its officers giving guidelines for the implementation of the licensing system. They had devised a scale of distances allowed for boats to travel. Fast rowing boats were limited to 4 leagues<sup>14</sup> from the shore in the Dover Straits, and 6 leagues elsewhere. Open boats and vessels, which included the majority of fishing boats, were restricted to 4 leagues in the Dover Straits and 8 leagues elsewhere. The regulations included a restriction on coastwise distance too. These restrictions left many rich fishing grounds entirely out of bounds to many English boats and abandoned them to foreign vessels who were not restricted by the Smuggling Act in any way. Furthermore, the operation of the licensing system allowed the local customs officer to influence greatly the decision as to whether an application for a licence would be granted. The evidence of Mr N. Robilliard, customs officer, before the Select Committee confirmed that the licences were granted only after a character reference had been received on the applicant from the local customs officer, and that the securities required from some applicants were unfair and difficult for them to obtain. The practice was easily open to partiality and abuse and gave rise to numerous complaints.<sup>15</sup>

By this restrictive measure the fishermen of the South were generally tied to within 4 or 8 leagues of the coast. This ill thought out law failed to achieve its objective of controlling smuggling since the foreign boats were still quite free to come and go as they pleased, and the regulations ran into difficulty from the start<sup>16</sup>. A special dispensation had to be given only a month later to the Cornish Mackerel fishermen to allow them to go as far as 20 leagues after the distant shoals<sup>17</sup>. Otherwise, held to 8 leagues from the shore, they simply could not make a living. Ten years later further restrictions had to be lifted after the smacks men of Barking successfully petitioned that the rules prevented them from trawling in the Channel. They were granted a dispensation in August 1827<sup>18</sup>. Fortunately for the fishermen the Commissioners of the Customs were slowly realising the effect of their draconian regulations. By a minute of the Board of Customs<sup>19</sup> the limits were generally increased.

According to Mr Robilliard, in the last six months before the committee's enquiry the Board of Customs had lifted the limits generally to within a league of the French coast. This immediately freed up to 100 boats on the Kent and Sussex coast and should have allowed them to begin to compete properly with the foreign vessels. In this way a principle was established of allowing the freedom of the seas to the fisherman to seek his livelihood where he chose, up to a line three miles from a foreign shore. The committee recommended the abandonment of these Custom House regulations entirely<sup>20</sup>.

However two points appeared in the evidence that were to have a bearing on later events. Mr Robilliard mentioned that where English boats have been allowed to extend their limits there have been two or three incidents, in his words: "we almost call them fights"<sup>21</sup>, between French and English oyster fishermen on the Jersey scalps. Moreover, it seemed that the French were in the practice of seizing any foreign vessel that they found within a three league limit from their coast.

Once the Smuggling Act regulations had been dealt with, the committee addressed itself to the issues previously identified by them. The committee report described how:

"...For a long time past and up to the present the fishermen of Calais, Boulogne, Dieppe and other places in France have been accustomed to fish with large fleets of fishing vessels upon the Kent and Sussex coast, frequently within half a league from the shore, and occasionally much nearer. They also fish in the bays and shallow waters in which it is particularly necessary for the preservation of the brood of fish that it should not be disturbed. The French fishing vessels have greatly increased since the peace- now there are 200-300 out of Boulogne alone. These boats are of bigger tonnage than the English and have 2 or 3 times the crew."<sup>22</sup>

The committee also complained that the French boats commonly remained on the grounds for the whole season and would sell fish directly to carrier boats from the Thames, which supplied the London market. During the turbot fishing season, the Frenchmen would also enter the English bays dragging with nets for bait and in the process allegedly damage the nursery grounds and destroy young fish. The English boats sustained frequent loss and damage to their lines and nets, especially during the herring and mackerel season; so much so that it imperilled their livelihood. On the other hand no English boats were allowed within three leagues of the French coast - they would be warned off by Revenue or Police Coast-guard vessels. These were the major depredations which were to dog the peaceful operation of the fishery for many years to come. They appear to fall into two main categories of dispute.

Firstly, the proximity of fishing boats on the same grounds. Whether these boats were employing the same or different fishing methods, this could very easily lead to mutual

interference, and a corresponding amount of damage and loss of gear, not to mention tempers.

Secondly, where fishing boats were seen in areas and on grounds recognised as territorial waters, and particularly when it was thought these waters served as nursery grounds for young fish, natural resentment and anger was aroused among local fisherman. Indeed, over-fishing on these grounds was thought to impinge greatly upon the abundance of the adult fish populations. These two categories account for most fishing disputes of the nineteenth century. Whether national or international, they were characterised by proximity conflicts or by transgression of traditional fishing grounds, or both.

In the instance of the 1833 Select Committee report both categories of dispute were in evidence. The French boats were fishing in bays and shallows sometimes within half a league from the shore. The proximity of the foreigners also led to loss and damage of English fishing gear. The rival fishermen were working under quite dissimilar working structures that must have led inevitably to a certain level of confrontation. In France the state made special efforts to encourage the fisheries. Bounties were paid for the fitting out of large boats with substantial crews to go drift netting for herring. It was seen as both providing a good source of food, and as a ready supply of manpower for the navy, should it be needed<sup>23</sup>. The boats were on average of larger tonnage than the English boats, and often the crew of a French drifter could number up to 18 or 20 men<sup>24</sup>. This number of men could handle a big two or three masted fully decked lugger and a fleet of heavy weight drift nets. The nets were coarser and stronger than those of the English and they were buoyed by small wooden casks in the manner of the Dutch busses.

The fishermen on the English side of the Channel were not organised in a similar manner at all. The men working boats off the beaches of Southern England used generally lighter and smaller equipment than their French counterparts<sup>25</sup>. The boats were usually undecked and of light build, since decked boats were more expensive and usually required to be worked out of a harbour. The English drift net, although fashioned from hemp like those of the French, was of a lighter weight and supported by soft inflated bladder floats. The bigger French fleets of net would hang like curtains in the sea for several miles, and when trains of drift net were shot in close proximity there was a great danger of collision between them. The lighter weight English nets invariably came off worst by collision damage from the wooden casks of the French nets or even by a complete severance of the net. When this occurred the fisherman would be very likely to lose valuable nets entirely, and he had little means of establishing ownership of any net recovered from the sea.

The removal of the heavy regulations attached to the Smuggling Act freed the English fisherman from being tied to within sight of his own shore, yet the encroachment of French boats was seriously disrupting the success of the English fishery. The Select Committee

recommended that: "All possible protection and encouragement should be promptly given to the English Fisheries"<sup>26</sup>. This should be done in the name of justice, they added, but it could also be justified as improving the supply of seamen for the Royal Navy. The Committee suggested that a one league fishery limit should be applied and the French boats made to comply with English law. This was just what the fishermen needed.

However, such measures were to prove difficult to enforce. The Fishery Board brought notice again in 1835 to the Privy Council for Trade:

"...numerous complaints, from different quarters, have been made to the Commissioners of the injury done to the British Fishery by foreign vessels, of a large size, fishing so near the shore, as to occupy the best ground, and to compel the native fishermen to shoot their nets on the outside of these vessels, to their great danger and annoyance..."<sup>27</sup>

And again in the following year more complaints were received of injury done by foreign fishing vessels<sup>28</sup>. By 1838 Parliament had received a good number of complaints dating from January 1832. For example, 150 Scottish and Yarmouth boats mixed up with 100 French drifters within a mile of the shore off Hartlepool: The frailty of British drift nets continued to cause losses: "French nets are floated by casks which do much damage to English nets which are floated by bladders"<sup>29</sup>. More depredations occurred off the South coast when French trawlers ran down several fleets of Brighton drift nets<sup>30</sup>. This was a version of the proximity problem involving different fishing methods which was to become familiar in the latter half of the century.

Captain Pechell, the Member of Parliament for Brighton, continued to raise the matter in the House of Commons, and in May 1838 he put a question to the Secretary of State for Foreign Affairs, Viscount Palmerston. He reminded the Secretary of State that he had presented a memorial from Brighton fishermen complaining of damage from French boats. This was not his first notice and the previous Secretary of State had said then that it would go to the King's Advocate for a question of law<sup>31</sup>. Palmerston replied that the problems were occurring in international waters, and that two propositions were to be made to the French Government. Firstly that territorial waters should be the exclusive right of each nation's own fishermen; and secondly that the two countries should draw up a code for regularising the conduct of the fishermen<sup>32</sup>.

Thus was born the first international convention<sup>33</sup> for the control of fishermen outside territorial waters. It was to have a slow birth, but a reasonably happy childhood. The Fishery Board was reporting again in 1840 that they had continued to receive very numerous complaints of the injuries done to the British fisheries by French fishing vessels in direct violation of the new convention<sup>34</sup>. The year 1841 saw fewer complaints<sup>35</sup>, and the year

1842 was a good one, when the Fishery Board could report that “the most perfect order has continued to be preserved among the fishermen all around the coasts”<sup>36</sup>. However, more complaints were received in 1847 about foreign fishing vessels ignoring fishery limits, and a special notice was sent to the Committee of the Privy Council for Trade to this effect<sup>37</sup>. Further problems were reported in 1849 in the following manner:

“In the repression of foreign encroachments the naval superintendents exhibited both zeal and discretion, and the Fishing interests derived great benefit from their services...Both steamers were actively employed, and on several occasions fell in with Foreign Fishing Vessels, in parties or singly, infringing the rights of British Fishermen. These grievances were immediately redressed, without exciting an acrimonious spirit of contention, or disturbing the good understanding which, in the main, subsists between our own Fishermen and the Fishermen of the different nations that fish on our coasts”<sup>38</sup>

It was unfortunate that this apparently happier state of affairs was not to last. Nevertheless the herring fishing of 1849 demonstrated how good relationships could be spontaneously maintained among fishermen of different nations. The Fishery Board reported:

“[Since] the fishing proved so abundant, there was no necessity for a choice of ground and no struggle for it; wherever the Fishermen dropped their nets they were sure of a catch; and though Foreign and British fishermen were intermingled, they spontaneously avoided crowding, and the boats almost universally kept at a proper range from each other.”<sup>39</sup>

Fewer cases of collisions or damage occurred in this bountiful season than in any previous year. When the fishermen did not have to vie with each other for a limited number of herring shoals, all was harmony. However, there were still infringements or collisions annually, and a background level of disputes remained. The Indian summer of the 1840s changed sharply in the early 1850s. Fishermen since the 1830s had increasingly become involved in the creation of an industry. From that time rising prices for their catch were a major stimulant to effort and investment. As a result the character, the wealth and the size of the East coast fishing communities were deeply changed<sup>40</sup>. Boats were continuously increasing in size, and the industry grew by a gradual erosion of traditional forms of fishing as the profits inherent in the herring fishing and curing process began to be realised. In the early part of the century boats fishing boats were generally up to 25 feet on the keel<sup>41</sup>, but by the late 1840s and early 1850s they had been stretched to around 40 feet<sup>42</sup>. [See plate 10] The increasing size of boat allowed greater distances to be travelled, more nets to be carried, and faster returns made to market. Thus the fleets sailing in the 1850s were larger, more numerous and perhaps more determined than ever before. Boats were also forced to travel

further to find the fickle and shifting herring shoals. Malcolm Gray has said that until the 1870s the fisherman was having to work harder and to spend more to bring back the same quantity of herring<sup>43</sup>. Gray has shown that between 1854 and 1869 the value of fishing equipment employed per capita in East Scotland increased by 43 per cent<sup>44</sup>. Every year the fluctuations in the fishing and in the prices available from the curers placed great pressures upon the fisherman. Furthermore the haphazard movement and the long term upward thrust in wages paid to hired men brought owner-fishermen under even more pressure<sup>45</sup>

This is the background upon which the increase in complaints that followed is to be seen. The transformation from a localised occupation to a national industry was well under way, and the men involved would have been anxious to reap the rewards of their calling in a fishery where success is highly variable from year to year. In 1852 the Fishery Board reported that they had received more complaints, particularly from the Berwick and Northumberland area. French boats and nets had damaged English nets<sup>46</sup>. The fineness of the latter and the greater number of the boats involved exacerbated the damage. The French Government had also introduced new regulations "for a more stringent compelling of their men to fish"<sup>47</sup>, and the French were considered to have encroached over the fishery limits more than was usual. The Fishery Board complained that the number of fishery cruisers cannot "be sufficient for the numerous incidents of superintendence that are constantly arising."<sup>48</sup>

In 1853 the disputes with French boats grew so serious and frequent that the Fishery Board applied for more force to deal with them. A number of French boats were fined and it was agreed that the Farne Islands did have a three mile limit around them<sup>49</sup>. The nature of the disputes had not changed, but the crews and boats had. The Fishery Board now reports that the Commodore of the French superintending naval squadron had received many urgent complaints against the crews of British boats, it had to admit that: "too often these were manifestly well-founded."<sup>50</sup> The French Commodore wrote directly to the British Naval Superintendent, Lieut. Risk, with the following claims which serve as exempla of the general pattern of the fishery.:

"Monsieur le Capitaine,- Numerous complaints have been brought to me against English fishermen. I set aside those which merely contain vague allegations, but there are two which are based on precise facts, and which appear to me to be extremely serious. I have the honour to acquaint you with them, hoping that the positive proof with which they are accompanied will allow you to recognise them, and to prosecute the authors of these culpable attacks, which you will deplore as well as myself.

The No.245 of Fécamp, Pierre Lacherre, Master, being on the 23rd August at 8pm. at 4.5 or 5 miles off Blyth, had her nets cut and damaged by a small English boat, marked N and N 330, under the following circumstances:-

The nets of the two boats were touching for a short length only; the No.245 seeing that the English were preparing to cut, sent his small boat to beg them to abstain from doing so, and to tell them he was going to heave in. The weather was fine; it was easy to clear himself. These men contrary to Art.60 of the treaty would listen to nothing. The men of No.330 received the small boat with abuse, shewing them a hatchet, and throwing stones with such fury, that the small boat was obliged to fly. Then the English cut the nets and stove in the buoys. One of them lost his hatchet during this operation. A second boat came to join them. It was not until late that the boat of 245 could return to knot the Hawsers which had been cut. I do not demand any indemnity for this damage, but I earnestly implore, Monsieur le Capitaine, the punishment of the men of the No.330 N and N, who have thus without provocation assailed our Fishermen.

The following fact is still more serious. The Jeune St.Charles, No. 405 of Fécamp, Ledun, Master, found himself in the night of the 22d and 23d at midnight about 4.5 or 5 miles from Callercoats. Two English boats No.130 and 131 N went to lift their nets which were in the sea, and observing a Fish, set them again close to the French boat. It was therefore in contravention of Art. 32 and 59 of the Treaty.

Some time after the nets of the three boats being mixed up together and the English preparing to cut, the master, Ledun, represented to them that they could easily disengage them without that; it was nearly calm; they would listen to nothing, and only answered by menaces, and by staving in and cutting (contrary to article 60 of the Treaty) the buoys and nets. The latter went to the bottom, and it was impossible to recover them, except some pieces.

I have proved the loss to be 64 nets, 24 buoys, and 7 Hawsers, of which the total value is from 1400 to 1500 francs.

The Nos. 130 and 131 were most outrageous, and they were positively seen to *cut the buoys*. The No.225 of Hartlepool was present, but the men of this boat made no menace or havoc. They behaved like respectable people. The Frenchmen were alongside of them working to clear their Nets, and everything passed orderly. Those last could testify to all that occurred.

In consequence of this misdeed, the No.405 of Fécamp is now completely disabled, and unable to continue her Fishing, for beside the loss of 64 nets, there are nearly the same number damaged. I ought to add that the Master (Ledun), father of a family and already old, is one of the most respectable men, against whom there has never been brought a single complaint, and who is incapable of tolerating the least attempt at disorder whatever on the part of his crew.

I seize this occasion to pray you, conformably to Art 63 of the Treaty, to be reminded, Monsieur le Capitaine, that many of the Boats of the British Fisheries carry neither the Letters nor the Numbers required by Articles 6.7.8.9.10.11.and 14.

Accept, Monsieur le Capitaine, the assurance of my most distinguished sentiments.

Le Capitaine de Fregate, commanding the "Corse", and the French Station in the North Sea.

(Signed) D'Estremont de Maucroix<sup>51</sup>

This detailed and very diplomatic letter certainly reveals that no one nation could claim any moral high ground. The letter also serves to bring home the fact that it was the lives and livelihood of individuals at stake upon the fishing grounds especially since the offenders could not be identified and no compensation was available. Although it must be borne in mind that the Fishery Board included the letter in their report in order to help make their case to the Treasury for greater resources, there is no reason to suggest that these occurrences were isolated. Indeed the situation appeared to get worse.

In 1854 it was reported that the French commander had complained of English fishermen using firearms against French boats lying in Holy Island harbour<sup>52</sup>. Belgian boats too had been found using Shetland harbours as illegal bases for the fishing in 1856<sup>53</sup>, and in the following year more depredations occurred on the East coast of England, but not, this time, in Scotland<sup>54</sup>. During the period 1852-5, 138 vessels had been detained by British fishery cruisers. The, now usual, trouble occurred again in 1860, this time off Holy Island and Berwick. Through good co-operation between the commanders of the French and British fishery cruisers 21 skippers were brought before the magistrates and fined<sup>55</sup>.

Fewer French encroachments occurred in 1862, and the Fishery Board also discovered that many British fishermen were under the erroneous impression that the territorial limit off the British coast was three leagues, i.e.. nine miles rather than three<sup>56</sup>. This explained some of the excessive retaliations by a few of the English boats, but not all. This false impression among the British crews as to the correct distance to their territorial waters may well have stemmed from the three league limit that the French authorities had been enforcing on their coasts before the 1839 Convention had been signed<sup>57</sup>. There were again further serious depredations off the Farne Islands in 1863. Many French boats were caught fishing within the three mile limit, but the complaints against English boats for damage to nets and buoys also increased<sup>58</sup>. In Scotland fewer problems occurred and the occasional intrusions by French boats inside the limits were quickly stopped. In 1865 twenty-seven French crews were caught and fined before the magistrates, and one English; but the fine often did not amount to the value of the damage they had caused<sup>59</sup>.

In 1867 the herring shoals appeared further offshore than usual and the natural consequence was less congestion on the fishing grounds; and in any case the boats were fishing well away from the fishing limits<sup>60</sup>. It seems that no single national group or area was more guilty of depredations than any other. Problems and confrontations occurred

whenever the herring shoals appeared in a restricted area that could then swiftly become congested as drifter skippers strove to find a good catch. Although complaints reappeared during the 1869 season, this time they were maintained against smacks as well as drifters<sup>61</sup>, and the level of confrontations was diminishing. Twenty-two new French boats had appeared in the fleet for 1869 and the generally larger size of vessel used by the French fishermen was far more adapted to following the herring shoals further offshore. The French fleet numbered 171 in that year, about 21% of the size of the British fleet, but the British boats were unable to follow them quite as far offshore since they were smaller and still generally undecked or half-decked. They were obliged too to return to port with the catch every morning for the curers to process<sup>62</sup>, while the foreign vessels generally cured the catch on board their bigger boats. This natural process of separation and dissemination of the boats, which was to last at least until the British boats had been decked and increased in size, greatly eased the number of confrontations occurring. Nevertheless, when a large shoal set into the land, then any boat, including the French, would pursue it, despite the possibility of confrontations, damage or monetary fines.

Deliberate damage or theft of boats' gear was rare. While many skippers would pursue their quarry in such a competitive manner as to risk infringing the law, there were only a few cases of deliberate criminal damage or theft. The Fishery Board report of 1869 called attention for the first time to a new danger to drift nets and other static gear in the North Sea such as long lines<sup>63</sup>. Earlier in the year, during the line fishing season complaints had been made that crews of French and Belgian smacks were cutting the lines of Scots fishermen at sea and carrying off the lines, hooks and the fish upon them. The British consuls at Ostend and Dunkirk immediately arranged for the offending vessels to be searched on their arrival, but little incriminating evidence was found. One Belgian crew was brought to trial in Bruges, but the case failed through insufficient evidence.

In 1869 the East of Fife Record reported:

“Cutting fishing lines at sea - On Tuesday while the boat belonging to John Wood was riding by the lines, it was found on coming to the end of them that they had been cut clean through to the extent of 4 1/2 lengths, and either destroyed or carried off. The loss would amount to several pounds. A foreign vessel, name unknown, was seen in the vicinity not long before. A complaint has been lodged with the authorities here, but there is little likelihood of such malicious conduct being detected and punished.<sup>64</sup>”

Another case appeared in 1876 when a number of Dutch vessels were accused of rescuing gear from British fishing boats that had been lost in a storm. The “Bon Accord” KY 1328 of St. Monans and another boat KY 1084 both stated that they had seen two Dutch boats in the act of hauling the nets out of the sea, and that by the marks on the nets they

identified them as belonging to the two Scottish boats. How this was possible without going on board the Dutch vessels is not clear. No identification was possible since no reciprocal convention then existed with Holland<sup>65</sup>.

It is apparent that the frequency of confrontation between drifters decreased with the movement of the herring shoal appearances into less constricted waters, but the disputes at sea were set to continue in a different guise.

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- 1 Statutory Rules and Orders: Order in Council 6/4/1889
  - 2 Select Committee appointed to consider the present state and condition of the fisheries on the South Coast of Devon, and to report the same, with their observations thereupon, to the House together with the Minutes of Evidence taken before them. P.P. 1817.III.113.
  - 3 Ibid. Evidence of George Vernon.
  - 4 Ibid.
  - 5 Report of the Commissioners for the Herring Fishery 1822 [for 1821] para.7.
  - 6 Ibid. 1823 [for 1822] para.5
  - 7 In 1824. March 1952. p.9
  - 8 Ibid.
  - 9 Select Committee on the State of the British Channel Fisheries and the Laws affecting the Fishing Trade of England. P.P.1833 (676) XIV.67
  - 10 I.e.. Emsworth, Brixham, Havant, Langstone, Bedhampton, Farlington, Plymouth, and Bosham.
  - 11 Ibid.
  - 12 6 Geo. IV c.108. "for the Regulation of the Customs" See Appendix One
  - 13 Dated London 25/2/1817
  - 14 One league = 1/20 degree = 3 nautical miles
  - 15 Select Committee on the State of the British Channel Fisheries and the Laws affecting the Fishing Trade of England. P.P.1833 (676) XIV.67
  - 16 In 1817
  - 17 Customs house Letter dated 3/4/1817
  - 18 Customs house Letter dated 21/8/1827
  - 19 Minute of Board of Customs 21/8/1827
  - 20 Select Committee on the State of the British Channel Fisheries and the Laws affecting the Fishing Trade of England. P.P.1833 (676) XIV.67f.
  - 21 P.P. 1833 (676) XIV.67f.
  - 22 Ibid.
  - 23 Ibid.
  - 24 Ibid.
  - 25 Ibid.
  - 26 Ibid.

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- 27 Report of the Commissioners for the Herring Fishery 1835 [for 1834] para.5
- 28 Ibid. 1836 [for 1835] para.5
- 29 Memorials received by HMG since January 1832 complaining of aggressions of French fishermen on the British coast.#5. P.P.1837/8 (143) LII.201
- 30 Ibid.#2 & 3.
- 31 Hansard Vol.43. HC. 21/5/1838
- 32 Ibid.
- 33 Convention between HM and the King of the French relative to the fisheries on the coast of the British Isles and France. 1839. See Chapter 2.
- 34 Report of the Commissioners for the British Fishery 1841 [for 1840] para.7
- 35 Ibid. 1842 [for 1841] para.4
- 36 Ibid. 1843 [for 1842] para.5
- 37 Ibid. 1848 [for 1847] para.13
- 38 Ibid. 1849 [for 1848] p.2.
- 39 Ibid. 1850 [for 1849] p.6
- 40 Gray 1978. p.58f.
- 41 Ibid. p.83
- 42 Captain Washington's Report on loss of life and damage to fishing boats on the East coast of Scotland by gale of August 1848. P.P. 1849. LI.277
- 43 Gray 1978. p.94
- 44 Ibid. Figures pp.96-7
- 45 Ibid. p.95
- 46 Report of the Commissioners of the British Fisheries 1852.para.14
- 47 Ibid.
- 48 Ibid.
- 49 Ibid. 1853 para.13.
- 50 Ibid.
- 51 Ibid. pp.5-6
- 52 Ibid. 1854 para.8
- 53 Ibid. 1856
- 54 Ibid. 1857 para.6
- 55 Ibid. 1860 para.6
- 56 Ibid. 1862
- 57 c.f.P.P. 1833 (676) XIV.67f. For the Convention see Chapter 3.
- 58 Report of the Commissioners for the British Fishery 1863
- 59 Ibid.1865
- 60 Ibid. 1867

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- 61 Ibid. 1869
  - 62 Ibid.
  - 63 Ibid.
  - 64 East of Fife Record. 25/6/1869
  - 65 Report of the Commissioners for the Fishery Board; Scotland 1876 p.7

## *Chapter Two*

### *Disputes at Sea - Trawlermen*

Discussion of the confrontations at sea has hitherto focused on the incompatibility of French and British drift nets when in constricted waters. That situation had eased during the second half of the nineteenth century when the herring shoals moved further offshore, only to be replaced by new international disputes with foreign boats using different methods. Drift netting, like long-lining, is essentially a static fishing method; the fish come to the net while the boat remains fairly stationary in relation to the water flow. A drift net fishermen will never deliberately set a large and relatively vulnerable net where he knows it will become entangled with another, since there is a good chance that his own nets will be damaged in the process. More dynamic fishing methods such as trawling, however, do not necessarily give rise to the same concern. A reckless trawler skipper may well fancy his chances to come off best if he tows across a drift net or a line, and some even improved on that chance by artificial means.

Long line fishermen suffered too and in 1878 the Fishery Board acknowledged that there was little protection to be had for the lines stretched across the sea-bed when a beam trawler drags along the ground. Trawlers had been ordered not to come within three miles of a drift net fleet<sup>1</sup> but the line fisherman cannot easily mark his position for a trawler skipper. The Royal Commission report of 1866 had declared in favour of unrestricted fishing, despite the injury this may cause to individuals.

“...No one has any vested right or exclusive interest justifying him in so occupying the sea as to prevent others from fishing in his vicinity. For example, if a line fisherman shoots a line of three miles, he has no right to say that no trawler shall work near it so as to run the chance of working over it or destroying it; he lays his line at his own risk, with the knowledge of the danger, and subject only to a remedy at law if it can be shown that the trawler wilfully or negligently damaged it”<sup>2</sup>

The introduction of steam tugs for trawling created more hazards for the line fishermen since the new trawls could cover grounds unavailable to a sailing trawler, and so was more likely to interfere with lines on the sea bed, as well as the ever necessary shellfish grounds which supplied the fisherman with bait.

The first report of this new type of depredation occurs in the 1830's,<sup>3</sup> but it was not until the steam trawler became common that disputes between drifters and trawlers begin to appear more frequently in the Fishery Board reports. In 1883 Loch Nevis was the scene of

tension between drifters and trawlers which was only eased on the arrival of two fisheries cruisers.<sup>4</sup> It was found that the fishermen generally submitted to officers in a position of authority, even though at this stage they had no statutory right to intervene and adjudicate<sup>5</sup>.

The disputes did not focus on the damage to fish nursery grounds by the beam trawlers, but on the physical damage incurred by the drift nets and lines. The Fishery Board believed that everything possible was being done to produce a better mutual understanding between the conflicting parties, and to keep separation between the two kinds of fishermen and prevent brawls and wilful damage.<sup>6</sup>

Three enquiries were conducted into this matter in a short space of time. In 1878 a Royal Commission was asked to look again at the whole question of trawling and its effects on the fishing<sup>7</sup>. The commission were particularly asked to consider whether the use of the trawl net interferes with other modes of fishing, and whether any legislation would promote the welfare of the fishermen engaged in the other modes. This commission, in so far as it affected the policing of trawlers at sea, was effectively overtaken by the new international convention in 1882 and the Sea Fisheries Act 1883. The commission report in 1879 finds it poised on the balance between individual rights of fishing on the open sea and the expediency of regulating a fishing method which seemed the most efficient way of increasing the fish supply<sup>8</sup>. One recommendation made by the Commission was for the special protection from trawling over shellfish beds used by line fishermen for bait. As a result the Clam and Bait Beds Act<sup>9</sup> was passed, but it proved so difficult and expensive for the line fishermen to invoke that it swiftly became defunct. The only recommendation it made in regard to policing of the fisheries was that the Dutch Government should be made to ensure every Dutch boat was properly numbered<sup>10</sup>.

The second enquiry had a greater effect on the legislation. The Higgin Report of 1881<sup>11</sup> took careful note of the damage sustained by drift net boats when confronted by trawlers. The author of the report, W.H.Higgin QC., was regaled with the problem when enquiring at the fishing ports into the complaints made by British fishermen about foreign fishing vessels. Drifter skippers complained that some foreign trawlers were deliberately towing their gear through the drift nets. Furthermore, on the night of the 9th December, 1880, a large net cutting device had been discovered tangled in the nets of the "George and Thomas" of Lowestoft. It had broken away from the chain suspending it beneath the bows of a Belgian trawler<sup>12</sup>. This instrument was known as a "Belgian Devil" [See Plate 5] and consisted of a heavy four pronged iron grapnel with the inner edge of its flukes sharpened to enable it more easily to cut through a net. One witness said that it had been weighed and found to be 112 pounds in weight<sup>13</sup>. When operating this device the trawl skipper could usually expect the flukes of the "Devil" to cut through the drift net below the water surface so that his trawl would pass through it without entangling or stopping. This was achieved of course at the expense of the section of drift net damaged or no longer attached to its own

boat. Higgin noted that serious injury was being done by foreign trawlers to English drift nets and there was a lack of international law to control it. He recommended that the only solution was more international co-operation through a North Sea Fishing Convention.

