

CHAPTER V

Fishermen and the Law

AT first sight it might be supposed that a fisherman could go and fish wherever he wanted on the high seas, so long as he did not get in another fisherman's way or destroy another's gear. But, as a matter of fact, the laws which deal with sea-fisheries are highly complicated and elaborate, far too intricate to be dealt with here, and I cannot do more than mention a few important points connected with them that will interest the ordinary reader.

Legislation for sea-fisheries has for its objects both the preservation of the continuity of the supply of fish and also the preservation of peace between different classes of fishermen and between the fishermen of different nations.

The whole subject bristles with difficulties, like everything dealing with maritime law, for the sea is an elusive and fickle creature, and does not like to be made the subject of tiresome and irritating regulations, and she seems to take a mischievous pleasure in making it very difficult to put fishing legislation into practice—in other words, Nature seems to like to aid and abet the criminal, no matter if he be a poacher or a pirate !

Fishery legislation naturally falls into two categories : national and international ; for the territorial waters of any state extend only a short distance from the shore. According to a joint conference of the North Sea Powers promoted in 1881 to protect the interests of the fishermen

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working on the waters adjacent to their countries the territorial limits of fishing were defined as follows :

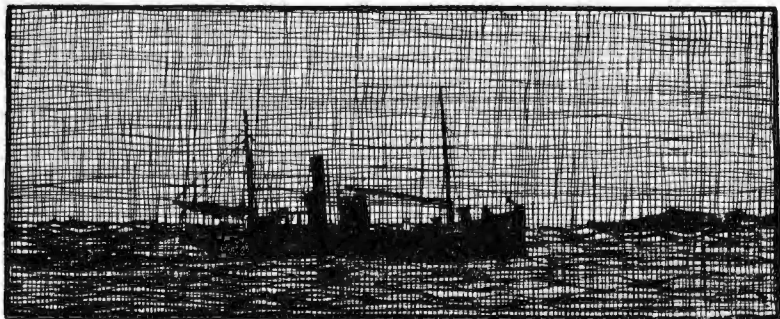
The fishermen of each country shall enjoy the exclusive right of fishery within the distance of three miles from low-water mark along the whole extent of the coasts of their respective countries, as well as the dependent islands and banks. As regards bays, the distance of three miles shall be measured from a straight line drawn across the bay, in the part nearest the entrance, at the first point where the width does not exceed ten miles.

The territorial limit of three miles was probably fixed because when the agreement was made three miles was the extreme range of gun-fire. In practice various unforeseen difficulties arose, and for many kinds of fish—*e.g.*, oysters, seals, and sponges—special legislation has to be made.

Scotland was one of the first countries to feel the need of special laws to control its fisheries, and at various times certain definite areas of water were closed to trawlers, including the whole of the Moray Firth. This was effective so long as trawling was carried on only by British trawlers, but British legislation cannot bind foreigners, and all sorts of complications began to arise when foreign trawlers started to fish in the forbidden areas. British trawlers were debarred from waters open to foreigners, and it was more than irritating to a Moray Firth fisherman to see a Dutch, German, or Norwegian trawler at work a few miles from the coast, and to know that he himself could not go and do the same. It did not matter so much when times were normal, but after the War, when the herring-fisheries were completely disorganized owing to the closing of so many foreign markets, Scottish fishermen were obliged to

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think of some other way of earning a living, and naturally many of them asked why they should not compete with the alien trawlers who for a number of years had been depleting the waters of the Moray Firth, which, owing to the law which their fathers had passed to protect their herring-fisheries, had been closed to them. And so many boldly started to defy the law and turned their herring-drifters into trawlers.



DRIFTER-TRAWLER POACHING AT NIGHT

It was the summer of 1921. For months the fleet of Buckie drifters had been lying idle. A coal-strike was on. The whole industrial world was paralysed. The winter herring-fishing had been more or less of a failure. Poverty stared in the faces of the Moray Firth fishermen. Every day crowds of blue-jerseyed, brown-trousered men and lads loafed about the harbour. There seemed little prospect of any summer fishing.