The International North Sea Convention<sup>14</sup> was ratified in 1883 by the Sea Fisheries Act of that year. Nevertheless, the problems continued and a third enquiry on the matter by a Board of Trade Committee in 1887 produced its report after an enquiry held at Lowestoft and Great Yarmouth.<sup>15</sup> The complainants were alleging that they were regularly sustaining damage from foreign trawlers running through their nets, and when the trawlers were well enmeshed, their crews were aggravating the damage by cutting through the drift nets by hand, without even first securing the ends. The men of Lowestoft and Yarmouth were finding it increasingly difficult to replace the lost gear because of the almost complete failure to obtain compensation from the foreigners involved, despite the international agreements<sup>16</sup>.

During 1885-6 thirty-four different cases of damage by foreign trawlers were reported to the Lowestoft Custom House, amounting to a value of £836. A further fourteen cases were reported at Yarmouth<sup>17</sup>. The Committee heard from the President of the Suffolk Mutual Drift Net Fishing Boat Owners Trade Protection Society who gave them details of fifty-nine further cases. The Master of the "Pride of Shannon" told them he believed that only half the cases were actually being reported. His vessel had had her nets parted three times on her previous trip, with a corresponding loss of £120 in value. The owner of eight drifters, Mr Day, put his losses over the two previous years at £600-700 and stated that "there was hardly a trip that a craft came in that I had not lost nets"<sup>18</sup>. Additional anecdotal evidence came from the Fisherman/Pilot of HMS Ariel who said that on one day in November last he had seen no less than seven Yarmouth boats with flags up looking about for their nets<sup>19</sup>.

After analysing the evidence put to them, this committee found that no less than fifty individual boats from Ostend were identified as breaking the articles of the Convention of 1883. There had been at least one hundred incidents; twenty-nine of fouled nets, twenty-eight of trawling too close to a drift net, and a further twenty-eight showed none or misleading light signals. There had been nine attacks or threats, and seven had resisted the actions of the fishery cruisers. Moreover it appeared that the same fifty boats were responsible for most of the incidents; although some other culprits had been recognised as being Belgian from the hull form and rig, they had not been positively identified.

It became clear that the use of the "Devil" had largely disappeared, but this fact had made little difference. It was very easy simply to sever a drift net with a knife. The established practice among British trawler men was to "knot the warp". This meant that they would cut the head rope of the drift but instead of releasing it they would attach it to a line passed around their stern. Thus the accident of running into the net was ameliorated by

ensuring the survival of the drifter's gear. The sailing drifters themselves without a trawl to clear when sailing through drift nets, carried a long pole or wand with "V" shaped horns at one end. This would be used to catch and bear down on the head rope of the drift nets, so that it could be "walked" under the hull of the drifter<sup>20</sup>

The actual loss of nets can seriously undermine the viability of a drifter, and the Committee recommended improving the arrangements with the Belgian Government for the claiming of compensation for lost or damaged gear. The Committee also mentioned the problem of the proximity of fishing boats using differing methods on the same fishing grounds, but the most interesting recommendation was that a system of licences for good behaviour of skippers should be set up. All skippers within a certain area would have to have a licence renewable annually on good behaviour at sea. The licences granted under the Smuggling Act in the early part of the century are strikingly similar. An assessment as to the good character of a skipper must have been made from what may have been a very subjective source. In addition, close co-operation would have been necessary with the Belgian authorities if the scheme were to work at all. Yet in Belgium, trawler owners were still not responsible for the actions of their skippers<sup>21</sup>. The good conduct licence idea was taken up by the Government, at least in spirit, when the Merchant Shipping Act of 1894 introduced the requirement of skippers tickets for all fishing skippers. A compulsory qualification of this sort, while not addressing the dispute problem directly, nor involving an international system, did begin to set a general standard of competence and responsibility at sea.

The number of boats detained for infringements of the regulations does show a slight decrease in the years for which specific figures are available. The decade from 1872 until 1882 indicates a decrease from some 300 offenders per annum to around 180. However, from then until the end of the century the figures show great fluctuations. The introduction of bylaws closing parts of well-known trawling grounds to British trawlers explains much of this increase<sup>22</sup>.

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1 Report of the Commissioners of the Fishery Board: Scotland. 1878 p.5

2 Report of the Commissioners appointed to enquire into the Sea Fisheries of the United Kingdom. London. 1866

3 See footnote 30, Chapter One

4 Second Annual Report of the Fishery Board for Scotland. 1883.pt.1.p.viii

5 Ibid.p.ix.

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- 6 Report By the Commissioners of the Fishery Board: Scotland 1872.p.5
- 7 Report of the Sea Fisheries Commission 1879. By Frank Buckland and Spencer Walpole.
- 8 Report by the Commissioners of the Fishery Board:Scotland 1879.Quoted p.5
- 9 Clam and Bait Beds Act. 1881. 44 Vict. c.11
- 10 Report by the Commissioners of the Fishery Board:Scotland 1879.Quoting Royal Commission of 1878 p.5
- 11 Report on Outrages committed by foreign on English Fishermen in the North Sea with Evidence. P.P.1881 [C.2878] LXXXII.541
- 12 Ibid.
- 13 c.51kg.
- 14 The International North Sea Convention at the Hague in May 1882. Sec Chapter Three.
- 15 Report by Board of Trade Committee to enquire into complaints of damage on British drift net fisheries in the North Sea, and the question of additional facilities for the protection of the fishing industry. 1887. P.P.1887 LXXV.747f.
- 16 Ibid.
- 17 Ibid.
- 18 Ibid.
- 19 Ibid.
- 20 Personal communication from Alex Innes Smith to R.G.W.Prescott.
- 21 Ibid.
- 22 See Chapter Four

## *Chapter Three*

### *International Conventions and a Legislative Framework*

On the high seas outside national fishing limits there has been a generally accepted common right to catch fish. Nations could modify this general right by international agreements such as treaties and conventions if they were to avoid confrontation and war. Only in the twentieth century has it been successfully usurped by nations unilaterally claiming exclusive rights to areas of the sea outside their actual territorial waters. So it was, in May 1838, that Viscount Palmerston told the House of Commons that, "the King's Advocate has advised that the [fishing disputes] problem can only be addressed by an international agreement with France".<sup>1</sup> He went on to say that firstly national territorial waters had to be defined and maintained, and secondly a code regulating the conduct of fishermen outside these fishing limits could only be created by agreement.

The reply given by Palmerston to the House gave the first intimation that an approach had been made to France regarding a full convention between the two countries on the behaviour of their fishermen. This convention was to become the foundation stone for all the international conventions on the policy of fishermen in the nineteenth century, despite what were later seen to be problems within it.

The Select Committee looking into the state of the British Channel Fisheries in 1833<sup>2</sup> did not consider that a reciprocal international agreement was required. Instead they preferred to ensure the demise of the restrictive regulations attached to the Smuggling Act<sup>3</sup>, and to mimic the contemporary French approach. A one league fishing limit (rather than the three leagues set by the French) was to be enforced, and French vessels were to be made to conform to English law. They also sought to stamp out the illegal transshipment and import into London of foreign caught fish.

Despite the report prepared by this committee nothing of real value was achieved, for still complaints were commonplace. Only at the end of the 1830s had Palmerston initiated the approach to France, for in 1839 an international convention was agreed between France and Britain. This agreement was first presented as a bill to Parliament in 1839<sup>4</sup> and it seemed to signal a major step forward in fishery control. The convention itself was entitled "A Convention between Her Majesty and the King of the French concerning the Fisheries in the Seas between the British Islands and France" and the preamble states that it had been agreed "with a view to prevent the collisions which now from time to time take place on the seas lying between the coasts of Great Britain and France..."<sup>5</sup>

In his discussion of nineteenth century fishery legislation, Johnstone<sup>6</sup> defines three main objectives for the regulation of the fisheries. These are firstly to ensure good order among the fishermen; secondly to secure the greatest possible yield from the fishing grounds that is compatible with the upkeep of the fish supply from year to year; and thirdly to give fair play to every class of fishermen. The second of Johnstone's tenets concerns the conservation of the fishery and is outside the scope of this work. The third tenet is laudable, but it is made implicit rather than explicit within any of the legislation; it may be possible to argue that the second tenet is not compatible with the third since maximisation of the food resource requires the necessity of using the most efficient methods in place of the least efficient.

To ensure good order among the fishermen should then be seen as the driving motive for legislative action at this time concerning the fisheries. The principle of seeking it had already been established in 1824, when, after some East Coast fishermen had brought their complaints to the attention of the Lords of the Treasury, representations had been made to the Dutch Government<sup>7</sup>. The result, however, was a unilateral agreement that the Dutchmen would keep beyond twelve miles from the shore. It did not address the problems of the mixing of the different types of fishermen on the fishing grounds, but at this time most small English boats were only working the inshore grounds anyway. There was no need to develop a more inclusive and complex strategy for controlling the behaviour of fishermen for another decade.

. The contracting parties appointed a commission to draw up a set of regulations to guide the fishermen of the two countries and this commission concluded its findings in Paris in August 1839. The resulting act and attached schedule of regulations must be praised as a valiant attempt to regulate the fisheries. It firmly established the right of each country to enjoy an exclusive fishing limit of three geographical miles from the low water mark, or from a line drawn across the mouth of any bay less than ten miles across. It empowered men from the Royal Navy, the Revenue Service or the Coast Guard to act as enforcing officers. It also formed a mechanism whereby English or French fishermen could seek redress and sometimes compensation from their counterparts before a magistrate. Attached to the Act was a schedule containing 89 articles that attempt to regulate in detail the behaviour of French and English fishermen. This schedule introduces a number of important regulatory ideas that can be divided into three simple groups: Identification; Behaviour and Supervision; and Conservation.

Article 6 of the schedule to the Convention stated that”

“All British and French fishing boats shall be numbered. There shall be a series of numbers for the fishing boats belonging to each collectorship of customs in

the United Kingdom...and to these numbers shall be prefixed the initial letters of the name of the respective collectorships or districts.”

In addition it stipulated that all fishing implements had to be marked with the same numbers. This was the most important contribution made for the control of the fisheries. Hitherto although the nationality of an offending vessel could often be recognised, unless the boat's name could be discerned at a distance no retribution was possible. Furthermore, under Article 11 these letters and numbers had to be written into a fishing boat licence that included a description of the owner, master, its tonnage and general appearance. All this information was to be entered into a registry book that would be kept at each collectorship of customs. So when a boat could be seen infringing an article of the schedule, she could be quickly and positively identified. The principle also extended to the ready identification and return of lost fishing gear by the letters and numbers upon it. In this way fishermen could avoid their lost gear being declared as “flotsam”, and thus become the property of the finder, or of the Lord High Admiral.

In addition to the letters and numbers a further breakdown of identification was attempted. Article 50 tried to distinguish between boats by their fishing method. Every trawl or drift net boat had to carry an 8”x24” vane at her masthead. The colours of these were to be red for British trawlers and blue for French; and red and white for British drifters, and blue and white for the French. This article was a little more difficult to understand and it is perhaps here that the hand of the administrator, rather than the seaman, can first be discerned<sup>8</sup>. For, except of course after dark, a practised eye could easily discern the difference between a drifter and a trawler by their appearance or their actions, but the majority of drift netting took place at night when the vanes could not have been seen anyway and article 87 forbade drift netting by day except in the few places where this was customary. So, after nightfall, drifters were ordered to place two lights at the same level in the rigging in order to reveal their position and activity<sup>9</sup>.

Now that the boats could be individually identified, many articles in the schedule were devoted to controlling the behaviour of the fishermen. Sixteen articles describe the number and vessel identification system<sup>10</sup> while no less than thirty-eight or almost 43%, were devoted to direct control over behaviour<sup>11</sup>. Of the remainder, twenty-one involve conservation measures<sup>12</sup> and the rest describe the route for legal enforcement of these measures, or other more general aspects of the regulations. The behavioural measures in the convention were the key to trying to control the fishermen. To do this required a specific statement of where, when and how they could fish. For example, articles 14-16 forbade trawlers operating within three miles of drifters; furthermore, if a drifter started to fish in an area already being fished by a trawler, then the trawler had to depart. This meant that drifters now had the ability, in law anyway, to force trawlers away from the grounds where they wanted to fish.

More reasonable measures for attempting to control drifters were included in articles 29-32. These differentiated between decked and undecked drifters. A decked drifter would commonly drift faster than its smaller undecked counterpart, and so she was obliged to shoot her nets to leeward of any undecked boat, unless she sailed at least half a mile up wind. In the same way an undecked boat was obliged to shoot nets to windward of a decked boat. It was of course forbidden to lift or cut any other lines or nets not belonging to the vessel except by mutual consent with the owners; and it was forbidden to anchor anywhere on drift net grounds. For their part drifters had to ensure that the nets were marked with buoys.

Of course no vessel could fish inside the territorial waters of another country, but in addition the occasions when a fishing vessel could actually sail into foreign territorial waters were governed by strict rules. Articles 72-84 were concerned solely with the correct procedure for English oyster boats entering the French port of Chausey. Although fishing boats were allowed to put into Chausey because of bad weather or damage, they were asked first to signal their intention to the British Station there. They would not be allowed to enter until the Station hoisted a blue ensign as a signal; (a red ensign gave permission for the smaller type of boats to enter port while the larger vessels were still able to keep the sea.) On giving this authorisation the British Station had then to signal the fact to the French cruisers before they arrested the British boats for being inside the limits; this was done with another flag signal, either a blue peter and a red ensign, or a blue peter and a blue ensign as appropriate to the vessel sizes. This clumsy procedure may have worked, as long as the weather was not so bad that the fishing boats and the cruisers could not see the British Station. When obliged by the weather to travel within the limits of a foreign country, each boat had to fly a large blue flag, 24" x 36", to signify the intention.

The articles against drifting by daylight and fishing on a Sunday<sup>13</sup> needed less enforcement since they at least reflected general practice at that time among some of the fishermen. Nevertheless, towards the end of the century Sunday fishing became more common, especially among the English trawler fleets in the North Sea which were at sea for several weeks at a time. On parts of the coast where the convictions which kept the sabbath a day of rest were strongest, isolated disturbances occurred when some boats broke the ban. For example, in 1883 a cutter was required to stop the practice in Kilbrannan Sound after complaints were received,<sup>14</sup> and in 1885 further up Loch Fyne where the fishery cruiser was required to clamp down on the practice.<sup>15</sup>

It is clear that some aspects of this convention were cumbersome. The vanes were irrelevant by the time they could be seen; the distances to be observed between the boats were difficult in practice to measure and keep; and the ability of a drifter to displace a trawler from the grounds must have been much resented, if it were ever voluntarily obeyed.

Nevertheless the advent of a system of rules to help guide and control the behaviour of the fishermen was welcomed. The Fishery Board was pleased, but now complained that they did not have the means to enforce the new rules<sup>16</sup>. During the early 1840s the Fishery Board attempted to ensure that the numbering provisions of the convention were enforced while continuing to call for more resources<sup>17</sup>. Unfortunately, it was only in 1843 that the French Government ratified the convention. The Convention Bill therefore made a forlorn path to the House of Commons with attempts in 1839, 1840 and 1842 before it could be passed into law in 1843<sup>18</sup>. Nevertheless, the Fishery Board acted as if the convention had already gone into operation, but a return to Parliament shows the number of boats seized under the Convention in the period 1839-1845 as only 28, not counting those infringing the oyster dredging rules<sup>19</sup>.

The Fishery Board also became concerned at the number of other foreign fishing vessels, not only the French, encroaching upon the British fishing limits<sup>20</sup>. For since the convention was made solely between Britain and France, all other fishing nations assumed that none of its articles could apply to them. The Board of Trade however declared none had any rights of fishing within British territorial waters<sup>21</sup>. This declaration could not rightly claim that foreign vessels other than French were in any way subject to the Convention Act, and this probably had to include the delineation of the three mile fishery limit too. It certainly managed to cause friction with the Belgians. The men of Bruges had been granted a charter by Charles II that allowed them to send fifty vessels to British waters, to use East and South Coast ports, and to have the privilege of drying their nets on shore there<sup>22</sup>. The rigid enforcement of the three mile limit aroused much bitterness in Bruges, and remonstrance from Brussels. The Fishery Board engaged in much correspondence with the Board of Trade about the possibility of a fishery convention with Belgium<sup>23</sup>, and a special agreement was arranged with Belgium in 1851 by which she was given favoured nation status. This led to indignation in East Scotland at the apparent loss of national fishing rights. However in 1850 a copy of the Charles II charter had been found by a fishery cruiser on board one of the Bruges boats, and this was later upheld by the Queen's Advocate as being lawful. The final agreement made was that the practices hitherto enjoyed by Belgian fishermen were to continue for the 1851 season after which they would no longer be valid, except where special charter privileges could be proved<sup>24</sup>. In fact the charter granted to the Bruges fishermen was allowed to continue for only one year more<sup>25</sup>.

Complaints continued against French vessels too despite good co-operation between the British and French fishery cruisers, and one French vessel was fined at Dunbar in 1851<sup>26</sup>. After defining, through the convention, what was meant by acceptable behaviour of fishing boats, it was found that the number of complaints actually increased through the 1850s. More emphasis was placed by France on the East Coast herring fishery and the fishery cruisers seemed hard pushed to maintain order<sup>27</sup>. The Board of Customs sent out a

circular to the collectors in the ports on 1st September 1853 enclosing a copy of a letter to the Earl of Clarendon from the French Minister in London complaining of the infraction by English fishermen of the 6th article of the Convention, and of those articles that followed<sup>28</sup> The collectors were told that if the complaints were well founded then immediate steps for the enforcement of the provisions should be taken. This message was reinforced by a later letter from the Privy Council Committee for Trade insisting on compliance with the provisions<sup>29</sup>. Both French and British crews were infringing the articles of the convention and it is here that two of the great weaknesses of the 1839 convention were revealed. Firstly, the convention was nigh on useless for policing boats from nations other than France. The Fishery Board reported in 1855:

“In reference to the Convention Act, so many admirable provisions are contained in it for the due regulation of the fishing grounds and the fishing boats, that it is to be regretted that they are special, only coming into operation where the French boats fish. It would be a most beneficial measure for the fisheries to make several of these provisions general, by a new and separate act, which could be effected by very slight modifications to enable them to be adapted to local circumstances.”<sup>30</sup>

The Fishery Board received a petition from the commander of the fishery cruiser, HMS Locust, seeking permission to extend the convention in just this manner, but of course he had to be refused<sup>31</sup>. In the period 1852-5 the fishery cruisers seized 138 vessels under the convention with France<sup>32</sup>; of these only 28 were seized for fishing inside the French limits, and none for fishing inside English limits. The second weakness of the convention was that now that the main European fishing effort is concentrated in the North Sea, its rules could not be legally applied. The convention could only apply to the waters between England and France. The title of the act states this fact and, although legal opinion differed, it proved difficult in the courts to enforce the rules outside the English Channel, even those pertaining to the three mile limit<sup>33</sup>.

On 14th August 1855 a new act passed into law. This was entitled “An act for the more effectual Execution of the Convention between Her Majesty and the French Government concerning the Fisheries in the Seas between the British Islands and France”<sup>34</sup>. The return of fishing vessels seized under the Convention Act of 1843 had revealed that of the 138 offenders only 20% had been infringing fishery limits. The majority of offences were against the conservation measures in the Convention Act. So accordingly, this new act strengthened the enforcement of the conservation measures, especially with regard to the close season for oysters. But it made no attempt to aid the enforcement of good order among the fishermen in the North Sea.

These serious problems with the Convention Act inevitably had a deleterious effect upon the working of the most useful provisions of the act, such as the fishery limits and especially the numbering and lettering system. The numbering and lettering system had been widely recognised as the most needed and most desired measure in controlling fishing behaviour<sup>35</sup>. Therefore the Lords of the Admiralty and the Board of Trade had these provisions widely circulated to ensure they went into effect. However since the provisions of the Convention Act could only be applied between the coasts of the two countries, or at best only where the French came to fish, many places, particularly on the West Coast of Scotland, escaped the obligation entirely.

Meanwhile some areas only instituted the system imperfectly. In 1858 the Privy Council Committee for Trade requested a circular be sent to all Collectors of Customs in the ports asking for detailed comments on the working of the Convention Act. The various Custom Houses received this in April 1858 and were asked to address five questions:

- 1- Have the regulations been enforced at all?
- 2- If so, within what limits, to what extent and by what means?
- 3- If not what are the reasons for the omission?
- 4- Are the regulations, if enforced, beneficial, and if so what purpose do they answer?
- 5- Can any alteration be suggested?<sup>36</sup>

The Collector at Dundee replied to this circular in the briefest terms. Against the provision of numbering and lettering under article 6 of the convention he wrote:

“On the act coming into operation all the boats belonging to this port were numbered and marked as required but of late this does not appear to have been enforced on new boats.<sup>37</sup>”

As to the working of the rest of the regulations, he claimed no knowledge, and made no attempt to answer the five questions.

In 1860 an entirely new piece of legislation appeared on the statute book. The British White Herring Fishery Act<sup>38</sup> earned some notoriety since it was a repressive law designed to curb the activities of the ring-netters<sup>39</sup> in the Clyde area. However the Government used the act as a vehicle to introduce compulsory numbering and lettering on all fishing boats after articles 6,7,8 & 10 of the Convention Act. No doubt the measures were seen as very necessary in controlling the ring-net fishermen in the West but they were broadly welcomed by the Fishery Board as a “most serviceable police regulation”<sup>40</sup>. They also claimed for the first time that the fishermen themselves were beginning to recognise the value of the regulations and that more and more were complying<sup>41</sup>. Again in 1863 they reported that the numbering regulations were proving more and more their value<sup>42</sup>

Nevertheless, writing regulations into an act intended only for operation in Scotland could never be entirely satisfactory and the situation required a Royal Commission which was set up to look into the overall state of the Sea Fisheries of the UK. This Commission was set to answer three questions: whether or not the value of the fisheries was increasing, stationary or decreasing; whether or not the existing method of fishing did permanent harm to the fishing grounds; and whether or not the existing legislation was necessary. The major 1500 page report produced by this Commission in 1866<sup>43</sup> served as the basis for the reconstruction of the legislation attached to the conduct of the fisheries. A consequence of the report for the policing of fishermen was new legislation in the form of the Sea Fisheries Act 1868<sup>44</sup>. The bill for the act received a debate in the House of Commons on 24th February 1868 and Mr Stephen Cave, who had introduced it, summed up with these words:

“...The next point was the conversion of the cumbrous regulations respecting the conduct of the fishermen into a short and simple police code, in order to preserve the peace of the sea, to prevent collisions between the fishermen of the two countries, and to bring offenders to justice with all possible despatch. I believe that a satisfactory settlement has been arrived at on this head and the most effectual mode of carrying out these desirable objects is allowed to be the enforcing of a greater uniformity in the system of marking, numbering and registering boats for the purpose of ready identification...”<sup>45</sup>

The essence of this important act survived in various guises<sup>46</sup> throughout the remainder of the nineteenth and most of the twentieth centuries.

The Commission could see the weaknesses of the 1843 Convention Act and they were eager to avoid repeating them. They manifestly condemned it and stated:

“The Convention Act must be regarded as an extremely defective piece of legislation”<sup>47</sup>

They recognised what was reasonably obvious, that the convention applied only to English and French boats, and that the area of its application was subject to intractable legal argument; Did it or did it not apply within territorial waters, and did it only apply to the seas between France and England? The Act gave the Queen in Council the power to suspend its operation in Ireland when no foreign fishermen were present and this suggested that the Act should be construed as applying to all territorial waters and to all British and Irish fishermen. Yet the title to the bill specifically referred to the waters between the two countries.<sup>48</sup> The Commission continued:

“And with regard to the substance of the regulations laid down in the Act, we find that the greater part of them are not, and never have been,

attended to by any person; and that those which interfere with modes and times of fishing are frequently impracticable, and would be injurious if put in practice. We entertain no doubt therefore, that this Act, as a whole, ought to be repealed.<sup>49</sup>”

“We are not satisfied that regulations respecting distinguishing vancs<sup>50</sup> (Articles 50 & 51) would be of any utility if they were observed...Not one of these regulations regarding distinguishing vanes, or lights, is attended to by trawlers or by drift fishermen; nor are we able to discover that any coastguard or naval authority had endeavoured to enforce them. In fact all the regulations of the Convention Act which apply to drift fishing and trawling, except such as relate to numbering the boats, the fishing of French boats within the British limits, the Sabbath regulations and the sunset regulations, are disregarded. And if the last two are attended to, it is not because they are enforced by authority, but because, in general, they agree with the desires and opinions of the fishermen.<sup>51</sup>”

This was a clear indictment of an ill-considered piece of legislation. The Convention Act had been drawn up to try and deal with the specific circumstances of the interaction between French and British fishermen in the Channel. Thus the Act only needed to operate in Ireland if the French were present, and thus it could be seen to operate sometimes on the East coast, despite its title. The originators of the regulations failed to consider that the situation for which they were legislating was far more complicated, since it involved different nations, different waters, and increased competition too. The complaints before the Royal Commission would have been familiar: that each class of fishermen interfered with the operations of others, and that certain methods in use had a permanently damaging effect on the value of fishing grounds.

It was clear that most fishing methods could be incompatible with each other to a considerable extent. What the Royal Commission tried to decide was how far the intervention of the state was needed in order to keep the peace and ensure justice was done, and to this end they declared: “...we have assumed that, *prima facie*, one class of fishermen have as much right to use the sea for the purposes of their trade as any other.”<sup>52</sup> A law for this purpose was the only desirable legislation and they recommended that all other restrictive acts be repealed, save those controlling the Upper Loch Fyne and St. Ives areas. These last two were considered to be so inflammatory that they required exceptional controls. They also recommended that the oyster fishing legislation be re-simplified, that all British ports should be open to foreign fishing boats, and that more comprehensive statistics should be collected so that a clearer picture of the industry could be constructed<sup>53</sup>. The key recommendation, however, was the suggestion for a special “Sea Fisheries Police Act”. They decided that nothing was more important than an efficient system of numbering all

fishing boats and gear, and enforcing lights on boats that work at night. They suggested a list of nineteen key provisions for such an act<sup>54</sup>. These embraced the following points:

- that all fishing boats and their gear shall be permanently named, numbered and lettered;
- that all boats shall have a descriptive licence at all times;
- that all boats shall show lights at night;
- that no boat may fasten to, lift or cut fishing gear except by mutual consent;
- that in all cases of damage by fouling, trawlers, decked drifters, and circle-netters shall be responsible unless proved otherwise;
- that no boat shall be responsible for damage to any fixed net or line left without a boat attached at night;
- that any lost gear found at sea shall be recovered and returned to the owner;<sup>55</sup>

In their deliberations this commission embraced the idea of giving every class and type of fisherman his fair share of the fishery. Article 10 stated "Fishing of all kinds by whatever means and at all seasons may be carried on in the seas beyond the fishery limits which have been fixed for the two countries..". To this end some of the more objectionable clauses of the earlier convention are thrown out. For example, Drifters can no longer eject trawlers from the fishing grounds at will. Nevertheless they still considered regulation was necessary and a revised international convention<sup>56</sup> with some rules from the original convention act of 1839 was introduced. For example, decked and undecked drifters continued to be regulated as to how they set their gear in each others company<sup>57</sup>, and a blue flag had to be hoisted whenever a boat was forced by circumstances within foreign territorial waters.

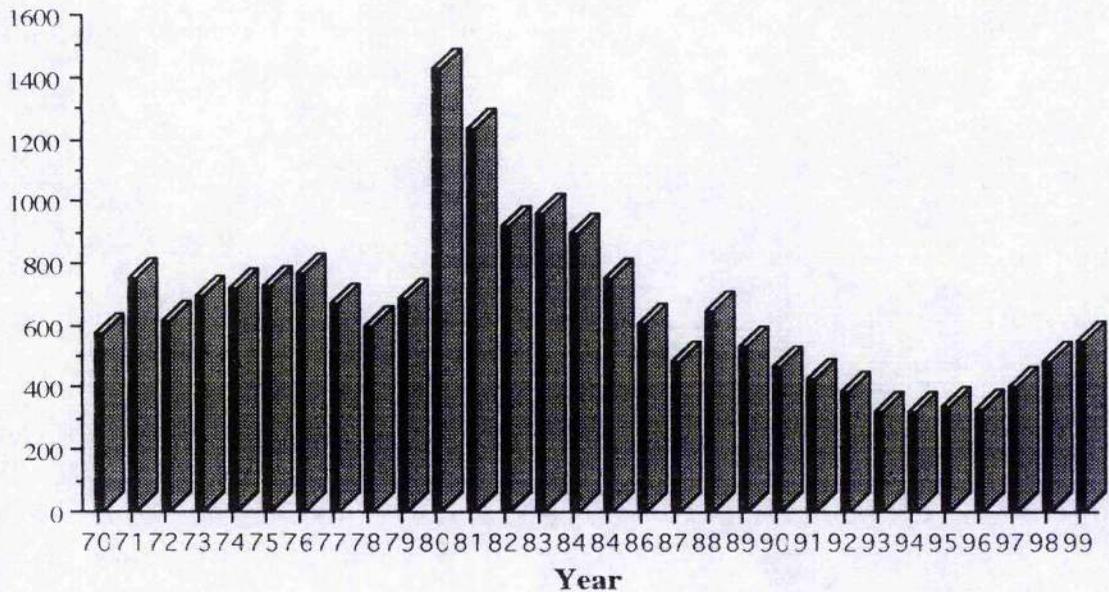
The Commission desired a "Sea Fisheries Police Act"<sup>58</sup>, a desire which appeared in 1868 as the Sea Fisheries Act 1868. The act covered the sea outside territorial waters surrounding and adjoining Great Britain and Ireland, and France between her Belgian and Spanish borders. The deliberations of the Commission produced a simple and condensed approach to fishery police that has been described as embodying "the spirit of free-trade<sup>59</sup>". The Second Schedule of the Act repealed sixty-one previous fisheries acts dating from the reign of Henry IV and became the backbone of modern fisheries legislation. The Commission was clearly seeking, if not total de-regulation, at least minimal regulation.

In 1873, the Commissioners of the Fishery Board were able to declare that the 1868 act was now well known and understood<sup>60</sup>. By that year almost 40% of boats carried certificates<sup>61</sup>. However, a problem arose which eroded the immediate effectiveness of the Act. One of the practical effects of the new convention had been to repeal the 1843 convention and replace it with a revised agreement. However the reciprocal legislation required to enforce these provisions among the French fishermen was not forthcoming<sup>62</sup>.

The net effect of the 1868 act was to deprive the British fishermen of any means of redress for depredations by the French boats. They were back to square one with no ratified or empowered convention. This situation was recognised in 1877 when written into the Fisheries (Oyster, Crabs & Lobsters) Act<sup>63</sup> of that year was a clause reviving the 1843 Convention Act until such time as the First Schedule of the 1868 Act should be brought into operation. It was better that nothing, but not much.

During 1872 the state of Denmark was attempting to control the fishermen off its coastline, and the Board of Customs had to issue two notices to be put up in public place to ensure that fishermen were aware of the rules imposed for fishing off the Danish coasts, especially off the coasts of the Danish possession of Iceland, which harbour very rich fishing grounds<sup>64</sup>.

In 1877 too a new order in Council was issued which had the effect of relieving not only third class boats but also undecked second class boats from the obligations to be lettered and numbered<sup>65</sup>. All open or undecked boats which stayed within three miles of the low water mark were to be exempted. Clearly since such boats were not leaving territorial waters and interacting with French and other foreign vessels there was no need for the regulations from the international conventions to be applied to them. The Fishery Board were not happy with this new situation, fearing a return to the situation after the first convention with France in 1839 whereby only boats liable to fall in with foreigners were to be numbered. This would mean that in the extensive fisheries which now took place in large areas of territorial waters on the West Coast few boats would have to be numbered, and so the effectiveness of police measures would have been severely curtailed<sup>66</sup>. The Fishery Board reported depredations by newly unmarked boats in the Firth of Forth in 1878 and elsewhere<sup>67</sup>. The Board claimed that a decrease of over five hundred endorsements in that year was due to the new order<sup>68</sup>, but since the percentage of certificates endorsed continued to fall at a fairly uniform rate this is unlikely. The effect of the order can be seen in figure 3a. A decrease in new certificates is apparent in 1878 and only a small increase occurs in 1879, but in early 1880 the order is relaxed for Scotland only<sup>69</sup> and the number of new certificates issued appears to leap ahead as de-registered boats are re-issued with certificates<sup>70</sup>. At this time third class boats alone, which were per se undecked, still accounted for over a third of all fishing boats, if only 12% by tonnage<sup>71</sup>.



**Figure 3a - Graph showing number of new certificates issued each year**

All undecked boats outside Scottish waters were now freed from any obligations under the Sea Fisheries Act 1868, provided they stayed within territorial waters.

Complaints and confrontations in the North Sea continued unabated, and in 1881 the Higgin Report was commissioned<sup>72</sup>. W.H.Higgin QC. reported on the puzzlement and distress caused to the fishermen by the lack of proper international agreement. He considered that the unratified convention was a good basis from which to work, but it was urgently required and it must be enforced by cruisers. He recommended a convention of North Sea countries should meet to draw up an agreement.

Correspondence regarding such a meeting passed around Europe during 1882<sup>73</sup>. Britain, France, Germany, Denmark, Norway, Sweden and the Netherlands were all involved. It transpired that the real differences between England and France over the unratified convention had been merely the relative gravity of the different offences outlined in that convention.<sup>74</sup> The International North Sea Convention was ratified on 15th March 1884, and it was embodied in a new Sea Fisheries Act 1883<sup>75</sup>. It included all the provisions desired by the Royal Commission of 1863 and took note of the Higgin Report, it extended the fishery limits to twelve miles, and it applied to all nationalities.<sup>76</sup> Foreign fishing boats were not prevented from entering territorial waters as long as they obeyed the laws of the national Government of those waters.

The master of every boat had to carry a document on board to enable his nationality to be established. A certificate of registry as a British sea fishing boat served this purpose in

the UK. The now familiar clauses on the behaviour of boats at sea, such as the proximity of decked and undecked drifters were brought forward from the previous conventions with the addition of the responsibility for damage being declared to lie with the boat that had shot her nets last unless she could prove otherwise. The onus of providing proof of innocence now fell upon a specific vessel, in a development of the way that the Royal Commission of 1863 had placed this burden upon all trawlers. In this way a certain level of prior responsibility was added to the behaviour of some boats at sea.

The Fishery Board too had been concerned to take action. They had presented a report at the request of Parliament on the Fishery Acts and Regulations<sup>77</sup>. The Board felt that a law intended for the guidance of fishermen should be simple and easily understood, rather than the confusing series of enactments and rules that were then in force. However before they could propose a new law, the new Sea Fisheries Act 1883 came into force which embodied most of their thoughts on the matter.<sup>78</sup>

Four important areas of fishery police were now fully addressed for all the North Nations by this convention:

- 1 - Lettering and numbering for identification
- 2 - Protection of territorial waters
- 3 - Keeping of the peace at sea
- 4 - Summary settlement of disputes

Nevertheless the embodiment of the convention did not ease the level of confrontation on the North Sea. Now that a full set of regulations was in place improvement in the level of strife at sea had been expected.

In 1885 it was reported to the Fishery Board that the new Act and Convention appeared to be imperfectly understood by fishermen, if in the North they were acquainted with them at all, and it was suggested that the chief provisions of these measures should be embodied in plain terms in a placard to be posted up at the ports<sup>79</sup>.

The Board of Trade committee set up in 1886<sup>80</sup> had quickly identified the familiar depredations by trawlers in the North Sea and the difficulty in obtaining compensation through foreign judicial systems. Boats were to be encouraged to reduce their proximity from each other, to practice an agreed system of cutting nets where necessary, and the period during which drifters were incapacitated by the loss of nets was to be reduced by setting up a tribunal to hear all complaints<sup>81</sup>. Only in 1891 did this important aspect pass into law when special judicial procedures were arranged with the Belgian Government in a mutual international declaration<sup>82</sup>.

The agreed system for cutting entangled drift nets remained active until well into the twentieth century. Olsen's Fisherman's Almanac for 1965, which was and is read by most British fishermen, states:

"When passing through a fleet of drift net fishing vessels, it should be born in mind that these nets often extend for a distance of 4 miles from the drifter, and every care should be taken to avoid damage to the nets when passing through the fleet. If a trawler tow into drift nets it is his duty to clear himself and at the same time prevent the loss of the drifter's gear. He should bring his ship to wind and heave up his gear as quickly as possible; if this does not clear and he should be compelled to cut, he must get hold of one of the buoys and some slack net, then the drifter's warp, cut it and pass both ends over his trawl warp, knot it or secure it with another piece of rope. then find the head of the net if possible, cut through, let go, and all will be clear. This will enable the drifter to get again all his gear.<sup>83</sup>"

Although thus preserving the drifter's gear, this measure was unlikely to improve the relations between the drifter and trawler crews in the North Sea. The recommendations of this Board of Trade committee sought to improve communications, especially between the English and the Belgian cruisers and the boats were to be authorised to use a white flare to summon a fishery cruiser if one were conveniently in the vicinity.

Thus the international framework for the operation of the fisheries was established, and in this final form the legislation was subsumed into Part IV of the Merchant Shipping Act of 1894<sup>84</sup>. Arrangement and ratification of joint international action were clearly tedious and frustrating matters, and when achieved did not necessarily produce the desired results at sea. The changing fishing patterns over the middle of the century considerably weakened the first convention of 1843, and then alleviated some of the problems; only for them to be replaced with new ones. The French move into the herring fishery of the North Sea caused problems solved mostly by the movement of the herring shoals into less constricted waters. The rise of beam trawling on a large scale in the same waters introduced new problems. The detailed working or otherwise of regulations cannot always be foreseen and the task of close policing of such large areas was and is of great magnitude. These policing solutions were aimed at dealing with problems after they occurred and not at preventing their occurrence. Thus confrontation between fishermen and with authority could not be eliminated.

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1 Hansard Vol.43. HC. 21/5/1838

2 Select Committee on the State of the British Channel Fisheries and the Laws affecting the Fishing Trade of England. 1833. P.P.1833 (676) XIV.67f.

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- 3 6 Geo IV.c.108. "For the Regulation of the Customs" See Appendix One
- 4 A Bill to carry into effect the Convention between Her Majesty and the King of the French relative  
to the Fisheries on the Coast of the British Isles and France. P.P.1839 (556) III.513f.
- 5 Ibid.
- 6 Johnstone 1905
- 7 Report of the Commissioners for the Herring Fishery 1823 [for 1822] para.5; March 1952 p.9
- 8 In fact the two commissioners responsible were Ferrier, the British Consul for Finistère, Morbihan,  
and Côtes du Nord, and François Lange, Commissary of Marine.
- 9 Ibid. Article 53
- 10 Viz. 6-15, 50-54, 73
- 11 Viz. 16, 24-27, 29-36, 39-40, 43, 57-64, 74, 76-88
- 12 Viz. 17-23, 28, 37-8, 41-2, 44-49, 55-56
- 13 Articles 87 & 88
- 14 Second Annual Report of the Fishery Board for Scotland. 1883.pt.1.p.xlvi
- 15 Fourth Annual Report of the Fishery Board for Scotland. 1885.pt.1
- 16 Report of the Commissioners for the Herring Fishery. 1840 [for 1839] para.6
- 17 Ibid. 1841, 1842
- 18 P.P.1839 III.513; 1840 II.563; 1842 II.547; and finally 1843 II.685. 6 & 7 Vict. c.79. The full  
printed title reads "An Act to carry into effect a convention between Her Majesty and the King of the  
French concerning the fisheries in the Seas between the British Islands and France."
- 19 Return of British and French Fishing Vessels seized or detained under Fishing Act.(1839-45)  
P.P.1846 XLV.373
- 20 Report of the Commissioners for the British Fishery. 1849 [for 1848].
- 21 Letter from Sir Denis le Marchant, Board of Trade, of 14/9/1848

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- 22 March 1952 p.11
- 23 Report of the Commissioners of the British Fisheries. 1850 [for 1849] p.7
- 24 Ibid. 1851 [ for 1850] p.4-5
- 25 Ibid. 1852 [for 1851]para.13
- 26 Ibid. para.12
- 27 Ibid. para. 14.
- 28 Letter from the Board of Customs to the Collector at Montrose 1/9/1853. Articles 6-12 are the numbering and lettering sections.
- 29 Letter from the Board of Customs to the Collector at Montrose 11/1/1853. 30/11/1853.
- 30 Report of the Commissioners for the British Fisheries. 1855. para. 8f.
- 31 Ibid. 1856
- 32 Return of British and French fishing vessels seized under the Act for carrying into effect a Convention with France concerning the fisheries. P.P. 1854-5 (459) L.343
- 33 Report of the Commissioners appointed to Enquire into the Sea Fisheries of the UK. .1866 p.104.; For full title of convention see footnote 15;
- 34 18 & 19 Vict. c.101. P.P. 1854-5 (131) II.415 & 421
- 35 Report of the Commissioners for the British Fisheries 1861 p.11
- 36 Letter and form from the Board of Customs to the Collector at Dundee. No.33/1858. 26/4/1858
- 37 Ibid.
- 38 Act to Amend the law relative to the Scottish Herring Fisheries. 23 & 24 Vict. c.92. See Chapter 4.
- 39 Known as "trawlers".
- 40 Report of the Commissioners of the British Fisheries 1860. para.7
- 41 Ibid.

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- 42 Ibid. 1863.para.12
- 43 The Royal Commission to Enquire into the Sea Fisheries of the UK. 1866. P.P. 1866 XVII.571f.
- 44 31 & 32 Vict. c.45. P.P. 1867-8 (42) V.155
- 45 Hansard 24/2/1868 p.1076
- 46 Viz. 1883 Convention Act, 1894 Merchant Shipping Act
- 47 Report of the Commissioners appointed to Enquire into the Sea Fisheries of the UK. 1866. p.74f
- 48 The printed title reads "An Act to carry into effect a convention between Her Majesty and the King of the French concerning the fisheries in the Seas between the British Islands and France." This differs from the full title in the Parliamentary papers. See Appendix One
- 49 Ibid. p.civ #10
- 50 Distinguishing vanes were later used with success to signify the curer to whom a drifter may be bound for the season.
- 51 Report of the Commissioners appointed to Enquire into the Sea Fisheries of the UK. 1866.p.81f.
- 52 Ibid.p.lxiii #7
- 53 Ibid. p.civ #11
- 54 Ibid.
- 55 Ibid.
- 56 An Act to carry into effect a convention between Her Majesty and the King of the French concerning the fisheries in the Seas between the British Islands and France. P.P.1867 VI.67. 30 & 31 Vict. c.52
- 57 Ibid. Schedule.
- 58 Report of the Commissioners appointed to Enquire into the Sea Fisheries of the UK. 1866. p.civ
- 59 Johnstone 1905 p.26.
- 60 Report of the Commissioners for the Fishery Board: Scotland 1873. para.15; For % see Chapter 4.

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- 61      Sec Figure 5c.
- 62      Report on Outrages committed by foreign on English Fishermen in North Sea with evidence. 1881.  
P.P.1881 [C.2878] LXXXII.541f.
- 63      40 & 41 Vict. c.42. P.P.1877 II.257f.
- 64      Letter from the Board of Customs to the Collectors. 35/1872 & 45/1872.
- 65      Order in Council 23/10/1877. Printed in The London Gazette 26/10/1877. p.5792
- 66      Report by the Commissioners for the Fishery Board:Scotland 1877. pp.3-4.
- 67      Ibid. 1878 p.3
- 68      Ibid. 1979 p.3
- 69      Order in Council 26/2/1880. Pulling 1896. p.1146.
- 70      The number of boats in the fleet declared in the Fishery Board reports for the same period shows a  
slight decline. c.f. Figure 5a
- 71      Data extracted from Report by the Commissioners for the Fishery Board:Scotland 1878. Third class  
= under 18' keel as defined by the board.
- 72      Report on Outrages committed by foreign on English Fishermen in North Sea with evidence. 1881.  
P.P.1881 [C.2878] LXXXII.541f.
- 73      P.P. 1882 LXXII.459f.
- 74      Ibid. Letter #14.
- 75      Sea Fisheries Act 1883.. 46 & 47 Vict. c.22. P.P.1883 IX.201. See Appendix One.
- 76      Ibid. Schedule Article 2.
- 77      Report of Fishery Board for Scotland on Fishery Acts and Regulations, and their amendment. 1883.  
P.P.1883 XVIII.673
- 78      Second Annual Report of the Fishery Board for Scotland. 1883. pt.1p.lvii
- 79      Fourth Annual Report of the Fishery Board for Scotland. pt.1.p.lxvii

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- 80 Report by Board of Trade Committee. P.P. 1887 LXXV.747f.
- 81 On which Belgium was to be represented particularly.
- 82 Fisheries Act 1891. An act to carry into effect an International Declaration respecting the North sea fisheries and to amend the law relating to sea and salmon freshwater fisheries. 54& 55 Vict. c.37.
- 83 Olsen's Fisherman's Nautical Almanac 1965. p.356
- 84 Merchant Shipping Act 57 & 58 Vict. c.60. Part IV Section 373

## **Chapter Four**

### **National Confrontation and Discrimination**

The lack of respect shown by fishermen to foreign boats and gear was extended to those of men of their own nationality in equal measure. The types of dispute that occurred in the North Sea and the Channel, also occurred in waters where there were generally few foreign crews, such as on the West Coast of Scotland and in the Irish Sea. Only the problems raised by the delineation of internationally agreed territorial waters were absent in these areas.

As the fishermen of the English Channel were making known their plight at the hands of foreigners to Parliament in the 1830's<sup>1</sup>, conflicts were breaking out elsewhere in the British Isles. Depredations, unrest and damage were reported by the Fishery Board in 1819, 1822, 1823, 1824, 1837, 1843, and 1844<sup>2</sup>. At the Isle of Man fishery in 1849 so much plundering and aggression went on among the fleet assembled there that the local fishery officer could not cope and HMS Lucifer had to be called upon to intervene and restore order. There were similar problems in the North West highlands and islands too. Petty thieving and injury to nets had been carried on to such an extent that the masters of the fishing vessels had contemplated fitting out a vessel on their own to try and catch the offenders, and the arrival of a fishery cruiser was greatly welcomed<sup>3</sup>. However, it was not only some fishermen who were breaking the law. One vessel, having loaded up with a cargo of fish, had refused to pay the fishermen who had fished for him and prepared to sail. Fortunately for the fishermen, the cruiser arrived in time to ensure they got their money<sup>4</sup>. Incidents like these kept the fishery cruisers busy, especially during the various herring seasons on the West coast.

At the Isle of Man in 1850 the commander of the fishery cruiser, Lieutenant Jackson, was forced to call in the Lieutenant-Governor of the Island to make a public proclamation to the fishermen. Some Manx fishermen had resolved to exclude all Scottish fishermen from the fishing and the small number of Scotsmen had become very discouraged<sup>5</sup>. The Fishery Board declared that its officer had resolved to see that every fishing boat, no matter from what part of Great Britain or Ireland she came, would obtain her rights at the fishing ground, and her fair share of the fishing<sup>6</sup>. Local jealousies had no value on the national scene. These localised but common difficulties experienced when large numbers of fishermen gathered together in constricted waters, whatever their nationality, were a matter simply for effective monitoring. At these congregations of large numbers of herring boats in the western lochs and seas, local fishermen may have viewed the influx of strangers with some resentment. It

is possible that the incomers were considered by them to be "foreign" in the same sense as their counterparts on the East and South coasts looked upon fishermen from the continent - as people who had no traditional right to catch the fish in local waters.

The Board of the Commissioners for the British White Herring Fishery [known as the Fishery Board] had been set up by Act of Parliament in 1808<sup>7</sup>, and only six years later it decided that in order to more efficiently fulfil its regulatory functions, such as the search for illegally sized drift nets and the encouragement of curing methods suitable for the crown brand, it required its own vessel. An ex-revenue cutter was purchased and in its report the Fishery Board noted that as well as that function, she would be useful for preventing disorder and depredations at the Loch Fyne herring fishery<sup>8</sup>. This vessel became so appreciated at the task that her services were soon called for elsewhere in the Firth of Clyde<sup>9</sup>. In 1816 the Fishery Board appointed a naval superintendent for the coastal fishery in addition to the Superintendent of the Deep Sea Fishery, and reported his success in 1817:

"The Commissioners have had the satisfaction of receiving Memorials from the masters of the vessels engaged in the North West Highland fishery and from the curers at Rothesay and Greenock, expressing their gratitude for the benefit they have experienced from the services of the Naval Officer...and bearing testimony to his impartially and unwearied exertions in preserving order among the fishermen, and preventing depredations."<sup>10</sup>

The Royal Commission which reported in 1866<sup>11</sup> classified the complaints from different sets of fishermen into two types. Firstly, the complaint that a particular fishing method was destructive and generally diminished the overall supply of fish, and secondly that some modes of fishing interfere with the lawful occupation of others. Under the first heading came the complaints against beam trawlers, and other forms of sweep net in bays and estuaries, the shrimping activities in the Thames and Morecambe Bay, and circle net and seine net fishing. In all cases they decided that there was little justification for the complaint that these methods diminished the supply of fish<sup>12</sup>. Under the second heading came the complaints against trawlers by long-line, drift-net and trammel net fishermen, the complaints against trammels by line fishermen, the complaints against drift nets by circle net fishermen, complaints against circle nets by drift net fishermen, complaints against large seine nets by small seine net fishermen, and finally the complaints against foreign fishermen. The Commission found that such interference between the various classes of fishermen did take place, but that state intervention could only be justified if one method was far more important to the national fish supply than any other<sup>13</sup>. This was not the case, and they concluded by saying:

"It has not been proved to our satisfaction that to prohibit, even partially, any of the modes of fishing complained of would result in a greater take of fish of all

sorts in other ways. We are therefore of the opinion that even granting a certain loss to drift, line, trammel and other fishermen, it would not be advisable to make such prohibitions, even for certain times or in certain limited places.”<sup>14</sup>

It seems clear that a natural incompatibility between different fishing methods led many fishermen to complain about many other fishermen, but especially against the beam trawlers.

This interventive police role for the fishery officers and cruisers was not one that had been envisaged at the start but one which the board seemed to take on naturally under their duties for the encouragement of the fisheries. A major opportunity for direct intervention in the control of the fisheries presented itself in Loch Fyne and the Clyde Estuary during the 1830's. A new method for catching herring in inshore waters was developed using drift nets in the manner of a circle beach seine, and later as a ring net from a pair of boats. Known locally as “trawling”, the system is usually described as “ring-netting”. It was a form of circle-netting that aroused bitter resentment amongst the drift net fishermen<sup>15</sup>. The “trawlers” were accused of the destruction of herring fry, the dumping of surplus fish and plundering drift net catches, either by “trawling” underneath the drifts, or by direct robbery from the nets<sup>16</sup>. In its turn the “trawlers” claimed that the fishing was free to everyone. Martin has shown that trawling not only required a smaller investment in boats and gear, but also that it had a greater earning capacity than drift netting<sup>17</sup>.

The fishery officer at Inverary, Alexander Sutherland, could find none of these nets with less than the legal mesh size, and he was unable to put a stop to a practice which he clearly felt was detrimental to the local fisheries<sup>18</sup>. In 1849 the General Inspector for the Fishery Board investigated the issues at Loch Fyne. His report was sympathetic to the drift net fishermen on the grounds that ring-netting may be destructive, but the inspector was not yet convinced of the case and urged that more enquiries be made<sup>19</sup>. This advice was ignored and in 1851 the Fishery Board began work with the Government on a new bill, one clause of which made illegal the use of any net other than a standard drift<sup>20</sup>. The policing of this clause required the stationing of the cutter “Princess Royal” and HMS Porcupine in Loch Fyne, but proceedings against fishermen whose nets were seized were not successful. The Secretary to the Fishery Board, B.F.Primrose, complained:

“Many men in the Highlands bear exactly the same name and live in the same place. Even with the utmost care we served some [warrants] on the wrong men, and others never appeared...<sup>21</sup>.

Repression of ring-netting continued the following year in 1853. Within a week of the arrival of HMS Porcupine, Colin McKeich of Tarbert had been shot and wounded by one of her patrols<sup>22</sup>. The restrictions<sup>were</sup> not accepted by the “trawlers” and they continued to

defy the law. Their lightly built skiffs were fast, handy and capable of working right inshore with the net<sup>23</sup>. It became impossible for the boats of the fishery cruisers to keep track of them in the reaches and bays of Loch Fyne. Lieut. Jackson wrote in his journal for 2nd July that "trawling" could "not be effectively stopped" by the force at his command, although the published report declared "that a considerable check was put upon the practice"<sup>24</sup>.

Primrose swiftly became disillusioned in the law. In 1856 a Treasury Commission report recommended the repeal of the act of 1851 and said that "[it] has no other result than to keep a considerable population in the habitual and successful violation of law"<sup>25</sup>. The numbers of "trawlers" in Loch Fyne continued to increase and the way seemed fair for a repeal of the restrictive clause in the act<sup>26</sup>.

Unfortunately, a series of disturbances at Inverary in October 1858 sparked off organised confrontation between drifter men and "trawlers" and so the Fishery Board sent Assistant Inspector, L. Lamb, with a body of hired men to impose order. He conducted an enquiry into the damage suffered by drift net crews to their gear by vandalism and theft, and found that no evidence pointed to the "trawlers", and in fact the drifter crews admitted that such damage had been going on before "trawlers" had even appeared on the loch<sup>27</sup>. The intention of the Fishery Board was not to enforce the law in 1859 but in this they were over-ridden by the intervention of the fish-curers, who were financially closely tied to the drift net boats. The disruptions to the markets by fresh and plentiful "trawl"-caught herring damaged them in their pockets by depressing the demand for cured herring, for which the curers had often paid the fishermen in advance to produce. Primrose wrote of his fears at the effect of this forceful, and increasingly successful lobby:

"The Act could only be made more stringent by provisions so invasive of the rights and liberties of a British subject as Parliament ought never to grant and that no necessity could justify"<sup>28</sup>.

His fears were realised in 1860 with the passing of the "British White Herring Fishery Act<sup>29</sup>". The curing lobby managed to have a clause removed during the bill's passage which would have allowed the Fishery Board to suspend whenever necessary the restrictive measures<sup>30</sup>. The new law allowed warrants to search for and seize illegal nets; a suspect could be arrested and questioned for 24 hours; conviction resulted in loss of nets and fine, for which boats could be sold by public auction.

However in practice the new law did not work, since the enforcers had to catch the "trawlers" red-handed to secure a conviction. Despite this<sup>on</sup> 23rd September HMS Jackal seized 13 skiffs in Tarbert harbour. [See Plate 11] This illegal action might have caused embarrassment to the Fishery Board if it had not been discovered that the skiffs were infringing the naming regulations and so liable to detention anyway<sup>31</sup>. New legislation was

swiftly brought forward, and became law on 1st August 1861<sup>32</sup>. Now, not only could boats be legally seized, but buyers and customers could be fined or jailed for possession of trawl caught herring. The forces of repression were clearly in the ascendant, a point brought forcibly home only the month before when a marine and an officer had shot a trawl fishermen dead. Both men were acquitted of culpable homicide by a jury.

The cost in misery was severe. The poorer Tarbert families were starving, debt accumulated, and many young men left the area<sup>33</sup>. The consequence of this hardship and resistance to the law was a Royal Commission to look into the working of the anti-"trawling" acts<sup>34</sup>. The report from this commission condemned the repressive legislation. The Commission found that rather than damage stocks, trawling was producing progressive fishing returns and cheaper food for the consumer<sup>35</sup>. The policing of Loch Fyne had proved almost impossible without overwhelming force, and the morale of the men of the cruisers, as well as the fishery officers fell very low<sup>36</sup>.

With this report, trawling began to resurge in great strength. Fishery officers and police were threatened with violence and it was reported that many "trawlers" now carried guns at sea<sup>37</sup>. A much greater force of fishery police with firearms was sought from the Fishery Board, but the request was refused<sup>38</sup>. Alexander Finlay MP. wrote to the Fishery Board saying that the continuation of coercive measures was unwarranted, especially as the opinion of the fishermen did not seem to be so strong against trawling as it had been<sup>39</sup>. Trawling became common on the loch and many more seizures were made<sup>40</sup>, probably reflecting the increasing number and boldness of "trawlers", rather than greater efficiency of police measures. The Royal Commission of 1866<sup>41</sup> condemned the restrictive acts too, and this coupled with the apparent sea change in public opinion resulted in an amendment act which repealed the restrictions<sup>42</sup>.

The Fishery Board had failed to ensure sufficient evidence of the damage done to the fishing by "trawlers" before instigating legislation against the "trawling" method, and once sanction had been given to suppress a class of fishermen, they lost the control over the conduct of the fishery. They were not held responsible directly for the repressive measures that were introduced, but not only was their role in fishery police seriously called into question, but such direct enforcement was seen to be unworkable.

Primrose had himself said that such control required provisions "that no necessity could justify<sup>43</sup>", and the principle was contrary to the general policy of freedom applied to fisheries in other areas such as had been declaimed by Lieut. Jackson at the Isle of Man in 1850<sup>44</sup>. Primrose had argued strongly for the Fishery Board to be able to use discretionary police powers to control fishermen and fishing methods whenever it was felt necessary<sup>45</sup>, but this was denied by the 1860 Act, the effects of which considerably weakened the argument for any form of control.

The 1866 Royal Commission enquiring into the fisheries of the United Kingdom<sup>46</sup> took a firm view of the role of the Fishery Board in these affairs. A Treasury Minute from 1855 had already concluded that the branding system operated by the Fishery Board should be abolished, and therefore:

“With this will cease all necessity for an establishment, because their Lordships do not consider that it falls within the functions of such a department to keep order, on shore or afloat, among the fishermen, or to enforce the observance of conventions between this country and foreign powers.

The protection of Scotch fishermen from the intrusion of foreigners must be left to the Board of Admiralty, or to the Coastguard, by an arrangement with the Board of Customs.”<sup>47</sup>

In their conclusions the Commission concur:

“We are of opinion that the time has now arrived when the fishing trade may be entirely thrown open, and the artificial system created by the brand of the Fishery Board may be abolished, substituting for it the sounder system already adopted with regard to all other articles of trade. With this will cease all necessity for an establishment, because we do not consider that it falls within the functions of such a department to keep order, on shore or afloat, among the fishermen; or to enforce the observance of conventions between this country and foreign powers.”<sup>48</sup>

The Commission clearly considered that fishery police should be reactive and preventive, and not proactive and interventive. The seas were open to all fishermen save where their boats physically interfered with each other. Yet the Fishery Board themselves considered that their officers had been remarkably successful in maintaining order prior to the international North Sea convention of 1883, especially during the height of the herring season when hundreds of boats might congregate in a distant sea loch where the locals speak nothing but Gaelic. An example of this occurred in the winter of 1882 when there was great fear of a riot at Loch Nevis which subsided as soon as two fishery cruisers were sent there. It seemed that the mere presence of authority was sufficient to control depredations and mutual interference.<sup>49</sup>

The Fishery Board welcomed the Commission report and the legislation which followed<sup>50</sup>. However it was not long before these views on the freedom to fish were to be modified. Increasing attempts at understanding the ecology and biology of sea fish by application of scientific methods made the Fishery Board look again at restriction over fishing methods. The Royal Commission report of 1866 had concluded that there was neither evidence to suggest that trawling was detrimental to fish spawning grounds, nor that the waste inherent in the method was not sustainable<sup>51</sup>. However in its recommendations the

Commission had warned that if the number and efficiency of trawlers increased than the destruction of immature <sup>Fish</sup> might reach a level where fishing grounds would be depleted. This warning is carefully tempered with a recommendation that:

“Should [this situation] ever be satisfactorily proved to have arisen, we conceive that the best remedial measure would be to place a restriction upon the size of the fish permitted to be brought ashore, and to subject the possessor of fish below a certain specified size, to penalties; but to avoid interfering with the implements of fishermen, or with their methods of fishing.”<sup>52</sup>

The numbers of trawlers greatly increased over the ensuing twenty years especially at Hull and Grimsby, and after 1880 the steam trawler heralded a significant leap in the efficiency of the method<sup>53</sup>. Complaints that several popular grounds were falling off in productivity were taken seriously by a new Royal Commission<sup>54</sup> in 1885. This commission had the benefit of some of the work on trawling by Professor McIntosh of St. Andrews University<sup>55</sup>, and came to the conclusion that trawling on certain inshore grounds was having a deleterious effect on their viability. The evidence applied to inshore grounds, and not the offshore banks, and it confirmed that trawling did not significantly damage fish food or spawn. The hypothesis was that extensive trawling could entirely exhaust a fishing ground. The Commission did not discount the possibility that natural fluctuations in the abundance of the food fishes could account for the diminution, but Professor McIntosh was confident.<sup>56</sup> He concludes that:

“The results of successive hauls of the trawl over the same ground appear to point to a reduction in the number of the round fishes, but especially in the size of the flat fishes.”<sup>57</sup>

It was believed that the capture and destruction of immature fish by beam trawls was the chief cause in the diminution of the fish supply.<sup>58</sup> As a result the Commission recommended that there was a need for the scientific evidence to be rigorously supplemented, and that the Fishery Board for Scotland, still the only effective fishery authority in Great Britain, should be given the powers to regulate or suspend any method of fishing within territorial waters. Secretary Primrose had sought and failed to acquire such powers in 1860, but now the Fishery Board sought them again. It was against the “mare clausum” of a total ban on trawling except under licence in territorial waters, and preferred to recommend it be given the power to enforce restrictive by-laws in specific areas<sup>59</sup>.