I had got to know a good many of the fishermen after spending more than a month sketching in Buckie. One day it was suggested to me that perhaps I might care to have the novel and exciting experience of doing a little illegal trawling in the Moray Firth on one of the drifters that was being got ready for sea. In other words, it was an invitation to go *poaching*. "Would

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you care to come with us?" asked the skipper of one of these smart little BCK drifters. He knew it was not the first time that I had been trawling, and that I wished to learn more of the ways of Banffshire fishermen. And it did not require much persuasion for me to accept the invitation.

It was a July morning when we left Buckpool Station by train to join the *Morning Star*. (She is now no more; she was lost at sea, and her skipper died some years ago, so I have no scruples about mentioning her name.) She had been taken round to Aberdeen for the necessary alterations to be made in her for trawling. Bags, beds, sea-boots, and 'kists'; mattresses and pillows in blue-check covers; red coverlets, brown blankets, yellow oil-skins and sou'westers have been collected. The skipper and five of the crew are on the platform, each armed with a heavy canvas kitbag and many small brown-paper parcels. Their wives, 'bairns,' and a 'wee loonie' are also on the platform. There is much handshaking, some kisses. The train comes in from Elgin. We rush for a third-class carriage, all the gear is shoved in after us, and in a few moments we are off.

A couple of hours later we arrive in Aberdeen. We make our way to the Fish Market and Pontoon, where the *Morning Star* is lying. She is in a filthy state. The men are still working aboard her. Coils of steel warp, bits of wood, pots of paint, rope, tools, and shavings litter her decks. Everything seems in a hopeless confusion, and I wonder how we can get away that night.

But the skipper declares that it will be all right. By five o'clock all the work is finished. The workmen clear off with their tools. A cart comes along laden with ice. A shoot is fixed up and the ice tipped out of the barrels into the fo'castle. As soon as this job is finished

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the vessel is let go, and we steam slowly out of the harbour.

Aberdeen now lies a good three miles away to the stern. Its towers and spires stand out in the west against the setting sun. There is a noticeable feeling of excitement on board. This is the first time that most of the crew have been trawling. In fact, with the exception of one of the deck-hands and myself, none had ever seen a trawl net 'shot.' The skipper says it will be best for us to get away into the Firth and "shoot our gear" to-morrow morning. But the crew are restless and impatient. Why delay? Why not 'shoot' at once? We are now well outside the three-mile limit.

For the first time these 'novices' are told to take up their positions at the capstans or forrard and aft at the 'otter-boards.' I recalled the Brixham smacks I had often seen shooting their heavy beam trawls in the Bristol and English Channels; I remember winter days and nights out on the Dogger Bank with Grimsby trawlers, but here was trawling under quite novel conditions, and trawling with a certain new danger added to it, for we were poaching.

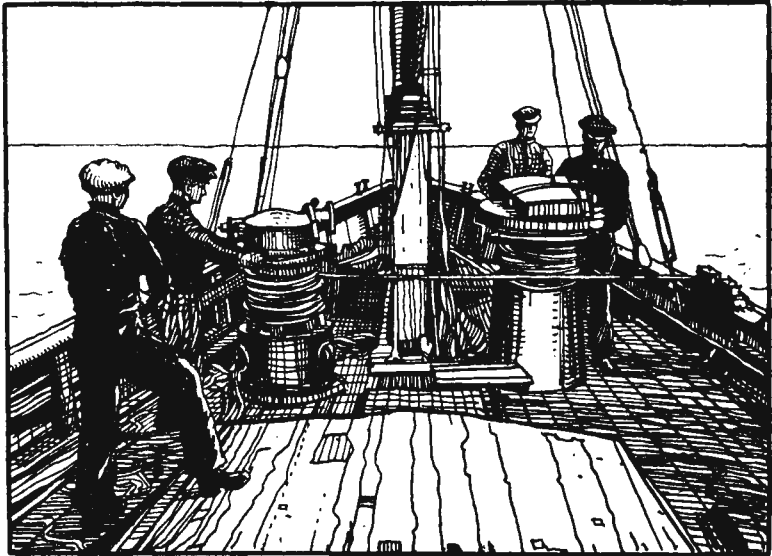
In another chapter I have described in detail the manner in which the otter trawl net is shot and hauled, so there is no need for me to repeat myself here. The only difference was that in this converted drifter there were no 'gallowses,' the warp ran out over blocks made fast to the bulwarks, fore and aft.¹ In a few moments the required length of warp was let out. The work was over for the evening; we went below for a few hours' sleep.