In the same year legislation was brought forward. By the Sea Fisheries (Scotland) Amendment Act<sup>60</sup> the Fishery Board with the consent of the Secretary of State for Scotland could make by-laws appropriate to restricting any form of fishing in Scottish waters. This act made steam trawlers more conspicuous and easier to identify by ordering that letters and

number should be painted on the quarters and funnel. It also introduced actual powers for fishery officers to arbitrate and intervene in fishing disputes.

The first by-law was enacted in 1886 and was immediately unpopular because of its discriminatory nature and it seems that many skippers were willing to defy the law. Figure 4a shows the number of vessels detained by the fishery cruisers from 1872-1899. The first peak in 1886 corresponds to the by-law closing off part of the Moray Firth, Aberdeen Bay, St. Andrews Bay, and the Firth of Forth to trawlers. In 1889 the area was extended to include the territorial waters inside a line from Tantallon Castle, on the South side of the Forth, to the Ord of Caithness, on the North side of the Dornoch Firth, and another peak appears in the graph<sup>61</sup>. At the same time certain areas outside the territorial waters were included.

The Board now had the power to close any area within the whole of the Moray Firth, and more was enclosed in 1890. A deputation of line fishermen in the Moray Firth visited the Fishery Board to press for the extension of the closed area to the limits sanctioned by Parliament<sup>62</sup>. Their wishes were fulfilled in 1892 when the Fishery Board went all the way and closed the whole of the Moray Firth to British trawlers inside a line from Duncansby Head to Rattray Head<sup>63</sup>.

These increasing restrictions on the activities of trawlers are clearly reflected in the number of boats detained for infringements during the last fifteen years of the century.



**Figure 4a - Number of boats detained per annum by Fishery Officers and Cruisers. 1872-1899<sup>64</sup>**

The trawling ban on offshore grounds was the logical extension of the fear of damage to ground inside territorial waters. However great dissatisfaction was aroused, since the by-laws could not be applied to foreign boats outside territorial waters. Thus any foreign trawler could fish in the rich grounds of the Moray Firth or the Clyde with impunity. The sale of trawl caught fish was banned in Scottish ports, but the Board had no power to operate in England, and so foreign boats could easily fish inside the restricted waters and land the catch in an English port such as Fleetwood<sup>65</sup>.

The fishery cruisers were entrusted with the task of enforcing these by-laws, and increasingly it was found impossible to prevent trawlers operating in the proscribed waters. Numerous complaints were being received, but the Board found that they simply did not have sufficient cruisers to police the area.<sup>66</sup> The situation did not improve towards the end of the century for the Board reported that the task was more arduous than before because foreign trawlers were taking advantage of the closed area too. The Scottish ports were closed to them, but they continued to land unmolested in England<sup>67</sup> The Board prosecuted where it could but it conceded that the concealment of the vessels' names and numbers was proving very difficult to combat. Nevertheless some were caught, and one offender was noteworthy for having eleven convictions against him<sup>68</sup> Without special international agreements, it was impossible to control the foreign trawlers beyond the official territorial limits. Unilateral extension of those limits into the areas where the trawling ban was enforced does not seem to have been considered.

In 1897 it was decided to resort to the very measure which the Fishery Board had initially dismissed in its report for 1884 as a "mare clausum"<sup>69</sup>. A bill was introduced to parliament entitled "A bill to establish the licensing and registration of Trawlers"<sup>70</sup> The Fishery Board now found they needed extraordinary powers to grant special licenses for trawlers of more than 25 tons which could then be suspended on conviction of illegal trawling, and thus allow the vessels to be prevented from sailing. This draconian measure did not receive a second reading but the following year a modified version was re-presented. This bill<sup>71</sup> allowed the courts to suspend the certificates of a trawler convicted for illegal trawling, and the maximum fine allowed would be the market value of the trawler. This bill also attempted to close off the legal loophole on the definition of a trawl which had clearly caused some prosecutions to fail. Again the House of Commons objected to this bill. Nonetheless a motion was passed by 101 votes to 89 which stated

"that it is imperative duty of the Government to see that the law with regard to trawling in the waters around British Waters is properly enforced."<sup>72</sup>

Encouraged by this, the bill was represented yet again in 1899, only to meet with the same fate. In this way the wheel came full circle and the freedoms declared in the middle of the century were no longer suitable for the situation at the end. Nevertheless, this time

Parliament refused to sanction the sort of draconian measures which had been used on the "trawlers" of Loch Fyne.

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- 1 See Chapter One
- 2 C.f. Reports of the Commissioners for the Herring Fishery. 1819-1837, and Report of the Commissioners for the British Fisheries 1843-4.
- 3 Report of the Commissioners of the British Fisheries 1850 [1849] p.6
- 4 Ibid. p.7
- 5 Ibid. 1851 [for 1850] p.4
- 6 Ibid.
- 7 Act for the further encouragement and better regulation of the British White Herring Fishery. 48 Geo.III. c.110.
- 8 Report of the Commissioners of the Herring Fishery. 1816 [for 1814]. P.P. 1816 VIII.387
- 9 Ibid. 1818 [for 1817]
- 10 Ibid. 1817 [for 1816]
- 11 Report of the Commissioners appointed to enquire into the Sea Fisheries of the United Kingdom. London 1866.
- 12 Ibid. p.xlvi
- 13 Ibid. p.lxi
- 14 Ibid.
- 15 For a definitive account of the history of ring-netting see Martin 1981.
- 16 Martin 1981 p.9
- 17 Ibid.
- 18 Ibid. p.6. The legal minimum size was 1" knot to knot.
- 19 Report from J.Miller, General Inspector of Fisheries to the Commissioners. 2/5/1850. A/F. 37/2
- 20 Herring Fishery Act 1851. 14 & 15 Vict. c.26. #6

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- 21 Fishery Board Papers. Transcript of enquiry June/July 1856. A.F.7/9
- 22 Report of the Commissioners for the British Fisheries 1853.p.6
- 23 Martin 1981. p.59
- 24 Ibid. p12; Report of the Commissioners of the British Fisheries 1853. p.6
- 25 Report of the Royal Commission on the Operation of the Acts relating to trawling for herring on the coasts of Scotland, 1863. #9.
- 26 Martin 1981. p.13
- 27 Martin 1981. p.13
- 28 Letter 9/4/1860. A/F 37/197
- 29 An Act to amend the law relative to the Scottish Herring Fisheries. 23 & 24 Vict. c.92
- 30 Martin 1981. p.16
- 31 Ibid. p.18
- 32 Herring Fisheries (Scotland) Act 1861. 24 & 25 Vict. c.72.
- 33 Martin 1981 p.21-2
- 34 Report of the Royal Commission on the operation of the Acts relating to Trawling for herring on the coasts of Scotland, 1863.P.P. 1863 xxviii.139f.
- 35 Martin 1981. p.23
- 36 Ibid. p.18
- 37 Martin 1981. p.24.
- 38 Ibid. p.18
- 39 Ibid. p.24
- 40 Ibid.

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- 41 Report of the Commissioners appointed to enquire into the Sea Fisheries of the United Kingdom.1866.
- 42 Herring Fishery Act 1867. 30 & 31 Vict. c.52
- 43 Letter 9/4/1860. A/F 37/197
- 44 Ibid. 1851 [for 1850] p.4
- 45 Martin 1981.p.17
- 46 Royal Commission to enquire into the Sea Fisheries of the United Kingdom.1863-6
- 47 Report of the Commissioners appointed to enquire into the Sea Fisheries of the United Kingdom.1866. p.lxxv
- 48 Ibid.
- 49 Second Annual Report of the Fishery Board for Scotland. 1883.pt.1
- 50 Sea Fisheries Act 1868.
- 51 Report of the Commissioners appointed to enquire into the Sea Fisheries of the United Kingdom.1866. p.xxv
- 52 Ibid. p.cvi
- 53 Gray 1978.p.p.166-7
- 54 "The Trawling Commission" - Report of the Commissioners appointed to enquire and report upon the complaints that have been made by line and drift net fishermen of injuries sustained by them in their calling owing to the use of the trawl-net and beam-trawl in the territorial waters of the United Kingdom. 1885.P.P.1884-5 XVI.471
- 55 An appendix to the report contains McIntosh's observations and results.
- 56 The Trawling Commission report.op.cit. p.xvi
- 57 Ibid.
- 58 Ninth Annual Report of the Fishery Board for Scotland. 1890. pt.1.p.xl

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- 59 Third Annual Report of the Fishery Board for Scotland. 1884. pt.1.p.xiv
- 60 Sea Fisheries (Scotland) Act 1885. 48 & 49 Vict. c.70. P.P.1885 V.419.
- 61 By Herring Fishery (Scotland) Act 1889. 52 & 53 Vict. c.23. The penalties for contravention were increased by the Herring Fishery (Scotland) Amendment Act. 1890. 53 & 54 Vict. c.10.
- 62 Ninth Annual Report of the Fishery Board for Scotland. 1890. pt.1.p.xl
- 63 Bye-law 27th September 1892.
- 64 Data extracted from text of Fishery Board Reports
- 65 This was actually the case. See Report of the Superintendent of the Lancashire Sea Fisheries District.6/1903.
- 66 Ninth Annual Report of the Fishery Board for Scotland. 1890. pt.1.p.xli
- 67 Sixteenth Annual Report of the Fishery Board for Scotland. 1897. pt1.p.xxix
- 68 Ibid.
- 69 See above
- 70 Trawlers Licensing Act 1897. P.P.1897 VII.409
- 71 A Bill enabling courts to suspend certificates of trawlers convicted of illegal trawling. "Suspension of trawler's certificates act".1898.P.P. 1898 VII.547
- 72 Motion of the House of Commons. Journal of the House. 8/3/1898

## *Chapter Five*

### *Registers, Numbers, and Letters*

#### **Sea Fishing Boat Registers**

The enforcement of numbers and letters appearing conspicuously on every fishing boat could not be an end in itself. The only value of the numbering system was the ready identification it provided of fishing vessels which may be transgressing fishery regulations. Therefore the numbers had to be tied into some register structure which could answer any question about a fishing boat that may arise, especially her name, the name of the owner and the master and with sufficient descriptive details to ensure that the entry really did correspond to the vessel with the number.

The first shipping register was created by the Navigation Act of 1786 which required the registration of all British shipping over 15 tons<sup>1</sup>. This act sought to be able to distinguish British shipping from American shipping for the operation of the Navigation Acts after the War of Independence,<sup>2</sup> and not to control the behaviour of the individual vessels. It is rather the control of individuals which required the listing of vessels with sufficient detail to identify them and their owners and masters. In 1795 a Register of Vessels on Inland Waterways was created<sup>3</sup>. This register required information about the trading wherries and keels that regularly plied the Norfolk rivers and broads. The register gives each entry a number, (although there is no evidence that this number had to be displayed by the vessel), and a date of registry is noted. The column headings are: Master, Name, Tonnage, Waterman or Boy, Route and Miles. For example, Number two is the keel "Supply", first registered on 10th July 1795, of 95 tons with William Empson as master, and John Pile as waterman. She worked the distance of thirty miles from Norwich to Great Yarmouth.

This register was probably a product of the needs of control during wartime. Yet, such a listing of boats with the emphasis on policing rather than providing an instrument of title and tax must be seen as the ancestor of the fishing boat registers. Nevertheless, the shipping registers had considerable influence upon the register system, especially after the introduction of the Sea Fishing Boats (Scotland) Act in 1886. The style of the register introduced in 1786 was mirrored by the 1868 register books. The folios in each are drawn up in columns and the column headings listed across the pages, and these are concerned with the name of the vessel, and her owner and master, and with the descriptive and dimensional details of the ship. The registrars naturally followed similar practices when working the registers too. For example an entry is cancelled in both types of register by scoring across the folio in red ink and writing the date and where known the fate of the vessel

The first great Merchant Shipping Act of 1854<sup>4</sup> introduced the notion of an Official Number carved into the main beam which a registered ship would carry to her grave. This number was unique and unchanging and provided part of the proof of identity of a vessel. It appeared on the registry certificate which acted as a kind of ship's passport. By contrast the fishing numbers introduced in the Convention Act of 1843 created highly visible reference numbers which did not imply any form of legal title. Only after the Sea Fishing Boats (Scotland) Act was enacted in 1887 were fishing numbers carved into the main beam of fishing boats where they helped to establish title according to that act. The fishing register was adapted by that act to meet the needs of fishermen which had been provided by the Merchant Shipping Act 1854 for British ships. The second great Merchant Shipping Act of 1894 joined together the two threads of the shipping and fishing registers.

Prior to the introduction of numbers, letters and registers under the Convention Act of 1843<sup>5</sup>, fishing vessels did indeed make use of the merchant shipping registers. The Kirkcaldy Shipping Register contains entries which almost certainly refer to fishing boats<sup>6</sup>. For example "Two Brothers Unitatos" built at Anstruther Easter in 1822 was a 34' two masted undecked lugger. Merchant vessels are distinguishable, such as "Minerva" of Anstruther which was a decked square-sterned brigantine, but many of the boats are clearly lug-rigged open fishing boats.

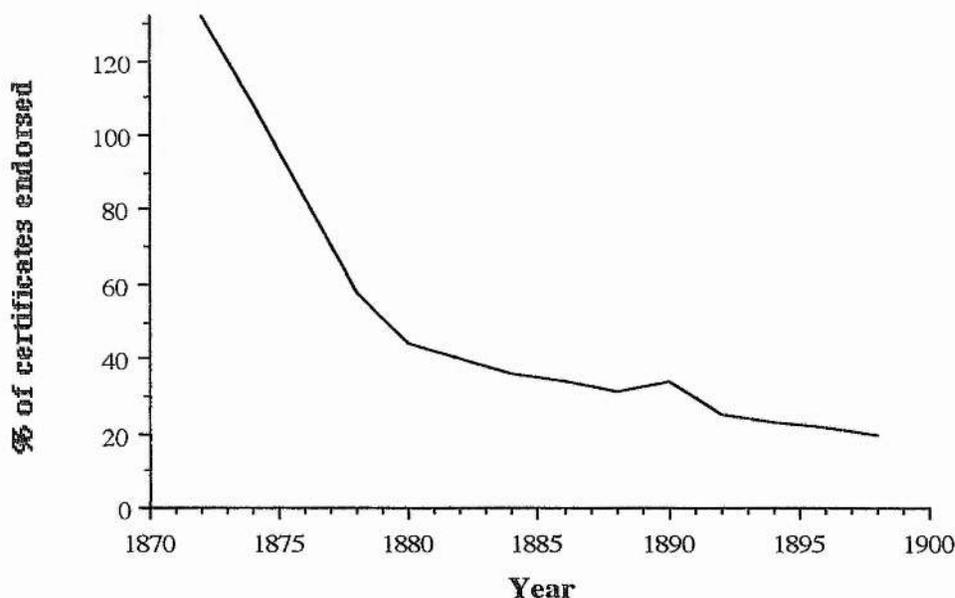
The Convention Act which passed into law in 1843 specified in article 11 that the details of each boat were to be inserted into the boat licence and "entered in the registry book kept at the collectorship of customs."<sup>7</sup> It is not clear whether this meant the existing shipping registers or a new register. When the registrar at Dundee has to make a report to the Board of Customs in 1858 about the working of the system, he avoids the question of registers entirely<sup>8</sup>. A strong local tradition in Anstruther regarding the existence of the town as a port of fishing registry<sup>9</sup> may reflect its role in this respect as a shipping registry out-port for Kirkcaldy, which is apparent from the shipping register extracts, rather than as a fishing register port as such. Certainly after the Sea Fisheries Act of 1868 there is no trace of this town as a port of registry.

From 1869 detailed instructions and the appropriate forms were issued to the Customs Officers along with a list of the ports which were to be the places of registry<sup>10</sup>. Fishery officers working for the Fishery Board were only required to act as registrars after 1886 when registers were opened in Scottish highland areas where there were few Customs Officers. All registrars were required to keep a register of fishing vessels and give each a number from a consecutive series<sup>11</sup>. The owner of every boat had to fill in an application form and, if this was in order, the registrar would enter the particulars into the register and issue a certificate of registry for the boat. This certificate had to be carried on board at all times and shown to a fishery officer whenever required, but it did not carry with it any title to the vessel<sup>12</sup>.

The certificate had to be given up if the boat was moved to a new port of registry, or if the boat ceased to be a fishing boat for any reason. Failure to do so could leave the registrar in the dark as to the fate of a particular boat. If he did receive information regarding the loss or breaking up of a boat he was empowered himself to close the registry under that number<sup>13</sup>. A figure for the apparent number of boats coming off the register each year can be calculated by taking the total number of boats reported for the previous year away from the total for the current year, and then taking away the number of new certificates. The product is the number of boats which the Fishery Board are aware have come off the register<sup>14</sup>. The total of certificates in use exceeds the number of boats in 1885. This suggests that the registrars cannot keep track of all the boats which should in fact have been cancelled from the register. Clearly in a significant number of cases the certificate is not being given up to the registrar when a boat is re-registered elsewhere, or comes to the end of her life. The registry certificate was due to be inspected by the registrar every year<sup>15</sup>.

“Once in every year the owner of every boat shall submit his certificate of Registry for examination, either at the head office in each collectorship, or at the station through which it was originally obtained, and the proper officer shall sign his name on the back of the said certificate, together with the date of examination, as a record of its authenticity or correctness.”<sup>16</sup>

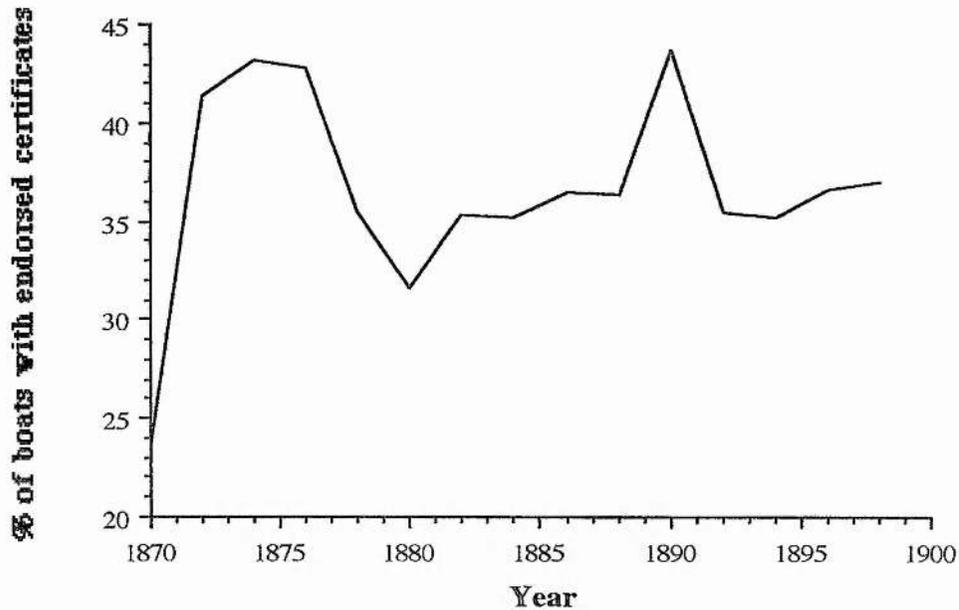
As the total number of certificates increased year on year this task must have become onerous. Figure 5 uses data from the Fishery Board Reports to show the percentage of certificates that are declared as endorsed in each year:



**Figure 5a - Percentage of certificates endorsed each year.**

It will be seen that initially a very high level of certificate endorsements was achieved. It also appears that more certificates were being declared as endorsed than were actually in circulation. Either the initial number of certificates issued in 1869 was higher than it thought<sup>17</sup>, or the returns were gently massaged by unscrupulous officers. Nevertheless the high endorsement rate cannot be sustained and continues to decrease sharply until 1880 when the decline slows down for the remainder of the century.

The number of boats carrying endorsed certificates is perhaps a fairer measure of the success of the registrars in endorsing registry certificates.



**Figure 5b - Percentage of boats carrying endorsed certificates each year**

The initial success of the registering process can be seen in the swift rise to between 40 and 45% by 1872. However, there is a large fall to around 35% during the early 1880s, but which rises briefly back to over 40% around 1890. Never in any one year do the registrars note that they have seen for endorsement even half of the certificates issued. Around a third of the certificates are being seen each year and this may imply an understanding by the fishermen that the certificates were due for endorsement only once every three years, or it may indicate the unwillingness of fishing skippers to comply with what they may see as excessive bureaucracy.

It is clear that the registrars were under some pressure to ensure compliance with this part of the regulations. The Order in Council of 1869<sup>18</sup> demanded that a return be forwarded to the London Custom House in January of each year. This return had to show the number and classes of all boats whose certificates of registry had been presented for examination and

been endorsed in the previous year; in addition a note had to be made of all inspections of certificates in the register<sup>19</sup>. These notes are not readily apparent on most of the register folios in the Dundee registers until around 1880. In 1881 the Registrar General in London, Robert Jackson, requested all registrars to provide a summary of all boats, (including those that had been wrecked that year), whose certificates had been duly endorsed<sup>20</sup>. Since this summary was already a requirement under the Order in Council it seems that the Registrar General was seeking to ensure that the task was completed. It is possible that the slowdown in the decline of the percentage of certificates endorsed, and the increase in numbers of boats with endorsed certificates after 1881 may stem from this reminder from London.

The grouping of fishing boats implied by different letter and number sizes for boats of more or less than 15 tons burden in the Convention Act 1843<sup>21</sup> was updated in 1855 when the Fishery Board divided all boats into three classes in order to obtain "a more correct registry of fishermen."<sup>22</sup> The first class consisted of boats of 30 feet keel and upwards, the second class of boats of 18-30 feet keel, and the third class of boats less than 18 feet on the keel<sup>23</sup>. However the Order in Council attached to the Sea Fisheries Act 1868 re-defined these classes as follows: First class boats were 15 tons burden and over, second class boats were under 15 tons burden but powered by sail, and third class boats were under 15 tons burden powered by oars. The registrar was empowered further to place in the third class any boat which was only occasionally powered by sail.<sup>24</sup>

However, the Fishery Board reports continued to use the keel length system set up in 1855. Classes based on keel length rather than on registered tonnage were used in every publication of the returns of boats at specific creeks. Furthermore, in response to the increasing size of first class boats, the Board introduced another division of the first class in 1894 into boats between 30 and 45' on the keel, and boats over 45' on the keel. The effect of this arrangement is that the class system being used by the fishery officers did not match that being used by the registrars. In the first hundred entries from the 1887 register of Dundee there are eleven boats which were in the second class because they were less than 15 tons burden, but which had keel lengths of more than 30 feet; boats which according to the Fishery Board were first class boats. Since the Board relied on their own officers for statistical information, there was little incentive to change the system. The published statistics in the reports are based on returns from the district fishery officers who are not necessarily located in the same places as the registers.

The Merchant Shipping Act in 1894 brought the second class numbers into conformity with the first and third class by ordering that all letters should precede the numbers, and slightly modified the class system used in the registers without bringing it entirely into line with the Fishery Board system. Steamers, which were often registered under the new Part I of the act, could use gross registered tons as measured by a Board of Trade surveyor, while fishing boats registered under Part IV continued with the "test" rule

which was applied by registrars from the basic dimensions of a vessel to give an approximate register tonnage.<sup>25</sup> In addition, the second class now included boats which were of 18 feet keel or more, and the third class were all boats less than 18 feet on the keel *except* those navigated only by oars which had been marked with the name of the owner and the port outside the stern.[my italics]. (Under the Customs Consolidation Act 1876 section 176 all vessels under 100 tons required such markings. Fishing boats were exempted by a letter from the Board of Customs in 1890<sup>26</sup>)

### **Fishing Numbers**

The numbering and lettering of fishing boats was a crucial step towards effective policing of fishing boats. The practical operation of the numbers and letters regulations threw up some complications which had not been foreseen, but essentially from the start the "fishing number" system proved very workable and it served as the basis for the system operating in the twentieth century.

The first regulations were drawn up in the schedule attached to the first international fisheries convention of 1839-43 and consisted of six articles<sup>27</sup>.

Letters were allocated for each collectorship of customs in Britain or districts of maritime registry in France, and a series of consecutive numbers were issued for each. Further letters were allocated by the Board of Customs to remove any confusion that might arise. The fishing number had to be placed on each bow of the boat, three or four inches below the gunwale, and it had to be of the required size in white oil paint on a black background. If the letters did not fit between the gunwale and the rubbing strake, then the fishing number had to be as high as the space permitted. The boats were initially divided into two groups. Boats of fifteen tons burden or more required letters eighteen inches high and two and a half inches broad. For boats less than fifteen tons the letters had to be ten inches high by one and three-quarters inches broad.

The same fishing number had to be painted on the sails in black where the sails were white, and in white on black sails. These were one third larger in all dimensions than those on the hull. All buoys, barrels and principal floats of each net had to be numbered at this size too, although it was permitted for fishermen to continue to use personal marks to identify gear owned by each individual crew member.

Special attention was paid to the Channel Islands, since fishermen there were at the forefront of any possible confrontation with French fishermen. Therefore Jersey, Guernsey and the other islands each had their own initial letter and the number *preceded* the letter<sup>28</sup>. In this way an English or French vessel could be instantly distinguished from a Channel Islands boat.

The Fishing Numbers section of the Convention Act<sup>29</sup> does seem to have been implemented from the beginning, but in a haphazard way. The letter from the commander of the French fishery squadron cited in Chapter One discloses this problem. In his letter addressed to the British commander in August 1853<sup>30</sup> Capitaine Maucroix complained of the damage done to the French boats "245" and "405" from Fécamp. The culprits are English boats marked "N and N 330", "130 N", and "131 N". Although the French boats were clearly identifiable, the English were never found. Yet an English boat lay nearby, the "225" of Hartlepool, which seems to have been correctly numbered and identified. The action occurred off Blyth and it is easy to suspect that the offending vessels bore the letter "N" for Newcastle. Either the numbers were false, or the Newcastle Custom House had failed to keep a proper register of the numbers allocated. Such a problem can be seen at Dundee which adds to the indication of some inadequacy in some areas in implementation. The reply from Dundee Custom House to a request from the Board of Customs for a report states that although boats were numbered when the act first came into force, "of late this does not appear to have been enforced on new boats"<sup>31</sup>. The problems with the Convention Act, especially the difficulty over whether the Convention could be applied outside the English Channel, no doubt contributed to the lack of consistent numbering and lettering. The Fishery Board attributed this as a reason for a noted lack of fishing numbers on the West Coast<sup>32</sup>.

The Fishery Board took their opportunity to improve the situation in 1860 when the British White Herring Fishery Act was introduced. This repressive measure was designed to help control the herring fishermen of Loch Fyne and the Clyde and as a supplement to the effectiveness of the act it is specified that the numbering and lettering articles from the Convention Act were to apply explicitly to all British fishing boats<sup>33</sup>. To this effect a notice was issued by the Fishery Board to all fishermen<sup>34</sup>. Efforts were then made to enforce the regulations by the fishery officers and the cruisers. Boats were seized and detained for non-compliance. The officers would regularly seize a boat and detain her just for a few hours in order to ensure compliance with the rules. The object was to get the boat numbered and off to sea rather than to inflict a loss on the crew by keeping her from the grounds for any longer time. A second detention was never necessary<sup>35</sup>. The Board reported in conclusion that:

"This part of the Act is working most beneficially: it was a provision long desired by many naval officers who had been employed in superintending the Fisheries, and by many Naval Harbour Master[s] of Fishing Stations."<sup>36</sup>

When the Royal Commission report of 1866 considered the merits of the fishery legislation then in force, they reserved their praise solely for the numbering and lettering part of the Convention Act and the British White Herring Fishery Act.<sup>37</sup> These regulations survived in their original form into the new Sea Fisheries Act of 1868<sup>38</sup>.

The new act was empowered by an Order in Council of 18th June 1869 which allowed for any existing system of numbering and lettering to be brought into conformity with the numbering system of the Convention Act<sup>39</sup>. These regulations were to be observed by all boats fishing anywhere in the UK. The only exceptions to the rule were yachts when not fishing, pilot boats when they were otherwise numbered as pilots, and the pilchard seine net boats of Cornwall, if they were marked in some way to the satisfaction of the Customs or Coastguard officers<sup>40</sup>. The number preceded the letter on all second class boats, and succeeded it on first and third class boats, including boats in the Channel Islands<sup>41</sup>. The numbers in a third class boat were to be placed on the outside of the stern immediately below the name and all tenders had to carry the same numbers. A vessel not usually, but occasionally fishing, was permitted to show her fishing number on a temporary board or canvas<sup>42</sup>. These numbers were initially painted flat with no embellishment. Only in the latter part of the century did fishermen add shading and colour to their fishing numbers<sup>43</sup>. [See Plates passim]

The men of Cellardyke in Fife seem to have been fairly efficient at complying with the regulations. The East of Fife Record for March 5th 1869 remembers that almost no Cellardyke boat failed to be duly numbered the previous time such regulations were enforced<sup>44</sup>. A month later the newspaper declared that it was:

“happy to understand that since Saturday last the whole of the boat’s sails have been duly numbered in compliance with the act; so that, so far as this district is concerned, there can be no unpleasant proceedings between their owners and the authorities”<sup>45</sup>

It transpired that some of the local first class boats had painted their numbers only 15” high instead of 18” and the newspaper warned them that were liable to be seized by the fishery officer:

“...though the skippers may feel it a little hardship to re-paint these numbers again, it will be much safer for them to comply with the rule laid down as, if they go to sea with their numbers below the standard height, their boats will assuredly be seized, and much time and money be lost in consequence.”<sup>46</sup>

The compliant attitude of the men of Cellardyke did not seem to extend to their close neighbours in Anstruther. The Fife Herald reported in May 1869:

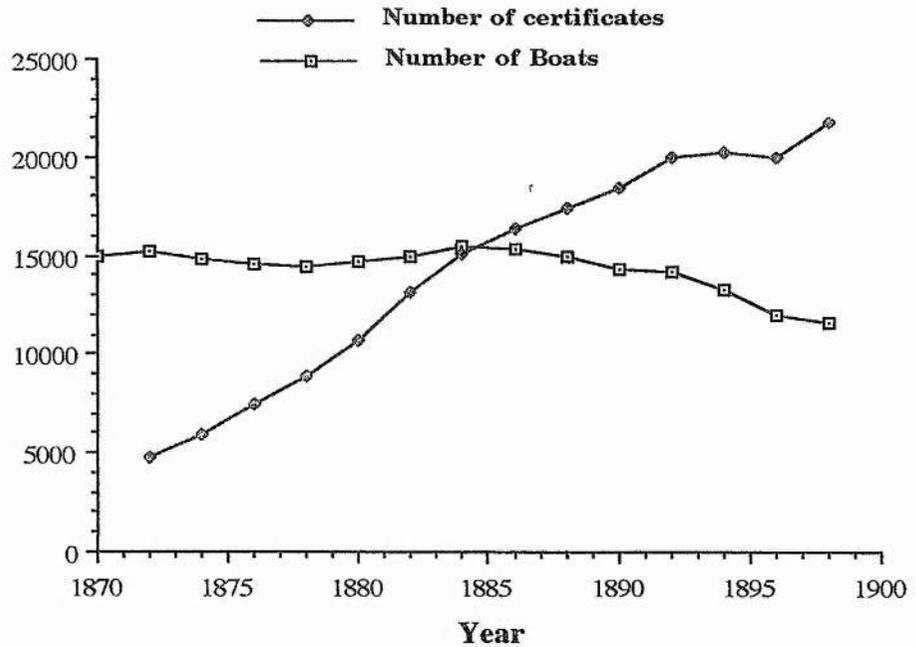
“The fishery cruiser “Vigilant” ...detained several fishing boats of Anstruther last week for not having their sails numbered as required by the Sea Fisheries Act 1868. The penalty exigible for this offence is £20 each on both the owner and the master.”<sup>47</sup>

All Custom Houses were sent printed notices to be fixed in a conspicuous place at each port in order to ensure that all fishermen were acquainted with the new law<sup>48</sup>. Some fishermen objected to the idea of painting numbers on their sails on the grounds that it could damage the canvas. It seemed that if turpentine was used it burned the canvas material. Only white lead and oil would serve<sup>49</sup>. The Fife Herald also reported that:

“...The order issued for the numbering of all boats and sails had led to some trouble [in St. Monans, Fife], but it will prove of great benefit in the end.”<sup>50</sup>

The number had to be above the close reef on the sail that was most usually set to ensure that it could be seen at almost all times. Numbers were always vulnerable to indolent or fraudulent behaviour and it was expressly forbidden for any person to efface, alter or conceal the fishing number in any manner<sup>51</sup>. Nevertheless, some boats after painting their numbers the first time failed to maintain them and “carried their numbers so defaced from former seasons, as to be no longer legible.”<sup>52</sup> Problems of this sort had been apparent in 1858 when an order was issued to ensure that sail numbers were attached permanently above the close reef, and not to any patch or removable piece<sup>53</sup>

The relative success of the implementation of the Sea Fisheries Act 1868 regulations soon became apparent. During 1871 278 boats were detained by the fishery officers, and a further 161 were caught by the fishery cruisers<sup>54</sup>. Short detentions served to ensure a large number of boats were numbered. Figure 5a is calculated from data published by the Fishery Board and shows a steady rise in the total number of registration certificates issued to boats. The number of certificates reveals an initial leap on the introduction of the legislation and then a steady increase. The calculated number of certificates exceeds the actual number of boats in 1885. It appears that an increasing number of defunct boats whose certificates were still thought to be active remained in the registers.



**Figure 5c - Graph showing apparent number of certificates in use, and number of boats reported by the Fishery Board<sup>55</sup>**

Figure 5c has been adjusted to give the apparent number of certificates in use each year by taking a cumulative total of the certificates declared as issued by the Fishery Board each year and taking away the number of boats which come off the register each year.<sup>56</sup>

The number of new certificates issued in 1874 was 723, the highest so far, and prompted the Fishery Board to declare:

“[These figures] show that the owners and masters of boats are getting to observe the requirements of the act habitually as one of the ordinary obligations belonging to their line of employment.”<sup>57</sup>

Nevertheless the Board reported a number of complaints of defective lettering and numbering on the West Coast<sup>58</sup>. The Board of Trade was asked to provide public notices warning the fishermen of the penalties they risked for infringing the regulations. The Higgin Report discovered in 1881 that most English boats were now marked in accordance with the law, but the French boats were all marked the same, with “HOT” for Honfleur-Trouville. Similarly all the Belgian boats appeared to carry “O” for Ostend, and the Dutch had no markings at all.<sup>59</sup>

The International Convention of 1883<sup>60</sup> did not address the problems of positive identification of boat numbers. On a dark night, or when menaced by threats, or even when false numbers were being carried, it was very difficult to ensure an identification that would

stand up in court. The similarity of the numeric form of some numbers also caused confusion over boat identities<sup>61</sup>; e.g. **0**, **3**, and **8** at a distance could often look the same as each other; a similar problem existed for **1**, **4**, and **7**.

Another problem with fishing numbers was identified and corrected by a special declaration of the North Sea countries in 1889<sup>62</sup>. Where the earlier regulations had specified that numbers were to be black on white sails, and white on black sails, it had been found that sails of an intermediate colour could make the number almost invisible. For example the common brown colour of the sails of the Scottish drifters could easily hide a number painted in black. Therefore the declaration modified the regulations to ensure that the number was painted in the colour that would be most visible on the sail.

Additions were made to the regulations in 1885 as part of the moves to prohibit trawling in certain waters. Steam trawlers were required to place their fishing number on each quarter and on the front of the funnel<sup>63</sup>. This measure was designed to aid identification of a trawler at a distance and stopped her from presenting an aspect to a fishery cruiser which would effectively conceal her number. In a stern chase the fishery cruiser could identify the trawler even if the cruiser were losing ground. For by 1892 the Fishery Board were complaining that the modern trawlers could steam faster than any of the fishery cruisers. Only the cruiser HMS Jackal could reach 12 knots, and many trawlers could exceed that speed<sup>64</sup>.

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- 1 An act for the further Increase and Encouragement of Shipping and Navigation. 1786. 26 Geo.III c.60.
  - 2 Hope 1990.p.256
  - 3 Register of Vessels on Inland Waterways. 1795. Norfolk County Record Office. Norwich.
  - 4 Merchant Shipping Act 1854. 17 & 18 Vict. c.104
  - 5 The regulations entered into law in 1843 although they appear to have been applied by the Fishery Board from the signing of the convention with France in 1839.
  - 6 Typed sample from National Maritime Museum register transcript program. Kirkcaldy 30/6/1824 - 9/11/1825, and for Anstruther 25/3/1826 - 4/7/1829.
  - 7 Schedule to the Convention Act 1843. Article 9. See Appendix One

- 
- 8 Letter and form from the Board of Customs to the Collector at Dundee. No.33/1858. 26/4/1858
- 9 Personal communication. Mr J.Tarvit. Retired fishery officer.
- 10 See Appendix Two
- 11 Regulations for the Registry, lettering, and numbering of British sea fishing boats, under part IV Merchant Shipping Act 1894, and under Sea Fisheries Acts 1868 and 1883, 24/3/1902
- 12 Ibid.
- 13 Ibid.
- 14 (Total boats year 1 - total boats year 2) - number of certificates issued year 2 = number of boats removed from register between year 1 and 2.
- 15 Order in Council 18/6/1869
- 16 Ibid.
- 17 The actual figure was not published and has been surmised here as 100% of the number of certificates endorsed in 1871
- 18 Ibid.
- 19 Ibid.
- 20 Registrar General to the Customs House, Dundee. 1881. Attached inside Register of Sea Fishing Boats, Dundee 1887-1902
- 21 The Convention Act 1843.Schedule Article 8. See Appendix one.
- 22 Report by the Commissioners for the British Fisheries. 1855. para.8
- 23 Ibid. 1855. Statistics No.I
- 24 Order in Council 18/6/1869
- 25 Regulations for the registry, lettering and numbering of British sea fishing boats, under Part IV of the Merchant Shipping Act. 1894, and under the Sea Fisheries Acts, 1868 and 1883. 1902
- 26 Letter from the Board of Customs to Collectors.No.52/1890

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- 27 Article 6-11, Schedule attached to the Convention Act 1843. P.P. 1843 II.685f.
- 28 Ibid. Article 9.
- 29 The Convention Act 1843. See Appendix One.
- 30 Report by the Commissioners for the British Fisheries. 1853.
- 31 Letter and form from the Board of Customs to the Collector at Dundee. No.33/1858. 26/4/1858
- 32 Report by the Commissioners for the British Fisheries. 1861 p.11
- 33 The British White Herring Fishery Act 1860. 23 & 24 Vict. c.92. #11,12. See Appendix One
- 34 Notice issued by Board of Fisheries, Edinburgh. 30/11/1860
- 35 Report by the Commissioners for the British Fisheries. 1861 p.11
- 36 Ibid.
- 37 Report of the Commissioners appointed to enquire into the Sea Fisheries of the United Kingdom. 1866. p.civ #11
- 38 Sea Fisheries Act 1868. See Appendix One.
- 39 Order in Council 18/6/1869. Statutory Rules and Orders. p.1138ff. An earlier Order of 4/2/69 was replaced by this Order.
- 40 Ibid.
- 41 Ibid.
- 42 Ibid.
- 43 Anson 1950. p.162.
- 44 East of Fife Record. 5/3/1869. Probably referring to 1860.
- 45 Ibid. 7/5/1869
- 46 Ibid. 2/7/1869
- 47 Fife Herald and Kinross, Strathearn and Clackmannan Advertiser. 6/5/1869

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- 48 Letter to the Collector from Board. Dundee Custom House. 11/1869.
- 49 Fife Herald and Kinross, Strathearn and Clackmannan Advertiser. 6/5/1869
- 50 Ibid. 13/5/1869
- 51 Regulations for the Registry, lettering, and numbering of British sea fishing boats, under part IV of the Merchant Shipping Act 1894, and under Sea Fisheries Acts 1868 and 1883, 24/3/1902
- 52 Report by the Commissioners for the British Fisheries. 1861 p.11
- 53 Order in Council 6/4/1858.
- 54 Report of the Commissioners for the British Fisheries. 1871.p.6
- 55 Data extracted from Fishery Board Reports 1869-1900.
- 56 For the number of boats which come off the register each year see footnote 13 The total of boats each year is taken from the Fishery Board reports.
- 57 Report by the Commissioners of the Fishery Board: Scotland 1874.p.4
- 58 Second Annual Report of the Fishery Board for Scotland. 1883.pt.1
- 59 Report on the Outrages committed by Foreign on English Fishermen in the North sea with Evidence. 1881. P.P. 1881.LXXXII
- 60 Sea Fisheries Act 1883. 46 & 47 Vict. c.22. See Appendix One.
- 61 Report by Board of Trade Committee to enquire into complaints of damage on British Drift net fisheries in the North Sea, and question of additional facilities for protection of fishing industry. 1887. P.P. 1887 LXXV.747
- 62 Declaration between the Governments of Great Britain, Germany, Belgium, Denmark, France, and the Netherlands modifying Article VIII of North Sea Convention of May 1882: This was empowered by an Order in Council dated 21/3/1890. Intimated to Customs officers by letter from Board of Customs 40/1890.
- 63 Act to amend law relating to Scottish Sea Fisheries. 48 & 49 Vict. c.70. P.P.1885. V.419f.#5
- 64 Eleventh Annual Report of the Fishery Board for Scotland.pt.1

## *Chapter Six*

### *Registers and the Needs of the Fisherman*

Under the Merchant Shipping Act of 1854 the Shipping Register had an important role as a record of the ownership of shares in a British ship. With the register as a foundation shares in vessels could be bought and sold, and mortgages taken out with the registered ship as security. However the fishing boat register, born as it was from a need to police the fisherman, did not convey any similar form of valid title in a vessel.

As the fishing boat grew bigger and bigger and increasing amounts of capital were invested in them,<sup>1</sup> it became more and more difficult for fishermen to raise the sums required to invest in new boats. Bigger boats carrying more nets and travelling further offshore were needed, and in the 1880s these were between 45 and 60 feet on the keel<sup>2</sup>. The common way in which this level of investment was achieved was for fishermen to owe money at high effective interest to the boat-builders and curers, which they would attempt to pay back from the seasons catches, if these were sufficiently lucrative<sup>3</sup>. Moreover, in bad seasons the curers may not be in a position to fund such activity. Often fishermen would attempt to secure a loan by depositing their certificates of registry with a bank. However this practice laid them open to seizure by a fishery cruiser for not carrying the certificate, and it did not embody title to the boat anyway<sup>4</sup>.

The Fishery Board received a number of letters on this subject. For example, the Collector of Customs at Wick said he had frequently advised boat owners of the advantages of registering their boats under the Merchant Shipping Acts<sup>5</sup>. This would provide them with sufficient title to sell or mortgage their boats. It would also have allowed them to engage in the coasting trade if they so wished. The cost was one pound for the survey, and the provision of lights and a fog-horn. Unfortunately the nearest Board of Trade surveyor was in Fraserburgh, which entailed a non-earning voyage, and fear of higher harbour dues for a registered <sup>ship</sup>boat also dissuaded the fishermen from this step. The Procurator-Fiscal at Wick wrote to the Fishery Board about his own experience with the problem:

“...Last year, having vindicated a fisherman’s right to a boat in your court here, against his fishcurer, and the man being due the fishcurer a balance on account, I was desirous of registering the boat as a British vessel in order to take a small mortgage, but in the absence of a local surveyor, I had to give it up.”<sup>6</sup>

He concluded by calling upon the Board to set up a system of registration which would allow the fishermen to have sufficient title to a boat of which he could not be deprived

except by a due bill of sale, and which would allow the boat to be used as security for a loan.

The Fishery Board concurred and noted that the Member of Parliament for Forfar had raised the issue in the House and that the Secretary of State for Scotland had replied that:

“the matter to which the honourable member refers is one of great moment to the interests of the fishermen, and the Government are carefully considering whether they should not introduce a bill to apply to the whole of Scotland constituting a register of fishing boats, in so many cases of considerable tonnage, and giving over them as good security for a mortgage as over small merchant ships.”<sup>7</sup>

The resultant act was the Sea Fishing Boats (Scotland) Act 1886<sup>8</sup> which provided a level of the promised security for fishing boats, without setting upon them the expenses associated with full registry as a British ship.

A further correspondent with the Board on this matter had adverted to the forthcoming legislation on the crofters of the highland areas, suggesting that such a register scheme would be ideal for the extension of low interest loans to the fishermen of the North and West of Scotland secured on their boats<sup>9</sup>.

The character of the fishing in the North and West of Scotland was closely tied to the geographical nature of the country and quite different from the fishing industry of the East Coast or the North Isles. The West Coast consists broadly of two regions, the Clyde estuary where the Glasgow market was paramount, and the North West. In the North West small and fairly isolated communities dwelt among the mountains and rocky islands on which arable land is very scarce. In the nineteenth century fishing provided the small-holders there with extra income and subsistence during their spare time away from the croft. Although primarily interested in working the land, many crofters had a small boat which could be used for fishing and for any other task in a land where communication by water was important. These boats became useful at the occasional and unpredictable fishing for herring in a sea loch. The efforts of thousands of scattered fisherman at occasional fisheries in the West such as these was as a whole important. In the early 1850s the cured product of their efforts, on average one to four barrels per head, brought them in an income of barely £2 per head<sup>10</sup>.

Even when large numbers of men would journey to the East Coast to hire themselves out on the drifters for the herring season to supplement their income, it was still very difficult for them to acquire new boats and nets. Crofters often had only enough just to pay their rent, and cottars even less<sup>11</sup>. The lack of regular surplus on the crofts disabled the ability to invest capital in new or even second hand fishing equipment. The potato blight and consequent famine in the late 1840s saw increased debts and sale of the remaining assets such as livestock<sup>12</sup>. Curers were the only source of help in purchasing more efficient boats,

but it took a good season just to pay the interest and therefore the core of debt remained throughout the region, even in good years<sup>13</sup>. This backlog of debt led to less investment in new gear, which in turn meant poorer returns from the fishing. Even the line fishing was subject to this debt cycle<sup>14</sup>. Nevertheless a minority did manage to purchase sufficient boats and gear, usually second hand, which would have allowed them to take a place in the fishing of the East Coast.

Government assistance had been provided in the form of 50 per cent loans for the repair of the boats of poor fishermen in Scotland from 1825 until 1848<sup>15</sup>. Fishery officers had enquired into the circumstances of the fisherman's family, to ensure that they really were indigent, had dependants and resided at a harbour. Numerous applications were dealt with by the Fishery Board and a number of loans were made to individuals which are accounted for by the Board in their reports each year

Far from being blighted by Government legislation, the traditional lifestyle of the highlands, centred on a croft with occasional fishing was confirmed as the basis of the social order by the Crofters Holdings Act of 1886<sup>16</sup>. This act, going against the recommendations of the report which had inspired the legislation,<sup>17</sup> granted security of tenure to crofters, fair rents, and a right of bequest on even the smallest of holdings. Although this resulted in the tenure of croft-holders being strengthened, the size of the holdings was too small to provide a living by farming alone, and other sources of income had to be maintained. Rising prices and lack of capital prevented many crofters from making large investments, and the act recognised this situation. It authorised the Fishery Board to make loans to crofters or others involved in fishing in the crofting parishes<sup>18</sup> of Argyll, Inverness, Ross and Cromarty, Sutherland and Caithness, and Orkney and Shetland. These loans were earmarked for the building, purchase, and repair of boats and gear and the terms were made by the Secretary of State for Scotland. The act also provided for summary action to be taken to recover any defaulted loan<sup>19</sup>. It was decided that an effective method of ensuring the good management of any loans made was to secure them upon the new boats by mortgage.

A new piece of legislation was required to provide the structure within which the loans could be made and secured. A special role for fishing boat registers, for which they had never been originally intended, was now developed by the new companion act to the Crofters Holdings Act, the Sea Fishing Boats (Scotland) Act<sup>20</sup>. This act created a new style register book for fishing boats in Scotland. The new register book was specifically designed to enable a form of title to a boat to be established on paper and any attached mortgages to be recorded. During its passage through the House of Lords the Secretary of State for Scotland<sup>21</sup> summed up by declaring that the provisions of the recent Crofters Act for providing loans for boats and gear would be very difficult to carry out unless the new bill was passed<sup>22</sup>.

In the first year the Treasury produced a grant of £20000 and this was subsequently increased to £30000 in 1887 and in 1888, but reduced to £25000 in 1889, and £10000 in 1890<sup>23</sup>. These sums were administered by the Fishery Board and they introduced a series of rules under which the loans were to be made. The rate of interest was initially to be 2½ per cent, but the Treasury increased this to 3½ per cent, and it was agreed that the loan should never exceed three-quarters of the value of a new mortgaged boat, or two thirds of a second-hand one<sup>24</sup>. However, when pressed in the House of Commons, the Government conceded that the loans could equal 90 per cent of the value. These rules were empowered by an Order in Council<sup>25</sup>. On 26th March 1888 the first loan was made, and by December of 1889 over £20000 had been advanced. The total lent stood at just under £30000 out of the £115000 which had been available<sup>26</sup> when it was decided that the loans must be stopped. The last of 246 loans was made on 23rd January 1891<sup>27</sup>.

The whole plan was brought to a premature close by arrears in loan repayments and fear of bad debts. Of the instalments due over the period of operation, around 33 per cent were in arrears<sup>28</sup>. Legal proceedings had been taken against the debtors, but with poor results. Heavy legal expenses were incurred and boats re-possessed, sometimes not even recovering these expenses by the subsequent sale of boats, some of which had been entirely abandoned by their crews<sup>29</sup>. In almost every case, after sale of the boat, a considerable balance of debt was deemed irrecoverable by the Board. Appendix F.1 in the Fishery Board Report of 1892<sup>30</sup> reveals the scale of these arrears. The average size of loan had been £98, and over 40 per cent of the loans had gone to the Stornoway district where 70 per cent were in arrears; the average being £17. Another 40 per cent of the loans had been granted to Orkney, Shetland, and the Northern coast towns from Wick to Cromarty. Here 75 per cent were in arrears, the average being £20; although Orkney had no arrears at all. In Barra, Loch Broom, and Fort William districts only 29 loans had been made, 58 per cent of which were in arrears.

Only around 26 percent of available funds had been taken up in Scotland, and apart from the Stornoway district, the take up on the West Coast was very poor. The large districts of croft cultivation, which could be seen as most in need of the support of the loans, simply did not use the opportunity. The aid prescribed by central government clearly did not meet the needs of the crofters of a large part of the West Highlands outside Lewis. The high level of arrears suggests that the loan rules were inappropriate for the economic realities, since the loans seem to have gone only to the most indigent fishermen who are least likely to be able to repay from crofting surpluses. It is possible that memory of the previous assistance from the Fishery Board in the form of grants, made some fishermen reluctant to repay the loans.

The Fishery Board had declared in their report for 1886 that the proposal for making loans to poor fishermen was "framed in a highly benevolent spirit".<sup>31</sup> They continue with an explanation of some of the thinking behind the rules for the loans:

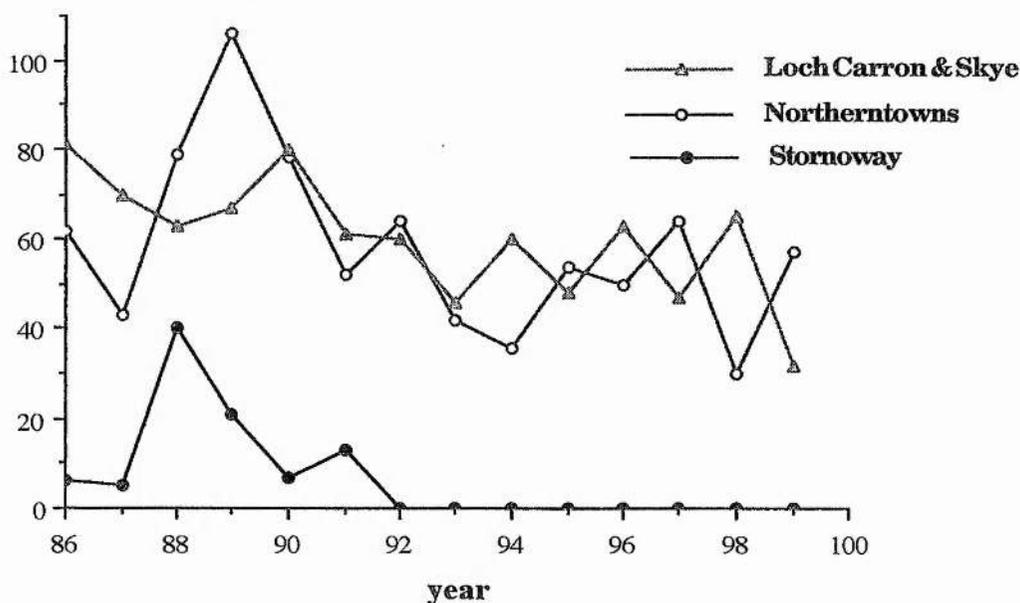
"The difficulty is that the people are not in a position to offer any security for a loan of money which a banker would accept, and unless the advance to be made by this Board on behalf of the Government was to be regarded as purely charitable relief, it became necessary to place some restriction on the distribution...It is evident, however, from the nature of the applications already lodged, that a general feeling prevails that the meaning of the Act was that the borrower was not expected to do anything for himself, and that the Government was to set him up in business at the public expense. We do not intend to give any encouragement to this idea, but shall try to stimulate thrift and industry by helping those only who help themselves."<sup>32</sup>

When the districts of Stornoway and Loch Carron & Skye are compared in the figure 6a<sup>33</sup> it can clearly be seen that the number of certificates being issued to new boats in Loch Carron and Skye was significantly higher than in Stornoway. The level of new certificates issued there only increased slightly during the lifetime of the loans, and did not significantly drop off until the end of the century. Yet, this district is not recorded as taking any loans for new boats at all<sup>34</sup>, and its neighbours, Fort William and Loch Broom, took only nine between them. By contrast in Stornoway very few new boat certificates appeared until the loans were available in 1888 when a big increase occurred, but as the difficulties of repayment were felt the number died away until the boat purchasing activity in the Stornoway district became negligible for the remainder of the century.

It is possible that while the crofters of Loch Carron and Skye were making enough surplus or being supported by fish curers in order to fund a steady number of new boats, the poorer men of Stornoway could only buy boats with loans from the Fishery Board, which then proved too onerous to pay off.

When the same figures are compared for the Northern towns<sup>35</sup>, where 40 per cent of the loans were also granted, a similar pattern emerges<sup>36</sup>. A background level of purchases of new boats apparently matches closely the level among the crofters of Loch Carron & Skye. Only during the period of the loans does a sharp increase occur. Perhaps here both indigent and more successful crofters were working in the same locations. The loans may not have been of interest to those who could fund boats in other ways and so only the most indigent were encouraged to take on the loans.

**New certificates issued at the Northern towns,  
Loch Carron & Skye, and Stornoway**



**Figure 6a - Number of new registry certificates issued at the Northern towns, Loch Carron & Skye, and Stornoway. 1886-1899**

The Sea Fishing Boat (Scotland) Act provided additional register forms onto which documents and facts of title could be entered following on from the original fishing boat entry.<sup>37</sup> In this way the fishing boat registers were to be used to establish a form of title to boats for crofter fishermen, which could then be mortgaged or sold<sup>38</sup>. By adding to the role of the register in this way, a need was created for fishermen to have ready access to the registrar, since in order to establish such a title, a declaration had to be made before the registrar by the registered owner that he (and his partners) constituted the owner of the boat or shares. From the date of the Order in Council<sup>39</sup> any change of port to which a fishing boat belonged required a statement from the registrar at the previous port as to the particulars of the vessel and whether any mortgages etc. were engaged upon her. Any mortgaged vessel when moving must have the written consent of all parties involved. In this way the registrars were to ensure that ownership of the vessel was established and written into the current registry of the vessel.

In order to provide full access to the registrar, and possibly to deal with the expected influx of new vessels financed by the new loans, seven new registers were set up in the North and West of Scotland<sup>40</sup>. These were placed at Ullapool, Broadford, Oban, Ardrishaig, Rothesay, Castle Bay, and St. Margaret's Hope, and were operated by the fishery officers of those ports in lieu of a customs officer<sup>41</sup>.

Within three years of being set up, St. Margaret's Hope was cancelled as a registry port by an order in council. The expected demand for a new register at that place seems never to have arisen<sup>42</sup>. In the period in which it was active there were only fifty-two new certificates issued for the whole of Orkney, which includes the long established Kirkwall district, and of these only six were assisted with loans under the new act<sup>43</sup>.

However the Broadford register books have been continued up to 1988 in the Mallaig Fishery Office, and they show the Sea Fishing Boats (Scotland) Act in operation. The first register books for the office date from 1869. These are the district registers in three volumes for Loch Carron & Skye, which was under the Inverness Custom House. Accordingly every boat is registered as INS for Inverness and receives its number from there. E.g. the first entry is "Mountaineer" INS245. The register consists of labelled vertical columns in which each register entry is written horizontally across both pages. The details required for each entry are: Date, Name of boat, Name of owner and Master, Description, Register letters, Number, Class, Tonnage, Length of keel and Number of crew. The books in Mallaig contain an section not seen in the equivalent Dundee book entitled "Particulars relating to Employment during the year previous to endorsement" which appear to be specific to the West Coast since it allows statistics to be collected about the working patterns of mainly crofter fishermen. Questions are asked about the boats and about the crews. The register desired to know whether the boats or vessels were constantly employed in fishing or not, and, when they are, to describe whether they use nets, lines, trawls, or dredges. It also asked how the crew are divided between men and boys, and whether they were employed full time or not. The full timers were further divided between those that worked in trawlers or not, and the part timers were divided between those that are employed in other seafaring jobs or as landsmen. The effect of these extra columns is to define which boats and fishermen belong to crofts, and which are full-time seafarers, with a subset of trawlermen among the full-timers. In the register for Loch Carron and Skye there are 159 folios with around seven boats on each folio, i.e. about 1100 individual boat entries and only four of these are recorded as having full time crew members. This suggests that the great majority of fishermen in the district were in fact crofters.

As an illustration of this pattern, the first ten entries of the register for that district are typical, even if a small sample.<sup>44</sup> In the sample, nine out of the ten boats were brand new and built within the district. They were all open sailing luggers with an average keel length of 18 feet. Every owner was also the master. Three were second class boats, and six were third class. The one exception was a half-decked smack of 32 feet. This vessel may be second hand for she does not appear to have been bought locally.