Some time in the pale-grey dawn of a summer morn-

¹ A dangerous arrangement which would not stand any great strain, especially in a wooden vessel.

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ing we start to haul up the gear. The 'boards' show no signs of having been on the ground. Their steel 'keels' should have already been worn bright by the friction and rubbing of sand and shingle on the bottom of the sea. Something must be wrong. Probably they were



GETTING READY TO SHOOT THE TRAWL

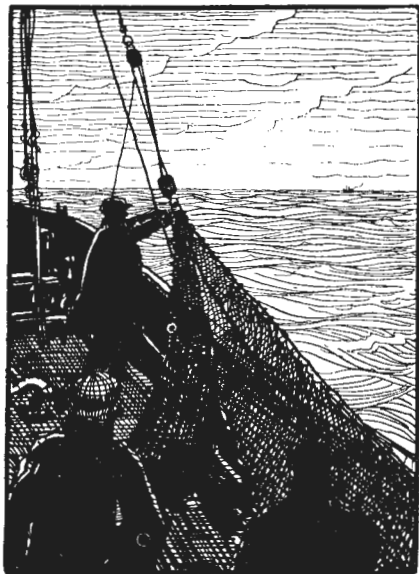
too light. Some heavy bits of iron are lashed on. But even that is no use. There are still no fish in the 'cod end' of the net when it is hauled up again an hour or so later.

By midday we are well out in the middle of the Moray Firth and in sight of the coast of Caithness. The gear is shot again. Still no luck! The crew begin to get more restless. What can be wrong? A soft rain begins to fall. The skipper alters our course to S.W. We might do better off Helmsdale.

That night there were two men on watch. We were

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now right within the prohibited area of the Firth, between Duncansby Head and Rattray Point, and a good look-out must be kept for the dreaded 'watcher'—*i.e.*, the Fishery Protection cruiser. There was a thick mist.



TRAWLING AT EARLY MORNING

We could not see more than a few yards ahead. Yet we are steaming along without showing any lights—a big risk to take within a few miles of the shore when there are many other fishing-boats about. In such a fog our siren ought to be blowing, but then we are poaching, so if we are run down it will be our own fault.

Leaning over the bows, with one of the crew beside me, I peer out into a thick wall of white

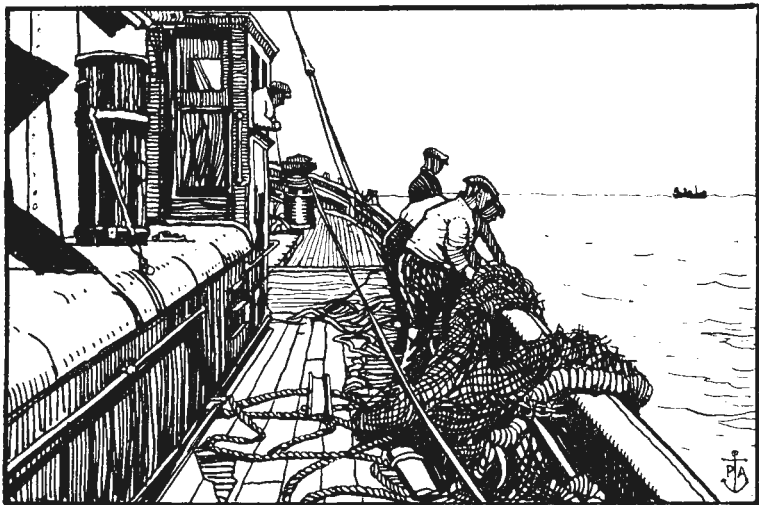
fog. Everything is very still on this midsummer night. The sea is dead calm. There is scarcely a breath of wind. Throb, throb, go the engines in rhythmical motion to the accompaniment of the swish of the water under the keel. The man at the wheel is singing very, very softly to himself, old Scottish songs, minor in key, and low in pitch. Throb, throb, go the engines. . . . "Gie me a fag," whispers my companion. "Mine are a' dene. I've nae mair."

Throb, throb, go the engines. . . . How many more verses are there to the *Braes of Strathblane*, or is the man at the wheel starting again? But our watch is

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soon over. Sandy relieves us. We make our way aft and go below, and turn into our bunks for a well-earned rest.

A fine afternoon the following day. We are now in Spey Bay, not more than ten miles from the shore. All day long the horizon has been scanned for the 'watcher.'



HAULING IN THE GEAR

Every reek of smoke in the distance has been a cause of alarm. More than once the crew were roused from their bunks and hurried up on deck to haul in the trawl. But a few minutes later it was realized that the smoke on the horizon came from another drifter-trawler, like ourselves also engaged in 'poaching.' Last time the gear was hauled it was badly torn, and there was a delay of more than two hours while it was being mended.

"Vat's yon craft awa' to the sooth?" suddenly cries the skipper, looking through his glass.

"He's nae trawler. I ken he's th' vatcher. Gie me the glass," interrupts the mate.

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He has a long look. "Na, na. Yon's nae th' vatcher ; yon's the *Storm Cock*."

And the mate was right. The vessel mentioned was merely another Buckie drifter-trawler. But about half an hour later, just as the cook had shouted from below that the tea was 'infused' (as one says in Scotland), the skipper again declares that he sees a strange-looking craft lying under the lee of the land near Port Gordon.

"Yon's th' vatcher, look, man !"

"Wha' ?" asks the mate.

"Ye see yon wee hoosie above yon sma' boatie ?"

"Aye, aye," the mate replies.

"A wee bittie to starboard . . . in line wi' yon ropie."

The mate peers through the glass. The excitement increases. "Aye, aye, you're right. There's something there, but yon's nae th' vatcher. I dinna ken vat he is, but he's nae th' vatcher."

So we descend to the after-cabin, eat fried whiting and bread and jam, and drink our tea in peace.

A night or two later. We have steamed very close inshore. Our luck has been bad all day. The skipper is tired and cross, the crew irritable and impatient, their nerves on edge through want of sleep and the strain of this constant look-out for the Fishery Protection cruiser. "This job is muckle worse than chasing submarines," one of them remarks to me.

The sun had set some hours before, behind the Paps of Caithness. Small boats were busy fishing with haddock-lines. We covered our bow and stern with bits of old sacking so that they should not see our port letters and number, in case they should decide to report us. The skipper had already taken the precaution of painting our funnel and ventilators black instead of

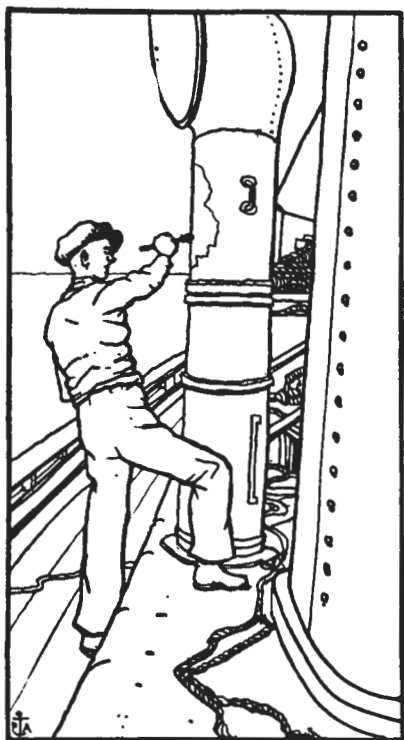
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yellow so as to disguise his ship. No needless risks can be taken when the minimum fine to be paid is £60! But we were not the only poacher in the Moray Firth that night. On the horizon I could count no less than fourteen or fifteen drifter-tractlers at work in this prohibited area.