When the Broadford register was begun in 1887, the Loch Carron and Skye district of Inverness Custom House gained its own registration letters - BRD, and new boats were so lettered. The instructions to registrars under the Sea Fishing Boats (Scotland) Act clearly

states that registrations under the Sea Fisheries Act 1868 should continue as the mode in which Scottish fishing boats would, in the first instance, be registered; the Sea Fisheries Act was not to be superseded<sup>45</sup>. The new registrar for Broadford interpreted this clause to mean that each register, that is both the original "Loch Carron and Skye book", and the new "Broadford book", which covered the same district should continue side by side. Accordingly whenever he made a new entry in the new 1887 register, he made it in the older book too, so that after 1887 there are two series of register entries for Broadford which mirror each other, and each of which continue to be marked when a certificate was endorsed. An example is the entry for "Mary" BRD6. She was sold by William Forbes of Loch Duich to Donald MacDonald of Broadford on 16th October 1891. The new owner's name has been added to the entry in the 1869 style book under the former owner. Similarly in the 1887 style book he has been added in a similar place, without crossing out the former owner. So either they became joint owners, or the registrar allowed a misleading entry. This activity continued through two volumes of the original register, from 1887 to 1901, when the register was finally consolidated into one volume.

This parallel system was an incorrect reading of the Instructions to Registrars. Each boat entry in the new registers under the 1887 act fills one folio and consist of two distinct sections, Part A and Part B. The original process of registration under the 1868 act was to be continued under Part A. Part B was additional to this registration and only came into action when necessary. Rather than create entries for vessels in two separate registers, the registrar at Broadford should, while continuing to maintain the existing entries of active boats in the old style register, have entered all new <sup>entries</sup> boats into the new 1887 register under Part A. Exactly this process can be seen for the equivalent books at the Dundee Customs House. The early style register was maintained until there were no active boats left within it, while all new entries was made in the new style book.

Part B of the 1887 register was the keystone of the Sea Fishing Boats (Scotland) Act. It was this section which recorded all mortgages and bills of sale which had been declared to the registrar. Part B provided a form of written title for any fishing boat registered under Part A which did not require the complication and expense of a legal search and transfer of title. It could not provide full legal title, but it did allow fishermen to take up the Fishery Board loans and contract other mortgages or sales of shares, especially in areas where access to lawyers was very limited.

No fishermen of Loch Carron and Skye mortgaged his boat to the Fishery Board for a loan, but in addition this section of the register, the very purpose of the Sea Fishing Boats (Scotland) Act, was used only once in the whole district from 1887 to 1903. The "Nain" 179BRD was mortgaged to the Caledonian Banking Company in December 1903. Clearly, at least in this important crofting district, the facility provided under the act was a dead letter. There is little evidence elsewhere either that the provisions of the new register were used in

an extensive way by fishing boat owners and the worthy letters from the Collector and Procurator-Fiscal at Wick did not bear fruit.<sup>46</sup>

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- 1 The value of the sum invested increased from c.£272960 in 1862 to £646883 in 1882. First report of the Fishery Board for Scotland. 1882.pt.1
- 2 Fourth Report of the Fishery Board for Scotland. 1885. pt.1.p.lxiv.
- 3 Ibid.
- 4 Ibid.
- 5 Ibid. p.lxv
- 6 Ibid.
- 7 Ibid. pp.lxvi-ii
- 8 See Appendix One
- 9 Ibid. p.lxvi, Referring to the Crofters Holdings Act 1886.
- 10 Gray 1978. p.106.
- 11 Ibid.
- 12 Ibid.
- 13 Ibid.
- 14 Ibid. p.115
- 15 Under The Fisheries Act 1824. 5 Geo.IV. c.64.
- 16 Crofters Holdings Act 1886 49 & 50 Vict. c.29. See Appendix One
- 17 The Napier Commission. cf. Gray 1978 p.181.
- 18 A parish in which there are or have been within 80 years of the Act holdings of arable land with a common right of pasturage and tenants of annual holdings for which the rent does not exceed thirty pounds per annum.
- 19 Crofters Holdings Act 1886. 49 & 50 Vict. c.29. #32; and Order in Council 22/2/1888
- 20 Sea Fishing Boats (Scotland) Act. 1886. 49 & 50 Vict. c.53. P.P. 1886 V.477f. See Appendix One

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- 21 The Earl of Dalhousie
- 22 Hansard. HL 8/6/1886
- 23 Tenth Annual Report of the Fishery Board for Scotland. pt.1..xix
- 24 Ibid.
- 25 Order in Council 22/2/1888
- 26 Tenth Annual Report of the Fishery Board for Scotland. 1891 pt. 1.p.xx
- 27 Ibid.
- 28 Ibid.
- 29 Ibid.
- 30 Ibid. Appendices.p.45
- 31 Fifth Annual Report of the Fishery Board for Scotland. 1886.pp.xxix-xxx
- 32 Ibid. p.xxx
- 33 Data extracted from Fishery Board Reports. Appendices. 1886-1899.
- 34 Tenth Annual Report of the Fishery Board for Scotland. Appendix F.1
- 35 I.e. Cromarty, Helmsdale, Lybster, and Wick
- 36 Data extracted from Fishery Board Reports. Appendices. 1886-1899.
- 37 Sea Fishing Boats (Scotland) Act. 1886. 49 & 50 Vict. c.53. #4
- 38 Order in Council 7/3/1887
- 39 7/3/1887
- 40 Ibid.
- 41 Ibid.
- 42 Order in Council. 28/11/1889. All registers were transferred to Kirkwall.

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- 43 Data extracted from Fishery Board Reports 1886-1899.
- 44 BROADFORD. Sea Fishing Boat Register "No.1" 1887-1898. Folios 1-10.
- 45 Instructions to Registrars of Fishing Boats, Scotland. 1887.#1
- 46 For detail see Chapter Seven

## *Chapter Seven*

### *Fishing Boat Registers of Dundee and Arbroath*

To enable the police functions of the Sea Fisheries Act 1868 to be properly carried out fishing boat registers were set up at the Custom Houses around the UK, and the collectors at each port became the registrars<sup>1</sup>. A number of these register books survive today in various locations. Some are found in the care of the regional archives or in the Public Record offices and some have been taken since 1988 to the new centralised registry in Cardiff. In Scotland where fishery officers have sometimes served as registrars in lieu of customs officers, it appears that many fishery offices have kept hold of their own bound registers after the central computer registry was set up. A good example is the office in Mallaig, Inverness-shire, the office for the old Loch Carron & Skye, or Broadford districts. The officer there has been anxious to ensure the preservation of the records in Scotland, and the complete set of registers from Mallaig should in due course go into the Highland Regional Archive at Inverness.

The archivist for the City of Dundee District Council holds the remaining nineteenth century registers for the Dundee and Arbroath districts as part of the collection of the Dundee Custom House<sup>2</sup>. The original Arbroath register book from 1869-1887 is now missing and the register marked "1" is not the first book, but the equivalent register for the neighbouring district of Dundee survives intact. The Dundee register of 1869 consists of folios marked out in vertical columns with the following headings: Date, Name, Port, Owner, Master, Description, Mode of Fishing, Class and Number, Tonnage, Keel length, Crew, and Remarks. The Remarks column has usually been reserved for marking the annual endorsement of each registry certificate by writing an abbreviated date of endorsement. The whole is labelled "Table A" and each boat entry is written across the folio allowing about two inches between each for additions or changes. This results in about seven to nine vessels per folio. This form differs slightly from the form in the equivalent Loch Carron & Skye 1869 register in that there is no special column for endorsements, nor are the special columns on the occupations of part-time fishermen included.

In order to study the fishing boat registers more closely a sample consisting of the first one hundred entries taken from the Dundee Fishing Boat Register Number Two<sup>3</sup> was entered into a simple database for analysis. This group was selected so that it could be compared with the same set of records from the third Arbroath Register<sup>4</sup>, also entered into the database. An added advantage was that the role of the Sea Fishing Boats (Scotland) Act could be assessed in areas not considered as crofting parishes and therefore not subject to the Fishery Board loan scheme created by the Crofters Holdings Act<sup>5</sup>.

The volume at Dundee dates from 1887 to 1902 and is entitled "DUNDEE Register of Sea Fishing Boats in Scotland under Sea Fishing Boats (Scotland) Act. 1886". For this act the register is changed in style by allowing an entire folio for each boat entry. At the top is Part A which continues the 1868 registry practice. The column headings are as follows: Year and Number of registry, Name of boat, Name of master, Description of boat and Mode of fishing, Class and Number of boat, Tonnage and Keel length, Number of crew, and Name and description of owner. Below Part A, Part B provided a form of proof of title for a fishing boat owner and space is provided for the recording of mortgages taken out on the vessel or bills of sale for the sixteen shares into which the act divides a fishing vessel<sup>6</sup>. [See Plate 12]

The detailed working of the register by the registrar and his clerks in the Custom House can occasionally be discerned. It is clear from the handwriting that most of the entries in the registers are written by clerks and subsequently signed by the registrar, who at Dundee for example is the Collector of Customs. This probably explains why folio 72 is complete but not signed. The succeeding folio 73 is signed by D.C.Pagan, who was not the Collector at the time, but probably a clerk signing the entry in the absence of the Collector. Sometimes a series of entries will all bear the same date even though they contain information which must have been acquired over a period. Coast-guard and fishery officers as well as the customs officers in the out-ports could act as collectors and conveyers of mail and information for the Collector in the base port. Nevertheless the registrar relied on the willingness of the boat owner in providing the information promptly. For example owner David Pattie of Tayport managed to register three boats on exactly the same day in 1888, and each was broken up and the register cancelled on the same day in 1908<sup>7</sup>. It seems unlikely that he would both purchase and break up all his vessels at exactly the same time, and it suggests that the details came to the Custom House when he chose to send them in.

#### **Part A - 1868 and 1886**

##### **Control Details - Number, Name, Master, Description.**

The need for control over the behaviour of fishermen led directly to the Sea Fisheries Act 1868 in which the current register scheme was first formulated. Thus the control details of Part A of each register folio were crucial to the successful working of the policing aspects of the Act, and it was important that the numbers issued were properly recorded and unique to each boat.

The fishing number of a vessel was allocated from a consecutive series of numbers by the registrar. This system appears to have worked well from the start when every boat required a new or replacement number from a series beginning at "1". However as changes to the original entries were required some inconsistency appeared in the system. It appears that at Dundee some registrars, when a boat changed ownership or registered tonnage, were

not only re-entering the boats onto an entirely new folio in the register, but also allocating a new number to them. This unnecessary complication would have meant that owners would have been forced to repaint the numbers on the hull and sails. Errors could creep in too. In the Arbroath register a pencil annotation to the entry for "Fleetwing" AH3<sup>8</sup> points out that this is a "double number". The "Fleetwing" was first registered in 1882 and seems to have been given a lapsed number from the original vessel AH3, which would have been registered in 1869 or 1870<sup>9</sup>. It is possible that another vessel was sporting the same number, although this vessel does not appear in the third register<sup>10</sup>

In 1886 the Registrar General issued a letter to the Dundee Custom House dated 16th September requesting that boat numbers should not be changed on a change of ownership, and that only one series of numbers must be in operation at any one time<sup>11</sup>. This latter point probably refers to haphazard allocation of numbers by using at will either an entirely new number, or a number that has become available by the removal of a previously registered vessel<sup>12</sup>. Superstition about lucky and unlucky boat numbers, as well as family traditions meant that certain numbers and combinations, such as three or seven, were very popular among skippers, while thirteen of course was unlucky. The registrars may have come under considerable pressure to supply the number that the skipper desired, and AH3 may be such an example. The letter continues by suggesting that:

"All existing lapsed numbers common to the several classes should now be reissued, in order of numerical succession, according to priority of registration, before the re-commencement of the ordinary series from the highest number now on the register"<sup>13</sup>

This was followed soon after by a printed circular to all Custom Houses containing instructions to promote uniformity in the system of allotting fishing numbers<sup>14</sup>. This system required the registrar to create a list of lapsed numbers which were to be reallocated in order every ten years<sup>15</sup>. These lists are today still attached inside the front cover of the first Dundee register and show that the registrar did indeed collect the unallocated numbers. The lists are dated 1887-1894, 1895, 1899, 1900, 1904, and 1909.

Control over number allocation was similarly extended to boat names. Once a boat's name had been declared to the registrar, the owner did not have the right to change it<sup>16</sup>. However, many fishing boat names are very common, and the use of a name as part of the control over a vessel could not have had very much effect. In 1892 an Order in Council allowed boat names to be changed on application with "reasonable and sufficient grounds" to the Board of Trade<sup>17</sup>.

Knowledge of the master's name allowed the fishery officers to recognise who was immediately responsible for the activities of a boat, and whether the skipper was also the

owner of the vessel. The description and tonnage of a vessel was especially important in ensuring identification and reducing the possibilities of fraud. Thus article 12 of the Convention Act of 1843 specified that the description and tonnage of a vessel must appear on the licence and in the register<sup>18</sup>. A name and number on a boat had also to match the description on the register, and these details appeared on the certificate of registry too, where they might easily be examined by an officer from a fishery cruiser. Registrars clearly had different views as to the length of description required for the purposes. At Arbroath the registrar, James Cassie, used extensive descriptions which fill the space allocated for the purpose in the register. For example "Look and See" 87AH was described as: "sharp sterned, carvel built, lugger rigged, one deck, two masts, running bowsprit, wood, fore and mizzen lug, and jib"; on the other hand the description from the Dundee office of "Livelihood" 438DE is: "Decked, clinker build, 2 lugsails". Both descriptions could have applied to a large number of boats on the East Coast at that time, but the latter would have been sufficiently specific to serve as an aid to boat identification. Indeed in nine cases the Arbroath registrar notes the length, breadth and depth of the vessel, which he may have used in calculating the tonnage. Nevertheless, the longer description seems to have been operated only for a period at Arbroath and by 1891-2 the descriptions there are becoming shorter. The certificate of registry itself under the Merchant Shipping Act of 1894, which incorporates the 1868 and 1886 measures<sup>19</sup> in force only asks for the details of propulsion, details of rig, and details of sails along with the basic dimensions of length, beam and depth<sup>20</sup>. These details however are far more specific to an individual vessel, and therefore more useful for identification.

### **Dimensional details**

The dimensional details provided in the register served a dual purpose. Firstly they served as an additional means of secure identification, and secondly these details helped decide for the registrar into which statistical class he should put the boat. From the Order in Council attached to the Sea Fisheries Act<sup>21</sup>, registered tonnage decided the class of the vessel - 15 tons burden or more for first class, less than 15 tons burden for second class and powered by sail, and less than 15 tons and powered by oar for third class. After 1894 the system was slightly modified to include the different tonnage formats applying to steamers registered in gross registered tons under Part I of the new Merchant Shipping Act, and fishing boats registered in register tons using the "test" rule under Part IV.<sup>22</sup>

### **Build Details**

A space was provided on the Part A register form for the name and address of the builder of the vessel. The information was provided from the builder's certificate which was an important means by which an apparent valid ownership to a new vessel could be established. Nevertheless, inclusion of the builder's name in Part A did not confer any form

of valid title in the vessel, and although inclusion of the information suggests that the vessel was new when the entry was made, the build details of a second hand vessel could possibly pass into the register by word of mouth to the registrar.

### **Statistical Details**

The class distinction had been introduced by the Fishery Board for the purpose of creating more informative statistics in 1855, the Board's system remains independent of the Sea Fisheries Act 1868<sup>23</sup>. Prior to the reconstitution of the Fishery Board in 1882 the main statistics on boats published were the registered tonnage of vessels and the number of men and boys working in the industry, and on occasion the numbers of boats divided by class and creek. Unlike some of the statistics for the annual catches in the UK.<sup>24</sup>, vessel statistics were based on returns from the ports and creeks by fishery officers who would have been familiar with the district and consequently may be expected to provide more accurate information than the former. Study of the original registers could usefully be compared with the published fishing boat statistics.

### **Details of fate**

There is no space allocated in the register books for the recording of the fate of any vessel. The box for remarks is used most frequently to record the annual endorsing of the certificate of registry. Nevertheless in the natural course of their work registrars did discover some information about the vessels they were recording. The specimen folio No.1 contained in the Instructions to Registrars<sup>25</sup> does itself give an example of extra information. In the title bar space requiring the port or place of registry, the current port is written, but in addition the former port and number of the vessel has been entered. This practice is quite common in both the Dundee and Arbroath registers. (Nevertheless, very few registrars complete the column entitled "Year and No. of Registry" in the prescribed manner. Usually the actual date of the entry is inserted with the day and month in the "No." column. Dundee registrar James Keogh does occasionally correct this error on some entries which he has signed. E.g. Folio 27.) Most registrars were not content with recording part of the previous history of a boat, and the Instructions to Registrars of 1887 did allow the registrar to cancel a boat entry if he discovers information about the loss of a vessel<sup>26</sup>. 48 out of 100 sample records from Dundee district give some indication of the subsequent fate of the vessel when the registration was cancelled. 28 were broken up or lost, and 20 were transferred to other districts.

This extra information could be invaluable in tracing the fates of individual vessels, for by this process the registrars linked together most register entries for each individual boat. Either the vessel appeared as a new boat, in which case the entry was very likely to include the builder's details, and possibly the annotation "new boat" after the port of

registry<sup>27</sup>; or on a change of ownership the registrar moved the entry from one folio to another within the same register, and cross referenced each with the volume number and folio number of each other. At ports where this system was not operated, all the details appear on one folio for each boat while she remains on that register. The cancellation of an entry is marked by scoring across the folio in red ink with the date, a signature, and the fate of the vessel. For example "Maggie Smith" 158AH is cancelled with the annotation "sunk by mine or submarine; "Secret" AH137 is marked "On fire and lost, 1929"; and the entry for "Jessie Ann Mary" 184AH is cancelled with "Lost two miles North East of the Bell Rock".

### **Ownership Details**

#### **Part A and Part B**

It was important to ensure that the person responsible for a boat could be readily identified. For this purpose, both the name, address and occupation of the owner(s) were listed in Part A. Upon application, Part B of the folio could be activated in order to record apparent title to a vessel, conferred either by a mortgage or a bill of sale on the appropriate forms. The sixteen shares could be sold as separate parts, with up to five owners each,<sup>28</sup> and commonly all or half of the shares were sold or mortgaged<sup>29</sup>.

To secure a registration of a fishing boat under the Sea Fisheries Act 1868 the owner had to submit to the registrar an application form for registry along with the builders' certificate if the boat had not been registered within three years previously. After the Sea Fishing Boats (Scotland) Act came into force in 1887 a declaration of ownership, and a certificate to the effect that the boat had not been registered as a ship under the Merchant Shipping Act of 1854 was also required<sup>30</sup>. It was also required that the number and letters of the boat should be conspicuously carved upon the main beam.<sup>31</sup>

#### **Changes of Ownership after 1887**

From 1887 until the regulations were co-ordinated by the Merchant Shipping Act 1894, each individual folio of the fishing boat registers were subject to two different Acts of Parliament and Orders in Council. Part A provided direct continuation of the process of boat registration under the 1868 Sea Fisheries Act<sup>32</sup>, and Part B aided the buying, selling and mortgaging of boats. The operation of this parallel system seemed to cause a little confusion in Dundee as it had in Broadford.

Although Part B allowed a bill of sale to be used to transfer a boat to a new owner, many registrars did not use it for the purpose. Different practice in this respect was undoubtedly occurring and James W.D.Keogh, the Collector of Customs at Dundee, wrote to the Board of Customs on 17th October 1887 to ask whether an application to transfer a boat to a new owner could only be made through a bill of sale using Part B, even when no Part B entry had been made for the vessel. He continued:

“This application is made on account of the great diversity of practice which appears to exist in respect to the transfer of boats under the circumstances stated, some being of the opinion that the act is permissive only and does not require purchasers to make use of the documents of title unless they see fit to do so.”<sup>33</sup>

A pencil annotation reveals that the local opinion was that documents of title only become necessary when Part B was entered upon and not before<sup>34</sup>. In a letter to an unnamed solicitor it is declared that:

“So long as the register of a fishing boat is made under the act of 1868 the Collector [of Customs] has nothing to do with title, and there can be properly speaking no “transfer” of registry. If the owner choose to change his port or a purchaser desires to register the boat at another port he can do so when complying with the regulations contained in the Order in Council of 18/6/1869. The entry at the last port is not to be regarded as a transfer but a new and distinct register.”<sup>35</sup>

A decision by the Sheriff Court at Peterhead declared that the Sea Fishing Boats (Scotland) Act 1886 required a bill of sale to be used before a purchaser could obtain apparent valid title to a boat before he could take the register to another port<sup>36</sup>. However the Chief Registrar had decided that, with only the slight modification of ensuring that no previous registration for a vessel was in operation, no change had been made in registering fishing boats<sup>37</sup>. All that the 1886 act does is to provide an additional facility for a reasonable level of proof of title to a vessel that appeared in the register, and in February 1888 the registrar at Dundee is directed to proceed with using Part B only when necessary for this purpose. A pencil annotation on the letter declares “There is no register of a boat under the 1886 act; before that act has any operation the boat must be registered under the act of 1868.”<sup>38</sup>

The consequence of this for the working of Part B in the new style registers after 1887 is quite clear. If the parties involved in a transfer of a fishing boat are not particularly concerned about questions of legal or sufficient title<sup>39</sup>, then the registrar, on viewing the receipt between them, either crosses out the first owner’s name in Part A and replaces it with the new name, or he closes the entry and creates an entirely new folio entry for the boat with the new owner’s name. For example, the sale of the “Bella Betsy” 166AH is annotated in 1915 “Declaration of sale made before me by Alex. Watt, previous owner”; the sale of “Rose” 159AH is marked “Transferred to Jessie Cargill on production of receipt.” This practice seems to mirror the way the fishermen may have been accustomed to buy and sell property of any kind. The Fishery Board, when discussing the problems of lack of legal title to fisher houses, described house purchases usually being made in the form of a letter, written and signed by the seller, specifying the sum to be paid, and the terms of payment.

Following this document, the buyer gets a receipt for his money as proof of purchase which can then be used to claim an entry in a rent book<sup>40</sup>.

In the first hundred entries of the Dundee register after 1887, Part B is used only eight times, while changes of ownership occur in Part A no less than fifty-seven times. At this rate, which appears to be uniform throughout the other register books for the district, Part B seems to have had minimal value in the buying and selling of fishing boats. Similarly in the Arbroath register<sup>41</sup> the registrars, although they did not follow Dundee in the process of moving every entry to a new folio on change of ownership, did not find much demand for Part B. Only 16 out of the sampled 100 entries use part B of which 4 are for mortgages and 12 for transfers of ownership, while 47 other boats were transferred to new owners in Part A. The rarity of seeing fishing boats with numbers and letters carved on the main beam<sup>42</sup> supports the contention that most boats changed hands without going through the full formality of a Part B registration. After 1894 the same is true of boats registered under Part IV of the new Merchant Shipping Act<sup>43</sup>. If a vessel were of sufficient size and value to warrant the use of legally stronger transfer procedure, then she would usually be registered anyway under Part I as a British Ship and have an Official Number on her main beam.

#### **Merchant Shipping Act 1894<sup>44</sup>**

By the subsumption of these regulations into the Merchant Shipping Act of 1894, all fishing vessels had to be registered under Part IV of the new act, but they could in addition be registered as British Ships under Part I of the act. The advantage was that the services of a Board of Trade Surveyor had to be engaged to measure the vessel which would give a much lower gross registered tonnage figure for the boat, since only such a surveyor was permitted to make deductions for crew and engine spaces etc. Most steamers made use of this benefit. The disadvantage was that, under Part I, the fishing vessel had to comply with more stringent safety regulations, which included carrying a small boat. Smaller vessels could never do this and so they were always registered under Part IV of the act. Fishery and Customs Officers measured boats for Part IV themselves using a simple "test rule" to give an approximate registered tonnage from the volume delimited by the length, breadth and depth of the vessel<sup>45</sup>. The preservation under Part IV by the new Merchant Shipping Act of the separate fishing boat registers allowed a cheaper and more accessible register for fishermen throughout the United Kingdom. However, this was probably achieved, despite the similarities in the operation of the two register systems, at the expense of the level of valid title that registration as a ship under Part I could provide.

Under Part I the documents required for registry of a fishing vessel included the surveyor's certificate; a certificate of branding to show that the ship had been marked with her Official Number, name, port, registered tonnage, and draught letters on her stem and stern; an application form from the owner or owners of the sixty-four shares into which a

registered ship was divided; a declaration of ownership; a builder's certificate; and a certificate from the Fishery Board to confirm that no mortgage or transfer had been registered under the Sea Fishing Boats Act<sup>46</sup>.

The transfer of the ownership of a fishing vessel under Part IV of the 1894 Merchant Shipping Act required a bill of sale accompanied by an application to register from the new owner and the original registry certificate from the previous owner. If the boat had not been registered in the previous three years then a builders certificate, a certificate of non-registry under Part I of the Act, a certificate of carving of letters and numbers upon the main beam, and a declaration of ownership were required. Under Part I a bill of sale and a legal declaration of transfer as appropriate to a British merchant ship were required<sup>47</sup>.

For mortgaging a boat under Part IV the similar forms and certificates were required, with the appropriate mortgage form<sup>48</sup> as specified by the Sea Fishing Boats (Scotland) Act 1886, replacing the application to register. For ships under Part I, a mortgage form B of Schedule I of the Merchant Shipping Act 1894 was required.

#### **The use of the registers: Dundee and Arbroath**

The Dundee and Arbroath districts had relatively similar characteristics. They both consisted of minor fishing centres where fishermen worked larger boats out of tidal harbours, for example at St. Andrews and Arbroath itself, and smaller hamlets where boats were worked off the beach, for example at Broughty Ferry or Auchmithie. All these boats would work nets or lines according to the season. Many of the fishermen of both districts were working the same grounds with the same methods, and only an arbitrary district division divided them. Dundee district included Broughty Ferry, Tayport and St. Andrews; Arbroath included Auchmithie and Easthaven. A small distortion to these samples is provided by ten per cent of the Dundee district sample following methods which were not used in Arbroath. That is at this time four steam trawlers were fishing out of Dundee itself, and six mussel dredgers were working the Tay<sup>49</sup>.

The practice in the Dundee registers of moving every entry to a new folio whenever there was a change of ownership creates a little distortion in a database of the first one hundred records. In that one hundred, fifty-seven entries are marked as having been transferred from a previous entry on a change of ownership. Thus the sample does not consist of the first one hundred vessels registered from 1887, but the first one hundred records entered, which includes a random group moved in from earlier entries. One consequence is that eight boats appear twice in the sample, and one appears four times. Thus eleven entries are of boats which have appeared in the sample before. For the present purposes of these samples their effect has not been allowed for.

Much of the value of the fishing registers as a historical resource lies in the sort of information which did not appear in the Fishery Board reports. This information can be divided into three groups; firstly information about the boats themselves, secondly information about fishing boats within a geographical context; and thirdly information about the people who owned and sailed the boats. The examples below attempt to demonstrate how the register information can be useful in throwing light upon the nineteenth century fishing industry.

### **Details of fishing boats**

The samples contain 38 first class boats and 61 second class for Dundee district; and 23 first class, and 77 second class for Arbroath district. There are no third class boats in either sample. This anomaly is an example of the difference between the class system operated by the registrars and by the Fishery Board. For example, The Fishery Board special report of 1881<sup>50</sup> indicates that in Dundee district there were 69 boats in the third class i.e. less than 18 feet keels. In fact in the Dundee district sample there are 10 such boats, but they are classified as second class since they are all clearly regular sailing vessels. This discrepancy highlights the difficulty in obtaining meaningful statistics about fishing boats. The arbitrary division of fishing boats into three classes in this manner failed to serve a purpose other than describe how many boats there were of a predetermined size grouping. It could not show the number, type and size of boats involved in each of the various fisheries. E.W.Holdsworth, writing in 1883, strongly criticised the missed opportunity for improving the quality of any statistics and for giving an indication of the condition and success of each section of the industry by careful manipulation of a classification system.<sup>51</sup> The Fishery Board collected statistics direct from its own officers in the ports and had no need of the registers in this way. Thus the Fishery Board reports are always focussed on the districts where the officers were stationed, and do not always break down the information for individual port districts.

The discretionary power given to the registrar to place small boats with sails into the third class meant that it became impossible to see how many specialised oar powered seine netters and oyster dredgers there were, since the class was filled up with the numerous and ubiquitous small line and lobster boats.<sup>52</sup> An attempt to improve this situation may be apparent in six folios of the Arbroath district sample. Where the registrar had originally made use of the discretion for moving small sailing boats into the third class, another hand had deleted the entry and moved them into the second class.

The registers do contain specific information about boats which can be used to answer some of Holdsworth's questions. The fishing methods of individual boats can be broadly distinguished as trawlers or other types of fishing craft, such as the four trawlers and six dredgers in the Dundee register. Unfortunately most boats, even the first class

drifters were listed as using nets and lines in order to allow them to be flexible when necessary. This prevents an easy distinction between the boats being used for the seasonal herring fisheries and those being used for line fishing, or both. Whereas the trawl fishermen were concentrated at a few well defined ports, line and net fishermen were scattered throughout the coastline of the UK. Some indication of the difference between line boats and drifters in the register may be gleaned from the number of masters who command two boats in the same year, that is one for line fishing and another larger boat for drifting. In the Dundee district such an example may be the two boats owned and skippered by Lawrence Gall. One, "Lily of the Valley" DE441, was clearly a first class sailing drifter 55 feet on the keel, and the other, "May" 510DE, was an 18 feet keel second class inshore boat, probably used for line fishing in the spring. By matching the masters to the boats in this way a clearer pattern of fishing practice in the registers may emerge.

### Description

Frequency tables based on the descriptions of fishing vessels can give a useful picture of the prevalent boat technology at specific times and specific places around the coasts. The bald number and tonnage figures given in the Fishery Board reports can thus be supplemented by the details of rig and construction of individual boats. Figure 7a shows some of these details in tabular form for Dundee and Arbroath districts<sup>53</sup>.