Once more the trawl was shot. We steamed across the mouth of Spey Bay. None of the crew seemed to think it worth while to go below for their usual three or four hours' sleep before hauling again. It was better to be ready for any emergency on such an occasion. And so we lay about on deck or huddled up in warm corners between the funnel and the wheel-houses.

Some small line-boats sail past us. Have they taken our number, and will they report us? Quite likely.

Three days later we are off Wick again, and have been fishing all day between Duncansby and Ness Heads in company with two big steam-tractlers from Aberdeen. About five o'clock in the afternoon, just as the gear had been shot, a strange grey craft suddenly steamed out of Wick Harbour and made toward us. There was no doubt



THE SKIPPER DISGUISES HIS SHIP

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about it this time ; it *was* the 'watcher.' We might have been just beyond the three-mile limit, but we were not going to take any risks. Up came the gear, faster



WASHING FISH BEFORE STOWING IT IN HOLD

than I ever remember seeing it, fortunately without accident. In a few minutes everything was safe on board, and we were steaming out to sea as hard as we could go. The other trawlers near us did the same. The Fishery Protection cruiser, satisfied that we had not actually got our gear down, turned back to port, and we felt safe again.

Our coal and ice were now almost at an end. We had had but little luck during our five days at sea. There were not enough fish in the hold to cover the expenses of this risky trip ; no more than a few boxes of haddock and whiting. So the skipper decided to make for port. In a few hours we were entering Buckie Harbour.

Such was my initiation into the ways of poaching ! The story should conclude with the following extract from the *Fishing News* that appeared three weeks later :

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BUCKIE SKIPPER IN COURT

CHARGE OF ILLEGAL TRAWLING FAILS

In the Elgin Sheriff Court last week, before Sheriff H——, P—— M——, skipper of the steam-trawler *Morning Star*, was charged with having on July 8 within the three-mile limit of the Moray Firth, a mile north-east of Blackhill, used a beam or otter trawl.

The defence was that the accused was not accustomed to using an otter trawl, and that he was merely testing his fishing gear, which was found to be out of order.

Sheriff H—— said that the accused had admitted working the trawl. The prosecution had considered that sufficient to entitle them to convict. He was not satisfied with that. The defence was that the accused was experimenting. Had it been a Fishery Board boat, the officials of that boat would no doubt have boarded the *Morning Star* and examined the gear.

The witness for the prosecution could not do that. He was not satisfied that the accused covered up the number of the vessel. He had his trawl out, but the question for the Court to decide was whether he was trying to catch fish.

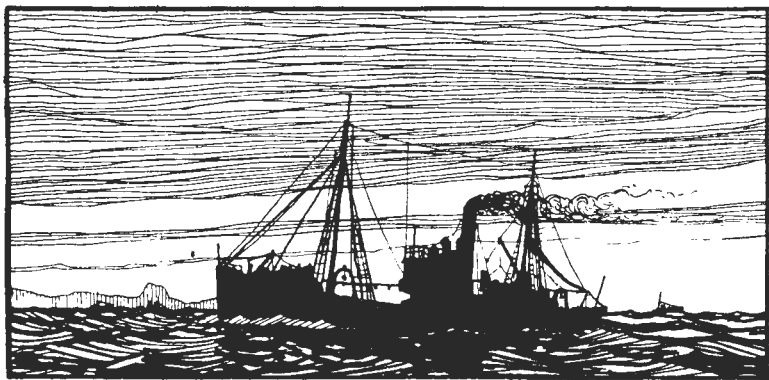
In the circumstances he would have to take the accused's word. He thought he had satisfied the Court that he was not fishing on that occasion, and he accordingly found the accused not guilty.