	Open Boats	Decked Boats	Lug- rigged	Two- masted
Dundee	38	60	85	37
Arbroath	24	73	99	50

**Figure 7a - Frequency of boat attributes from the Dundee and Arbroath district samples**

From the table it can be seen that notwithstanding the similarities between the Arbroath and Dundee districts as outlined above, there does seem to be some significant difference between the two areas. A statistical comparison between the two sets of figures in the table suggests that these are not random variations.<sup>54</sup> It may be surmised that the fishing boats in Arbroath district are more developed than those in the Dundee district; (excepting the four steam trawlers.) More boats in Arbroath district are decked, two masted luggers than in Dundee district, where there are a greater number of single masted open boats. These Arbroath boats would be more suited to the distant herring fishery, while the open single masted boats would be more restricted to inshore waters, often using small or hand lines.

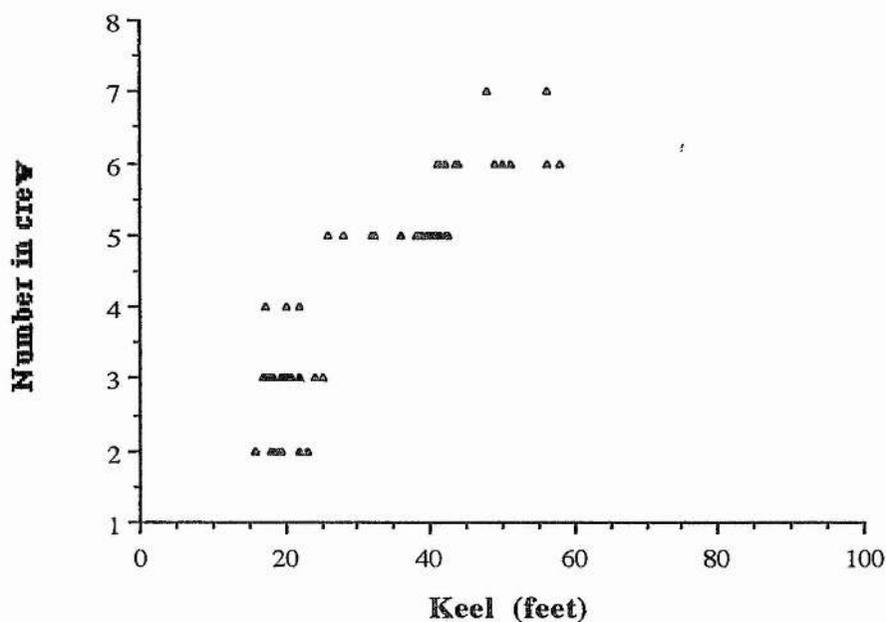
The two groups of boats can be further examined through the dimensional detail in the registers. The average keel length for the decked and undecked boats and the single and two masted boats can be calculated.

	Mean		Standard Deviation	
	Dundee	Arbroath	Dundee	Arbroath
Decked	39.6	35.1	9.3	12.4
Undecked	19.5	19.1	3.5	1.8
Single mast	23.8	20.0	9.4	2.6
Two mast	39.3	41.9	8.7	8.6

**Figure 7b Mean and standard deviation of keel lengths for decked, undecked, single and two-masted boats in Dundee and Arbroath district samples.**

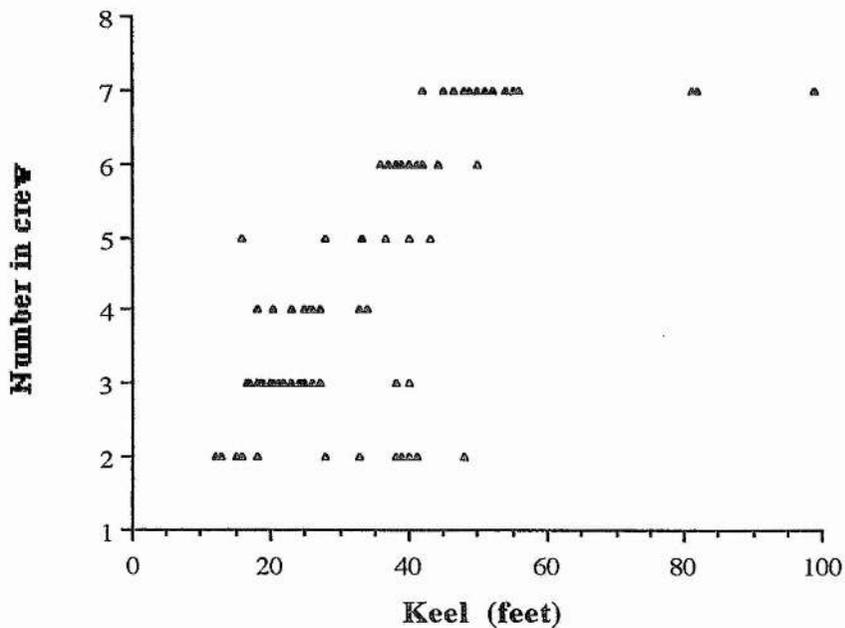
Figure 7b shows that, although Dundee district may have different numbers from Arbroath district of the decked, undecked, single and two-masted boats, the sizes of the boats within such groups for the two districts are very similar. The averages are remarkably close to each other. Undecked boats seem generally restricted to within two or three feet of 19 feet long, while decked boats have a much wider variation in length. In Dundee the single masted vessels also have a wider variation in length and this is probably accounted for by the small number of single masted smack rigged boats on the Dundee register. The two masted boats are very similar to the two masted boats in the Arbroath district.

Details of crew numbers of the boats in the two districts can also throw light on the manning patterns prevalent in each district. The relationship between the number of crew and the keel length of the vessels is shown in figure 7c.



**Figure 7c - Graph showing relationship between keel length and number of crew for Arbroath district sample**

It can be seen that the number of crew members in relationship to the keel length seems to be clearly categorised. Twenty feet boats have a crew of two, three or four men, while thirty feet boats have a crew of five. The big boats of between forty and sixty feet have a crew of six or occasionally seven. However, when the same graph is created for Dundee district, a different pattern emerges. Figure 7d indicates that crewing patterns in Dundee district were far more flexible. Boats between fifteen and fifty feet can have a crew of between two and five men. Boats of between thirty-five and fifty feet can have from between two and seven men. Only the big steam trawlers always have a crew of seven. This graph seems to indicate a greater variety to the fishing patterns in the district. For example, big boats with only two men in the crew could be dredging for shellfish in the enclosed waters of the Tay.



**Figure 7d - Graph showing relationship between keel length and number of crew for Dundee district sample**

**Geographical information**

The information within the register for each district can be broken down into the information from each port or haven within the district. The full address of the owner, when he is further identified as a fishermen gives a good indication as to where the particular vessel was worked. Figure 7e gives a distribution for the Dundee district. This table gives a clearer indication of the types of boat found within each port. The steamers at Dundee itself are clearly a lot bigger than most of the sailing boats. Kingsbarns has four small beach boats, all very similar in size. The five boats at Newburgh are notable for each being about 41 feet long. These are probably shellfish dredgers which also appear in figure 7d with small crews; too few men for a sea-going sailing drifter.

	Dundee	Broughty	St.Andrews	Newburgh	Kingsbarns	Tayport
No. of Boats	11	21	35	5	4	23

Ave. keel length (ft)	56.1	34.8	33.6	41.2	16.4	20.5
$\sigma$	24	14	11	3.9	0.5	4

**Figure 7e - Number of boats in the register sample based at the ports within the Dundee district with average keel length in feet and standard deviation.**

A similar table for Arbroath district indicates the diverse nature of the fishing fleet there. Arbroath itself dominated the fishing in its area with the largest number and the biggest size of boats. Auchmithie is more significant than Easthaven, which has only two small beach boats.

	Arbroath	Auchmithie	Easthaven
No. of Boats	85	13	2
Ave. Keel length	33.4	21.3	17.7
$\sigma$	13	3.1	1

**Figure 7f - Number of boats in the register sample based at the ports within the Arbroath district with average keel length in feet and standard deviation.**

Further information about a port can be gathered by listing where the vessels of the port have come from. Some may be new built locally, while others may be second hand. The following table shows the number of new and second hand boats in the Arbroath district sample. Almost half the boats in the Arbroath district sample were built in Arbroath, while very few appear to have been built in Dundee.

	New-built		
	Second-Hand	Built locally	Built elsewhere

Dundee	n/a <sup>55</sup>	3	4
Arbroath	44	39	8

**Figure 7g - Frequency of new and second hand boats in Arbroath and Dundee district samples**

### **Personal Histories**

One of the most interesting aspects of the register books is the personal details which they give. The name of the master and owner of every vessel is listed in a uniform manner along with a full address and occupation of the owner. Using the register information, ownership patterns can be established at different ports for the vessels within each port. For example in the Dundee sample 65 vessels are owned by their masters, but at Arbroath no less than 95 are owned by their masters.

	Dundee	Arbroath
Owner is master of the boat	64	95
Owner owns more than one boat	11	18
More than one owner per boat	9	23
Owners who are not fishermen	16	5

**Figure 7h - Frequency in samples of attributes of boat ownership.**

Other aspects of ownership can also be examined. For example there are two female boat owners in each district, and a larger sample would help reveal the true extent of female ownership of the fishing fleet. It is also clear from the registers that, particularly in Arbroath, certain families seem to recur in the ownership of the local fleets. For example the distribution of owner names in the Arbroath sample is dominated by 36 entries for the Cargill family, followed by 15 for Smith, and 13 for Swankie. While in the Dundee district no name is repeated more than six times. In strong fishing communities where inter-marriage was common the prevalence of just a small number of Christian-names and surnames is to be expected. Nevertheless, individuals and families based in single dwellings can be identified by matching the names with the addresses given for them in the register. Personal detail of this kind can be used to look at the social organisation of boat owners and users within a port. After 1886, it seems that boat transactions within the community are continued in the traditional manner with a declaration or similar before the registrar, but when selling or

mortgaging a boat to some one out side the fishing community, then Part B of the register entry gives the full details including the value and interest rate of any mortgage.

### **Histories of vessels**

Despite the differences in practice between the registrars at Dundee and Arbroath, the general uniformity of the information within fishing boat registers makes comparisons between them simple and valuable. Furthermore, the cross referencing between registers within one port, and also between registers at different ports allows the history of an individual boat to be followed from her first appearance as a new vessel, to her last; the entry being cancelled and the boat broken up or lost. With access to the appropriate register volumes it is possible to build up in detail a picture of boat ownership and use by following the fates of sufficient individual boats for patterns to emerge. Thus where the boats are built, owned, worked, sold, and lost by whatever means, can contribute to a dynamic picture of the use of fishing boats over a period of time.

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- 1 Order in Council 18/6/1869
  - 2 Dundee City Archives CE80/11/24
  - 3 DUNDEE - Register of Sea Fishing Boats in Scotland under Sea Fishing Boats (Scotland) Act. 1886 1887 - 1902. Dundee City Archive CE/70/11/24
  - 4 ARBROATH - Register of Sea Fishing Boats in Scotland under Sea Fishing Boats (Scotland) Act. 1886 - Arbroath 1887- 1903. Dundee City Archive CE80/11/7
  - 5 Crofters Holdings (Scotland) Act 1886. 49 & 50 Vict. c.29.
  - 6 Sea Fishing Boats (Scotland) Act. 1886. #3
  - 7 Dundee 1887-1902. Folios 42-4. 31/12/1888 and 21/10/1908.
  - 8 ARBROATH - Register of Sea Fishing Boats in Scotland under Sea Fishing Boats (Scotland) Act. 1886 - Arbroath 1887- 1903. Dundee City Archive CE80/11/7. Folio 14
  - 9 No longer identifiable since the first Arbroath register is missing.
  - 10 To test this hypothesis a careful search could be made through the surviving Arbroath books for another boat registered "AH3".
  - 11 Letter from Registrar General to Registrars dated 16/9/1886. Dundee City Archive. Discovered inside Register Number One.

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- 12      Either by removal to another district, or by loss.
- 13      Letter from Registrar General to Registrars dated 16/9/1886. Dundee City Archive.
- 14      Letter from Registrar General to Registrars dated 29/1/1887. Dundee City Archive.
- 15      Ibid.
- 16      Order in Council 18/6/1869 #25
- 17      Order in Council 6/2/1892
- 18      Convention Act 1843. See Appendix One
- 19      I.e. under the Sea Fisheries Act, and the Sea Fishing Boats (Scotland) Act.
- 20      Certificate of Registry of a British Sea Fishing Boat under Part IV of the Merchant Shipping Act  
1894. 87 & 88 Vict. c.60 #373
- 21      Order in Council 18/6/1868
- 22      Regulations for the registry, lettering and numbering for British sea fishing boats, under Part IV of  
the Merchant Shipping Act. 1894, and under the Sea Fisheries Acts, 1868 and 1883. 1902
- 23      Report by the Commissioners for the British Fisheries 1855. para.8.
- 24      For examples of gross mismanagement of the collection of statistics see Johnstone 1905. p.222ff.
- 25      Specimen folio No.1. Instructions to registrars of fishing boats, Scotland. 1887
- 26      Instructions to Registrars of Fishing Boats, Scotland. 1887. #40
- 27      Dundee Sea Fishing Boats Register No.2 1887-1902. passim
- 28      Instructions to Registrars of Fishing Boats, Scotland. 1887. #14
- 29      Dundee Sea Fishing Boats Register. No.2 1887-1902 passim.
- 30      Schedule to Order in Council 7/3/1887
- 31      Ibid. #6
- 32      Sea Fisheries Act 1868. 31 & 32 Vict. c.45

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- 33 Customs House Letter Book for Dundee. To Board from Collector. 1885-1890. Dundee City Archive. CE70/1/37
- 34 Ibid. Pencil annotation by H.Lindsay.
- 35 Ibid. 21/10/1887
- 36 Ibid. 27/10/1887 "vs. Cutting"
- 37 Ibid. 13/2/1888
- 38 Ibid. 17/2/1888
- 39 Full legal title required the services of a lawyer.
- 40 Third Annual Report of the Fishery Board for Scotland. 1884. pt.1.p.xlix
- 41 Dundee City Archive. CE/80/11
- 42 Personal Communication, R.Prescott
- 43 Merchant Shipping Act 1894. 57 & 58 Vict. c.60
- 44 Ibid.
- 45 Typewritten instructions to Registrars on Registration and Mortgaging of fishing boats. 1902
- 46 Sea Fishing Boats (Scotland) Act 1886. 49 & 50 Vict. c.53
- 47 Typewritten instructions to Registrars on Registration and Mortgaging of fishing boats. 1902
- 48 Form No.6 was for a mortgage to secure a principal and interest, form No.7 to secure a current account.
- 49 N.B. The Dundee sample contains 99 entries since folio 73 is blank
- 50 Report by the Commissioners of the Fishery Board: Scotland. 1881. Appendix Statistics No.V.
- 51 Holdsworth 1883. p.14.
- 52 Ibid.

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- 53 The detail of construction is missing from over half the Dundee records and therefore not used for comparison.
- 54 Using a  $\chi^2$  test to compare the two populations. Where  $0.001 < p < 0.01$ , and  $\alpha = 0.05$ .
- 55 The details from Dundee district are distorted in the sample by the practice of moving entries to new folios on changes of ownership

## *Conclusion*

In conclusion, the most important aspect of the policing of fishermen in the nineteenth century must be the use of the numbering, lettering and registering system. Despite abuses of the rules, the fact that it has survived virtually unchanged up to the present day speaks for the value of the system. While the modifications in 1887 and 1894 may have sometimes confused the registrars, it presented very little change or confusion for the fishermen themselves; and it was only with such a numbering system that the fishery officers and cruisers could attempt to enforce the regulations for ensuring good order at the fisheries.

Every category of dispute, whether due to the proximity of boats on the grounds, the jealous guarding of traditional fishing waters, or the incompatibility of different fishing methods, needed policing. Nonetheless, it is not clear that the regulations succeeded in significantly reducing the level of depredations on the grounds. The trend of the herring shoals to congregate further offshore throughout the century meant that drift nets could be shot with much more sea room, and hence there was a reduced chance of conflicts between drifters. Furthermore, the small number of fishery cruisers and the large area of ocean that had to be policed meant that a cruiser could not always be in the right place at the right time, and so the damage wrought by careless or malicious trawler skippers continued. Sometimes fishermen would of course be glad of the cruisers' work, particularly when they rendered good service in the saving of lives and the recovering of lost gear. Their useful and valuable role of acting as arbiters in some disputes between fishermen allowed problems to be sorted and smoothed over without recourse to litigation or violence.

When new regulations pitted the fishery officers and cruisers directly against fishermen as at Loch Fyne, or with the trawlers in the Moray Firth, then it proved very difficult indeed to enforce the law. Even in the enclosed waters of Loch Fyne, the illegal fishermen seem to have managed to run rings around the boats from the cruisers; and in the open sea there were never enough cruisers. Active discrimination against any one class of fishermen created lawlessness which required excessive restriction and force to quell. Nevertheless proactive and interventive measures were re-introduced.

The idea of putting the registers to a good use other than their police role alone seemed sensible. Establishing a form of title to allow fishermen access to loans and mortgages is laudable, but it seems clear that on the evidence so far gathered the fishermen felt no need for a different system. Further registers must be examined to see whether the

very limited use of Part B of the 1887 registers at Dundee, Arbroath and Broadford are representative of a greater part of the registers as a whole.

A study of individual volumes in a register for a particular port has given an insight into the working of the registers by the registrars and the way they manipulated the information within them. Although every registrar was operating the same system, it is important to have an understanding of the idiosyncrasies of each e.g. whether lists of owners in Part A signify successive owners or joint owners. Only then can the information be extracted for effective use by historians.

There are some important differences between the nature of the information collected and published by the Fishery Board, and the information held in the fishing boat registers. These differences define the useful nature of the registers as a resource, and since the data is primary material rather than a previously collected set of statistics made by a fishery officer, they can be used in full as individual records.

Each boat in the register can be traced from her building to her breaking up. If the information in the surviving fishing registers were to be put into a suitable computer database then not only could the complete history of an individual boat be extracted, but the patterns of boat-building and operation could be created for specific areas of coastline. For example the registers could reveal in this way who was building new boats, and who was then buying them second-hand. The movements of a boat could be linked from port to port, and changes in her owners etc. over time could be seen.

This approach to linking the boat entries in the registers together can be extended to a study of the boat ownership patterns within a particular port or area. From the registers particular individuals at particular addresses can be identified, and generalisations about the ownership of fishing boats can be fully tested.

Grahame Farr in his paper on the Custom House Ship Registers<sup>1</sup> expressed a wish that the material held in the Merchant Shipping Registers could be transcribed, indexed and made more generally available to researchers. The task of wading through the registers for that purpose was immense, nevertheless the National Maritime Museum at Greenwich attempted to get a register transcription scheme off the ground. Using volunteers with standard forms a start was made but the project never came to fruition.

Since that time a number of factors have changed. The registers are more accessible to researchers and electronic aids help with the speeding up and the accuracy of repetitive tasks. Using portable computers and a suitable database the job of entering the data from the registers becomes much less onerous, and the data could be transformed into an accessible and freely available form relatively quickly. There are of course fewer fishing registers to study than merchant shipping registers. Such a database would for example eliminate the

difficulty created by the Dundee boats hopping from folio to folio. It could also match masters to their boats to assess how many they may have.

An important initial task would be to locate the whereabouts of the surviving register books. Since 1988 the modern registers have been centralised and computerised at Cardiff, but it is understood that not every customs officer or fishery officer responded to a call to send all the old registers there. These could now be located by direct enquiry, and negotiations begun to ensure their preservation and accessibility by placing them in an appropriate record office or equivalent.

Inevitably this study has been forced by space restrictions to leave out of consideration some areas which could throw additional light on the subject. For example it has not looked in detail at the use of the numbers and letters for the enforcement of conservation measures, but rather has concentrated on their original use for the prevention of disorder at sea. Furthermore keeping within the framework of the nineteenth century does not allow discussion of the problems and solutions used in the twentieth century. For example, entry into the European Community fishery policy has brought great stress to bear on fishermen and fishery officers alike, and the current ideas of conservation of fish by coercion of fishermen could form an interesting parallel with the trawling disputes of the 1890's.

The full role of the Fishery Board in the development of the regulations and the manner in which the officers on the ground dealt with and reported the problems could also have been explored. The unpublished records and returns of the Fishery Board are available for researchers in Edinburgh under the records of the Agriculture and Fisheries Department of the Scottish Office.

It could also be useful to fully examine the relationship between the registering of boats under the first convention act and the Merchant Shipping Registers. Since fishing boats do appear in some registers in the 1820's, it can be asked whether between 1843 and 1869 customs officers were using that type of register to record numbered fishing boats? Or are there fishing boat registers prior to 1869 somewhere in an archive?

Finally, the work of the fishery cruisers in the nineteenth century deserves some attention. Graeme Somner has produced a monograph on the vessels of the Scottish Fishery Protection squadron<sup>2</sup> but he takes the reconstitution of the Fishery Board in 1882 as his starting point, and does not take into consideration the important role of the cruisers right from the start; and which differs in approach and detail from their role at the end of the century.

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1      Farr 1969,p.3.

2      Somner 1983.

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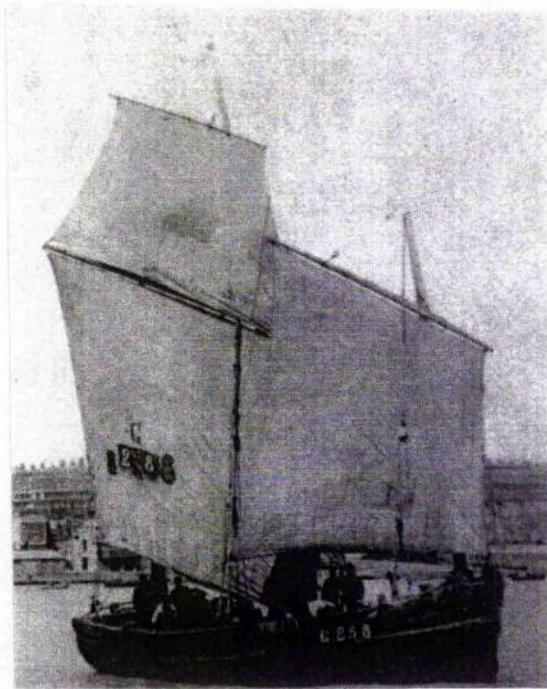
## *List of Plates*

- Plate 1 French lugger from Granville at Ramsgate. Note the indistinct sail number.(March)
- Plate 2 Three masted lugger at Yarmouth c.1830. By E.W. Cooke. The large number is probably a pilot boat number.
- Plate 3 Fishing Cobles moored in the Tyne and carrying pilot numbers. (Alward)
- Plate 4 Florence May LT318 of Lowestoft c. 1883. (March). Note the second hand sails. The number T80 can be seen in the mizzen, and the corresponding L can just be discerned in the jib.
- Plate 5 The Belgian "Devil" (Alward)
- Plate 6 West Coast skiffs at Campbeltown. The very rounded stern of these skiffs indicates that they are probably from the middle of the century. Note that they carry no numbers. (Scottish Fisheries Museum)
- Plate 7 A newly numbered Lowestoft vessel. LT500. c.1870 (March)
- Plate 8 Loch Fyne Skiff 223 CN. Note that the sail number does not match the hull number (Scottish Fisheries Museum)
- Plate 9 Loch Fyne Skiff 301 AG showing the new Ardrishaig register letters. Note the white decoration around board for the letters and numbers. The same can just be perceived for the nameboard at her stern (Scottish Fisheries Museum)
- Plate 10 First class Fifie LH1051 at North Berwick. (Scottish Fisheries Museum)
- Plate 11 Fishery Cruiser HMS Jackal at her base in Rothesay. c.1881 She is the paddle steamer nearest to the shore. (Somner) This vessel, built in 1844, was stationed in Scottish waters in about 1858, and served until she was herself replaced in 1886. She was armed with three 18 pounder guns but could manage only eight knots. Together with her cutter Daisy and the ex-revenue cutter Vigilant she was the mainstay

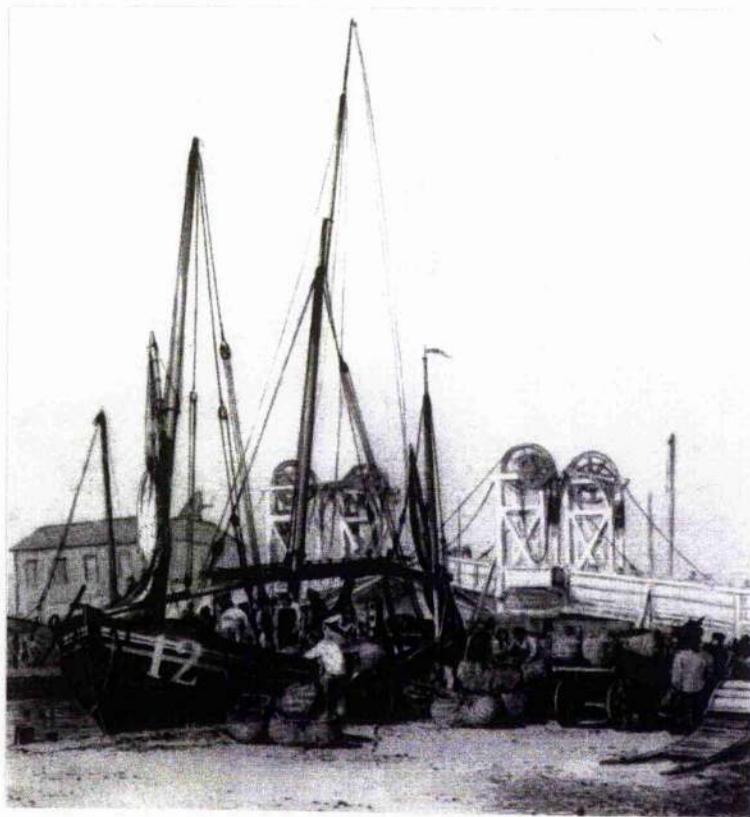
of the protection fleet until the mid 1880's. The Admiralty assigned a number of extra gunboats to this duty each year during the height of the herring season.

Plate 12

An example from the Instructions to Registrars 1887 of a folio in the new style register book. Part A is the upper box, and Part B is the bigger box beneath.



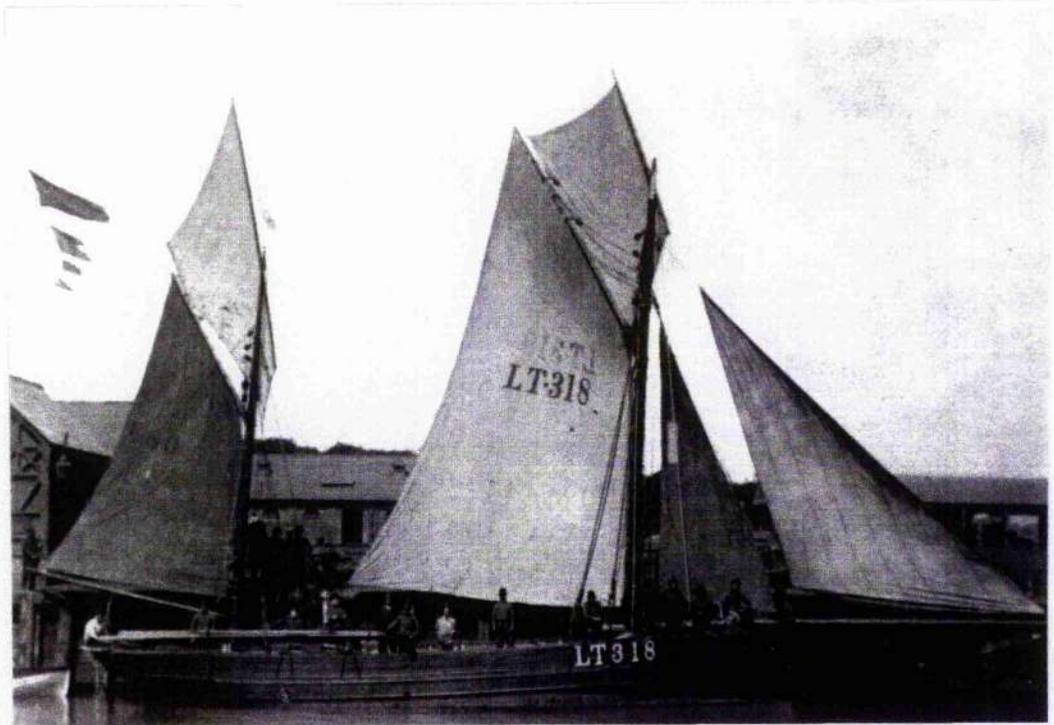
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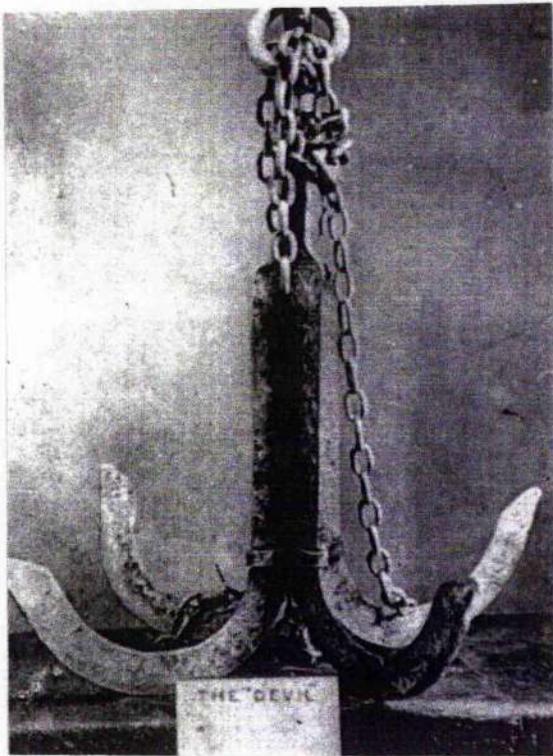
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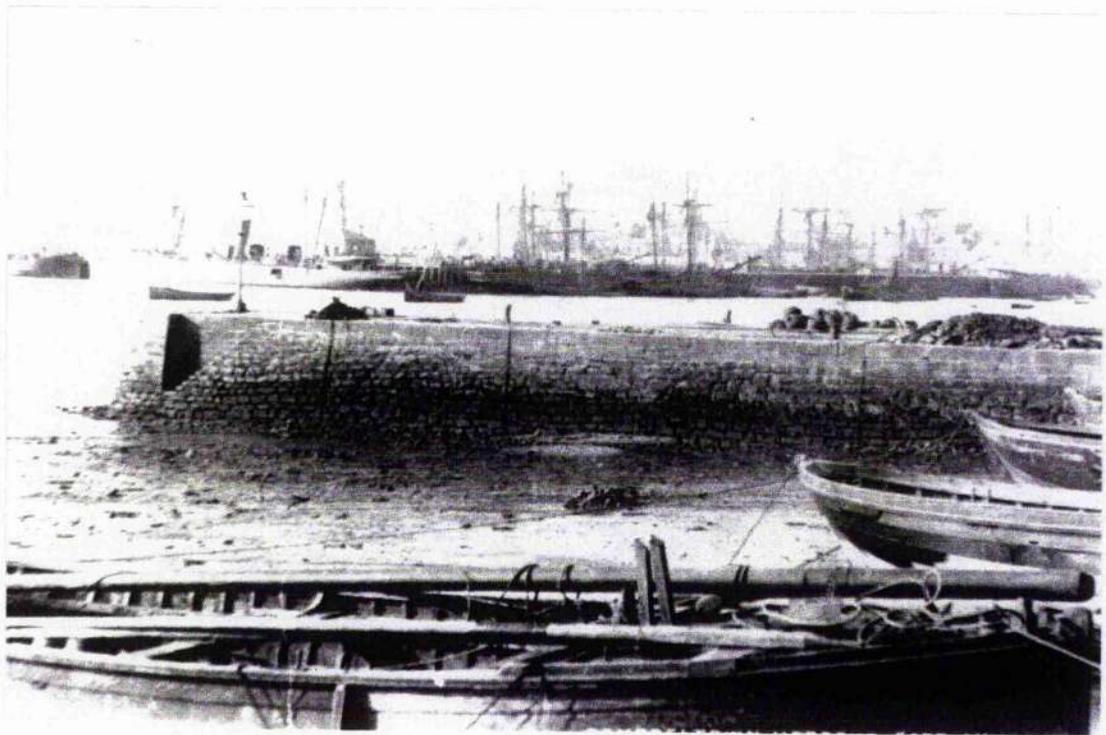
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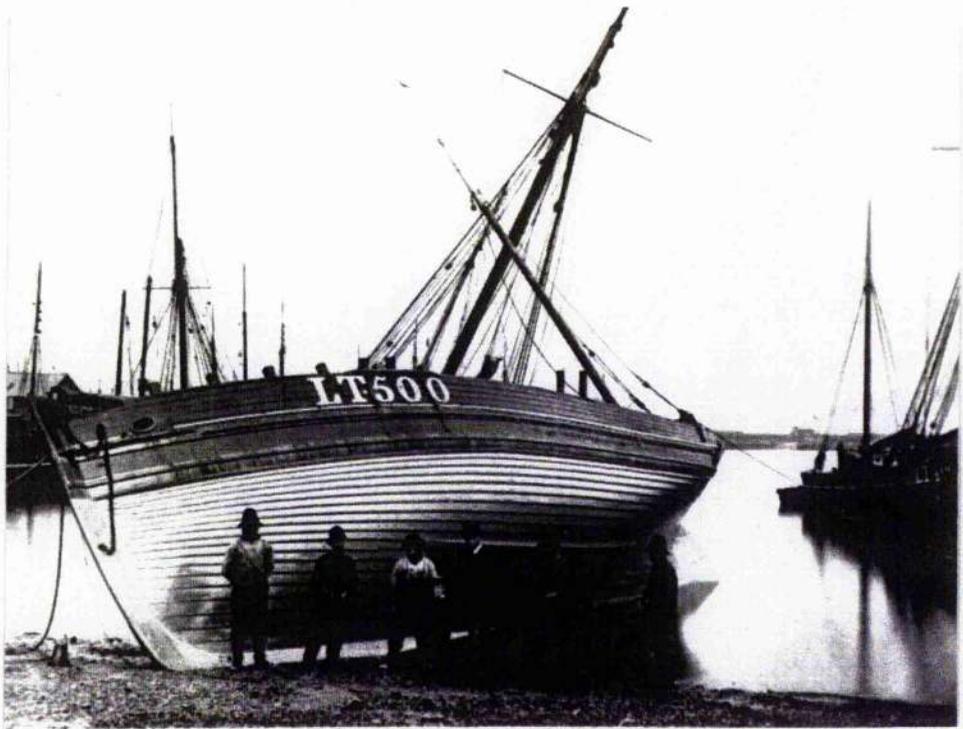
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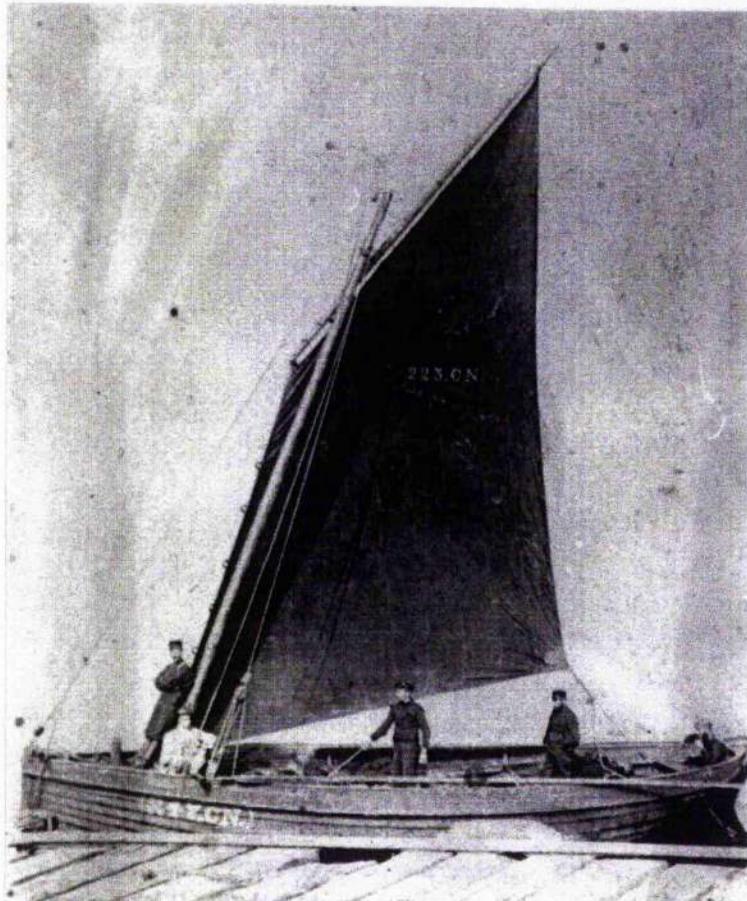
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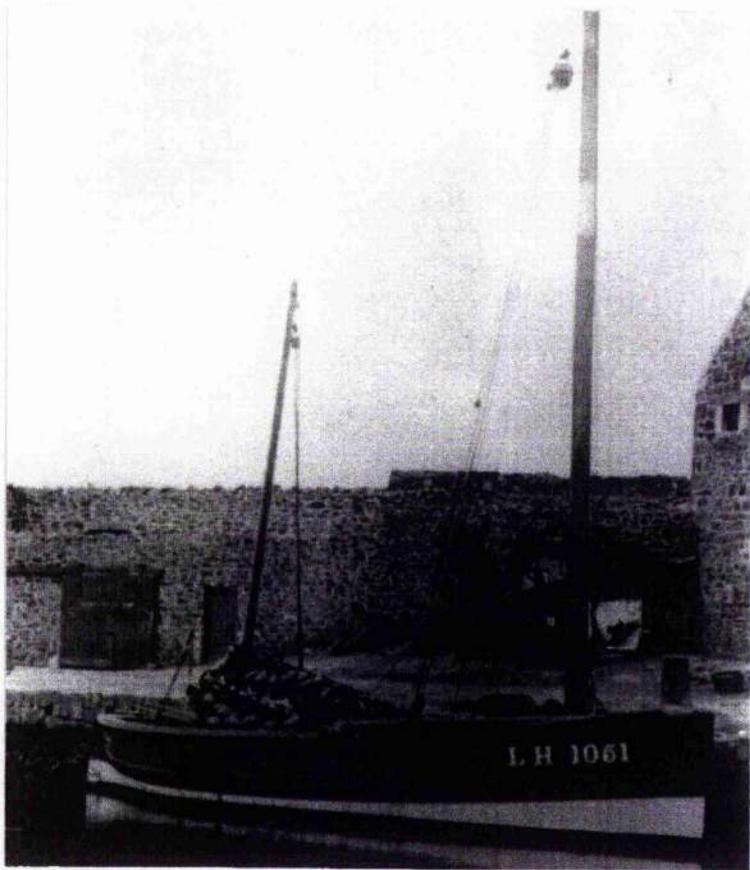
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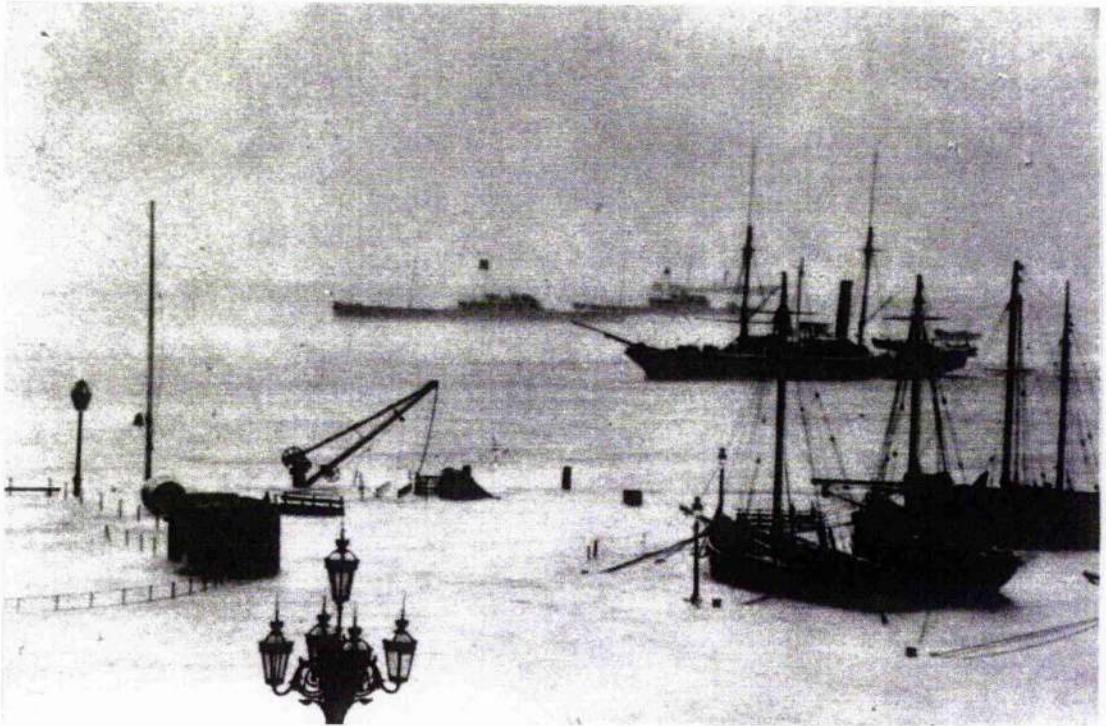
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11.

APPENDIX F  
Continued from page 10 of 10  
**SEA FISHING BOATS (SCOTLAND) ACT, 1894.**  
Section 10, Schedule 1.

Name of Boat		Where and Class of Boat		Name and Rank of Captain		Date of Licence		Date of Expiry		Tonnage		Net Tonnage		Gross Tonnage		Net Tonnage		Gross Tonnage	
No.	Name	No.	Name	No.	Name	No.	Name	No.	Name	No.	Name	No.	Name	No.	Name	No.	Name	No.	Name
1	...	1	...	1	...	1	...	1	...	1	...	1	...	1	...	1	...	1	...
2	...	2	...	2	...	2	...	2	...	2	...	2	...	2	...	2	...	2	...
3	...	3	...	3	...	3	...	3	...	3	...	3	...	3	...	3	...	3	...
4	...	4	...	4	...	4	...	4	...	4	...	4	...	4	...	4	...	4	...
5	...	5	...	5	...	5	...	5	...	5	...	5	...	5	...	5	...	5	...
6	...	6	...	6	...	6	...	6	...	6	...	6	...	6	...	6	...	6	...
7	...	7	...	7	...	7	...	7	...	7	...	7	...	7	...	7	...	7	...
8	...	8	...	8	...	8	...	8	...	8	...	8	...	8	...	8	...	8	...
9	...	9	...	9	...	9	...	9	...	9	...	9	...	9	...	9	...	9	...
10	...	10	...	10	...	10	...	10	...	10	...	10	...	10	...	10	...	10	...
11	...	11	...	11	...	11	...	11	...	11	...	11	...	11	...	11	...	11	...
12	...	12	...	12	...	12	...	12	...	12	...	12	...	12	...	12	...	12	...
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14	...	14	...	14	...	14	...	14	...	14	...	14	...	14	...	14	...	14	...
15	...	15	...	15	...	15	...	15	...	15	...	15	...	15	...	15	...	15	...
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19	...	19	...	19	...	19	...	19	...	19	...	19	...	19	...	19	...	19	...
20	...	20	...	20	...	20	...	20	...	20	...	20	...	20	...	20	...	20	...

Printed and Published by the Government Printer, Edinburgh.

12.

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- Figure 7g                      Frequency of new and second hand boats in Arbroath district sample.
- Figure 7h                      Frequency in samples of attributes of boat ownership.

## *Appendix One*

### *A List of the Key Fisheries Statutes referred to with their short names and identifiers:*

The short names are generally used in the text.

- 1825                    “The Smuggling Act”. An act for the regulation of the Customs.    6  
Geo IV. c.108. Allowed Board of Customs to limit boats to inshore  
waters in order to limit the activities of smugglers.
- 1839-43                “The Convention Act 1843” The correct short form is the “Sea  
Fisheries Act 1843”, but to ease confusion the term used here is the  
“Convention Act”. An act to carry into effect a convention between  
Her Majesty and the King of the French relative to the fisheries on  
the coast of the British Isles and France.    6 & 7 Vict. c.79. This  
is the original fisheries convention act between Britain and France.
- 1860                    “The British White Herring Fishery Act 1860” An act to amend the  
law relating to the Scottish Herring Fisheries.    23 & 24 Vict.  
c.92. aimed at preventing “trawling” in West Scotland, this act  
empowered numbering and lettering of boats outside the coverage of  
the Convention Act.
- 1868                    “The Sea Fisheries Act 1868”. An act to carry into effect a  
convention between Her Majesty and the Emperor of France  
concerning fisheries in the sea between the British isles and France,  
and to amend laws relating to British sea fisheries.    31 & 32 Vict.  
c.45 This act reformed fishery legislation and introduced a revised  
convention which was never fully ratified.
- 1877                    “Fisheries (Oysters, Crabs and Lobsters) Act”    40 & 41 Vict. c.42.  
This act revived the Convention Act of 1843.
- 1883                    “The Sea Fisheries Act 1883” An act to carry into effect an  
International Convention concerning the fisheries of the North Sea  
and to amend the laws relating to British Sea Fisheries.    46 & 47  
Vict. c.22. This act empowered the first full international agreement  
on the fisheries of the North Sea.

- 1885 "Sea Fisheries (Scotland) Amendment Act 1885. 48 & 49 Vict. c.70. An act to amend the law relating to Scottish Sea Fisheries. This act empowered the Fishery Board to prohibit or restrict trawling.
- 1886 "Crofters Holdings (Scotland) Act.". An act to amend the law relating to the Tenure of Land by Crofters in the Highlands and Islands of Scotland, and for other purposes relating thereto. 49 & 50 Vict. c.29. This act permitted loans to be made to crofters for the purchase and repair of boats.
- 1886 "Sea Fishing Boats (Scotland) Act". An act to amend the law relating to Sea Fishing Boats in Scotland. 49 & 50 c.53. This act set up a parallel register system to provide a form of title to fishing boats.
- 1889 "Herring Fishery (Scotland) Act" 1889. 52 & 53 Vict.c.23. This act made trawling illegal in Scottish territorial waters and other prescribed area. It also made the landing of illegally caught fish an offence in Scotland.
- 1894 "Merchant Shipping Act 1894". 57 & 58 Vict. c.60 This act combined the 1868 and the 1886 register into Part IV alongside Part I, the Merchant Shipping Register.

## *Appendix Two - Port Identification Letters 1869-1900*

England and Wales		DO or DOS or PL	Douglas	IL	Liverpool
BD	Bideford	DR	Dover	LN	Lynn
BE	Barnstaple	E	Exeter	LO	London
BH	Blyth	F or FM	Faversham	LR	Lancaster
BK	Berwick on Tweed	FD	Fleetwood	LT	Lowestoft
BL	Bristol	FE	Folkestone	M	Milford
BN	Boston	FH	Falmouth	MH	Middlesborough
BR	Bridgewater	FY	Fowey	MN	Maldon
BS	Beaumaris	GA	Gainsborough	MT	Maryport
BT	Bridport	GE	Goole	NE	Newcastle
BW	Barrow	GR	Gloucester	NN	Newhaven
CA	Cardigan	GU	Guernsey	NT	Newport
CF	Cardiff	GY	Grimby	P	Portsmouth
CH	Chester	H	Hull	PE	Poole
CL	Carlisle	HE or SS	Hayle	PH	Plymouth
CO	Carnarvon	HH	Harwich	PN	Preston
CS	Cowes	HL	Hartlepool	PW	Padstow
CT or Ce Tn	Castletown	IH	Ipswich	PZ	Penzance
CW	Chepstow	J	Jersey	R or RE	Ramsgate
DH	Dartmouth	LA	Llanelly	RN	Runcorn
DL	Deal	LE	Lyme	RR	Rochester
		LI	Littlehampton		

## Scotland

RX	Rye			SR	Stranraer
RY	Ramsey			TN	Troon
SA	Swansea	A	Aberdeen	WK	Wick
SC	Scilly	AA	Alloa	WN	Wigtown
SD	Sunderland	AH	Arbroath	Ports added in Scotland after 1887 -	
SH	Scarborough	AD	Ardrossan	AG	Ardrishaig
SM	Shoreham	AR	Ayr	CY	Castlebay
SN	North Shields	BF	Banff	OB	Oban
SSS	South Shields	BO	Borrowstoness	RO	Rothesay
ST	Stockton	CN	Campbeltown	UL	Ullapool
SU	Southampton	DS	Dumfries	BRD	Broadford
TH	Teignmouth	DE	Dundee	SMH	St. Margaret's Hope (Until 1889)
TO	Truro	GW	Glasgow		
WA	Whitehaven	GH	Grangemouth	After 1892 -	
WH	Weymouth	GN	Granton	FR	Fraserburgh
WI	Wisbech	GK	Greenock	After 1893 -	
WO	Workington	INS or I	Inverness	IE	Irvine
WS	Wells	KY	Kirkcaldy		
WY	Whitby	KL or K	Kirkwall		
YH	Yarmouth	LH	Leith		
WE	Woodbridge	LK	Lerwick		
WO	Workington	ME	Montrose		
YH	Yarmouth	PEH	Perth		
After 1882 -		PD	Peterhead		
BW	Barrow	PGW	Port Glasgow		
		SY	Stornoway		

## *Appendix Three*

### *Some Examples of Documentation*

- One Notice to Owners and Masters of British Fishing Vessels - Dundee Custom House Record Book 1869. Enclosed within letter number 53/1869 The communication notes a letter had been received from Mr Murray of the Foreign Office saying that the Belgian Minister had again complained of irregularities alleged to have been committed by British Fishermen fishing off the coast of Belgium.
- Two Official notice from April 1903 regarding the application of the regulations of the Sea Fisheries Act 1883 will be applied to the new convention for the waters around the Farøe Islands.
- Three Copy of part of the specimen of an 1887 style register folio as contained within the Instructions to Registrars 1887.
- Four Copy of form for declaration of ownership under the Sea Fishing Boats (Scotland) Act 1886.
- Five Copy of form for bill of sale under the Sea Fishing Boats (Scotland) Act 1886.
- Six Copy of form to secure mortgage with principal sum and interest under the Sea Fishing Boats (Scotland) Act 1886.
- Seven Copy of application form to register a British sea fishing boat under Part IV of the Merchant Shipping Act 1894.

# Notice.

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## To Owners and Masters of British Fishing Vessels.

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Complaint having been made to Her Majesty's Government by the Belgian Minister, that certain British Fishing Vessels have for some time past been found within three miles of the Belgian Coast engaged in Shrimp Fishing, which is the exclusive right of Belgian Subjects within that limit:—

The Commissioners of Her Majesty's Customs hereby give Notice to all Owners and Masters of British Fishing Vessels, that they will not be permitted to fish in any manner within the said limit of three miles from any part of the Coast of Belgium, and that the Belgian Government has issued instructions to the Maritime Commissioners of the Sea Shore to prosecute Offenders in this respect, and if need be to seize their Vessels.

By order of the said Commissioners,

**GEO. DICKINS,**

*Secretary.*

Copy of an example of a handbill produced to ensure all fishermen were aware of an addition to the North Sea Fisheries Convention. April 1903. (3)

*Handbill, 42 (Fisheries).*

H 6850  
1903.

OFFICIAL NOTICE.

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FISHERIES  
OF  
ICELAND AND THE FARÖE ISLANDS.  
(SEA FISHERIES ACT, 1883.)

---

In 1901, a Convention was made between this Country and Denmark for regulating the fisheries in the seas surrounding the Faröe Islands and Iceland. The Convention was subsequently ratified and came into operation on the 31st ultimo.

By an ORDER IN COUNCIL of the 12th ultimo, the provisions of the SEA FISHERIES ACT, 1883, have been applied to the Convention for the purpose of giving effect to the same.

All OWNERS and MASTERS of SEA FISHING BOATS should take notice that disregard of the provisions of the above Convention will involve penalties similar to those imposed by the Act for disregard of the provisions of the North Sea Fisheries Convention.

A Print of the Order in Council and Convention is annexed.

T. H. W. PELHAM,  
Assistant Secretary.

Fisheries and Harbour Department,  
Board of Trade.

April, 1903.



Amended per letter of 31/12/48 in file C2436.

APPENDIX H

(referred to in paragraph 28)



No. 83 (Sale)

DECLARATION OF OWNERSHIP

(Sea Fishing Boats (Scotland) Act, 1886, Form No. 2)

Declaration of Ownership by Registered Owner or Owners.

To be made before the Registrar.

(<sup>1</sup>) I or We, as the case may be.  
(<sup>2</sup>) Names with address and occupation of registered Owner or Owners.

(<sup>1</sup>)

the undersigned (<sup>2</sup>)

registered Owner

of the fishing boat named the

of

(<sup>3</sup>) I am or We are,

registered number

declare that (<sup>3</sup>)

the Owner

of the said boat and that (<sup>3</sup>)

a

~~(<sup>4</sup>) Delete where necessary~~

(<sup>4</sup>) ~~natural born~~ ~~naturalized~~ British subject. (<sup>4</sup>)

(<sup>4</sup>) or subjects.

And (<sup>1</sup>)

make this solemn declaration con-

scientiously believing the same to be true.

Dated at

this

day of

19

Made and subscribed by

the above-named

in the presence of

Registrar.

Port of

Sec. ~~62549~~ 1019

SEC. 77619 1948.

APPENDIX L

(referred to in paragraph 26)



No. 86 (Sale)

SEA FISHING BOATS (SCOTLAND) ACT, 1886

Form No. 5

Bill of Sale.

(1) I or We.

(1)

in consideration of the sum of

(1) Me or Us.

paid to (2)

by

the receipt whereof is hereby acknowledged, transfer shares in the fishing boat named the

of the port of Registered No.

belonging to (2) to the said

Further (1) the said

(2) Myself and my or ourselves and our.

for (3)

heirs and executors

hereby declare that (1) have power to transfer, in manner aforesaid, the said shares, and that the same are free from incumbrances (4)

(4) If there be any subsisting mortgage, add "save as appears by the registry of the said boat."

(1) My or our.

In witness whereof (1) have hereunto subscribed (5)

named this day of 19 in the presence of

Signature.

(5) Each of the two witnesses should sign his name and there should be added his address and description.

(6) Witness Witness

(5) Insert the day fix for payment of price as above.

(4) If any prior incumbrance and "save as appears by the registry of the said boat."

(7) Here name and signate the two witness

Note.—Registered owners or mortgagees are reminded of the importance of keeping the Registrar of Shipping informed of any change of residence on their part.

APPENDIX M

(referred to in paragraphs 26, 30 and 32 to 34)

No. 87 (Sale)

SEA FISHING BOATS (SCOTLAND) ACT, 1886

Form No. 6



No. 86 (Sale)  
CT, 1886

Mortgage to secure principal sum and interest.

(<sup>1</sup>) *I or We.* (1) the undersigned  
(<sup>2</sup>) *Me or us.* in consideration of this day lent to (<sup>2</sup>)  
by  
(<sup>3</sup>) *Myself or ourselves.* do hereby bind (<sup>3</sup>) and (<sup>4</sup>) heirs or executors  
(<sup>4</sup>) *My or our.* to pay to the said  
the said sum of

together with interest thereon at the rate of per cent,  
per annum, on the day of next and  
secondly, that if the said principal sum is not paid on the said  
day (<sup>1</sup>) or (<sup>4</sup>) heirs or executors, will, so  
long as the same or any part thereof remains unpaid, pay to the  
said interest on the whole or such  
part thereof as may for the time being remain unpaid, at the  
rate of per cent. per annum, by equal half yearly  
payments, on the day of and  
day of in every year; and in security thereof  
(<sup>1</sup>) hereby mortgage to the said

shares in the fishing boat named the  
of registered No. belonging to (<sup>2</sup>)  
and (<sup>1</sup>) declare that this mortgage is made on  
condition that the power of sale which by the Sea Fishing Boats  
(Scotland) Act, 1886, is vested in the said shall not be

(<sup>1</sup>) Insert the day fixed for payment of principal as above.

exercised until the said (<sup>6</sup>) day of  
Lastly (<sup>1</sup>) for (<sup>3</sup>) and (<sup>4</sup>) heirs and executors  
hereby declare that (<sup>1</sup>) have power to mortgage in  
manner aforesaid the above-mentioned shares, and that the same  
are free from incumbrances (<sup>6</sup>).

(<sup>6</sup>) If any prior incumbrance and "save as appears by the registry of the said boat."

In witness whereof (<sup>1</sup>) have hereto subscribed  
(<sup>4</sup>) name this day of 19  
in the presence of

(<sup>7</sup>) Here name and designate the two witnesses

(<sup>7</sup>) Witness  
Witness

nsfer shares

No.

heirs and executors  
transfer, in manner  
ne are free from

o subscribed (<sup>5</sup>)  
in the presence

Signature.

reminded of the  
informed of any

APPENDIX G

(referred to in paragraph 7)

S. 37.



APPLICATION TO REGISTER

A BRITISH SEA FISHING BOAT,

Under Part IV of the Merchant Shipping Act, 1894 (57 & 58 Vict., cap. 60, sec. 373).

ISSUED BY THE BOARD OF TRADE.

\* These particulars are to be filled in by the Registrar.  
 † If the boat is propelled by a motor engine or other mechanical power, this should be stated.  
 ‡ These measurements are to be made and the tonnage ascertained by the officer to whom the application is made. If the boat is registered under Part I of the Merchant Shipping Act, 1894, the particulars of principal dimensions and tonnage should be adopted from her certificate of registry.

Name of Boat .....

Class\*..... Letters\*..... Number\*.....

Port or Place..... Place (Town or Village) }  
 to which boat belongs }

Description of Boat {  
 Sail, Steam, Motor or Auxiliary Motor†.....  
 How Rigged .....  
 What Sails used, &c.....  
 When and where built.....

Mode of Fishing.....

	Feet.	Tenths.
Principal Dimensions ‡ {	Length .....	.....
	Breadth .....	.....
	Depth.....	.....
	Length of Keel.....	.....
	Gross.	Net.
Tonnage.....	.....	.....

Owner..... Skipper.....

Number of Crew usually employed—

Men..... Boys.....

If registered under Part I of the Merchant Shipping Act, 1894. {  
 Port of Registry.....  
 Official Number .....  
 Port Number and Year.....

.....  
 .....

*Amended per letter of 31/12/48 in file C 274*

FOR USE BY BODIES CORPORATE

(1) Names of owner or owners, with address.

(2) Draw a line through the words which do not apply.

(3) If boat previously registered, state port and number.

I, ..... (2) Secretary or Director of (1) .....

Owners of the boat above described, declare that the said Company is registered under the Companies Acts, is subject to the laws of the United Kingdom and its registered office is at.....

and that the said Boat has (2) not been previously registered as a British Sea Fishing Boat (2) been previously registered as a British Sea Fishing Boat at (3) ..... and I now request that it may be registered as such at.....

Signature of (2) Secretary or Director.....  
Date.....



(1) I or We, as it may be.  
(2) Names with a and occupation of Owner or O

FOR USE BY INDIVIDUALS OR JOINT OWNERS

(4) "I" or "we."

(5) Names of owner or owners, with address and calling.

(6) "I am a" or "we are."

(7) Draw a line through the words which do not apply.

(8) If boat previously registered, state port, and number.

(4) ..... (5) .....

Owner(s) of the boat above described, declare that (6)

(7) ~~natural born British subject(s) and have never taken the Oath of Allegiance to any Foreign Sovereign or State or have otherwise~~

~~become a citizen (citizens) or subject(s) of a Foreign State~~

(7) ~~naturalized British subject(s) and that the said boat has (7) not been previously registered as a British Sea Fishing Boat (7) been~~

~~previously registered as a British Sea Fishing Boat at (8) ..... and (8) ..... now request that it may be registered as such at.....~~

Signature of Owner(s).....

(1) I am or We

(4) Delete wherever

(7) or subject

*5 by ...  
3 Nov 48  
from Reg. of  
Shipping  
C/2436.*