It takes a long time to get a law changed, and foreign trawling still goes on unchecked in the Moray Firth; in fact, it has become a sort of exclusive preserve of the foreign fishermen. In the year 1930 no less than thirty-nine cases were reported of damage to cod nets by foreign trawlers, for which there was no means of obtaining any compensation. One skipper remarked to me that unless his expenses were paid he could not go to Holland to give evidence in the Dutch courts, as the foreign trawlers had not left him enough to pay for

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his dinner! And some of these Scots skippers and owners of drifters are now so poor that they have had to apply for relief work, which itself becomes scarcer every day.

All round the coasts of England and Wales there are many areas officially closed to trawlers, but which



FOREIGN TRAWLER IN THE MORAY FIRTH

are constantly being invaded by fishermen, although they are well within the three-mile limit. For instance, there is Start Bay, Devonshire, which has always been regarded with greedy eyes by the Brixham fishermen, many of whom will venture in there on a dark night, when they hope their presence will not be detected by the inhabitants of the small villages of Torcross and Slapton, who drop their crab-pots in Start Bay and work with ground seines for many other kinds of fish on the long sweep of sandy beach on this part of the coast.

In his novel *The Haven* Mr Eden Phillpotts gives us a picture of one of these Brixham poachers at work at night in this prohibited area, which I venture to quote.

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Between two and three o'clock in the morning revealed the *Night Hawk* as a black silhouette on a bright sea nearly two miles nearer the shore than she had any business to be. . . . Long grey beaches stretched northwardly, and within them a sheet of silver marked Slapton Ley and the sedges whispering there ; while beyond rose up the thickening heads of elm-trees and swelled a line of low hills. . . . The poachers were about to get home as fast as the wind would let them, when necessity arose for more urgent measures . . . a boat rasped on the distant shingle, and so still had grown the night that the sound of her launching came clearly over the sea. . . . [And on the trawler] they worked hard yet with method as though these sudden operations were not unfamiliar. Billy Trust fastened a buoy to the trawl warp and flung it overboard ; Sam lighted the port and starboard lanterns, then fetched a piece of wood on which in white letters and figures was painted a trawler's number. This he hung over the bow and made fast above the real number of the boat. Next he lowered the mainsail on which the true number also appeared, and to hooks let into the sail for this purpose Sam hung a square of tanned canvas also carrying the false number and covering the true. The sail was up and Sam had disappeared before the boat laden with five angry crabbers came alongside.

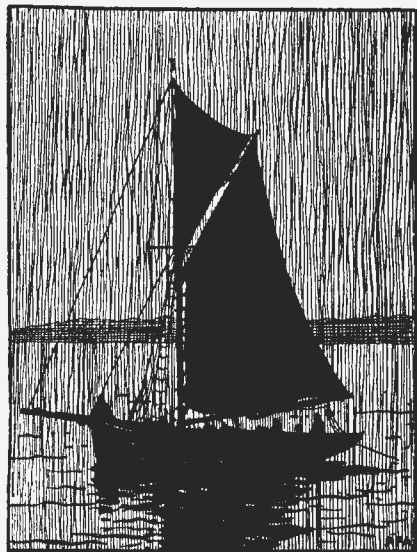
This reference to the false letters and numbers shown on the *Night Hawk* induces me to add a few words concerning the numbering and lettering of fishing-craft. There are elaborate regulations, too, affecting the numbering and lettering of fishing-vessels—for instance, every British fishing-vessel must have her 'port of registry' carved or painted in white or yellow letters on a dark ground, or black letters on a light ground, on the stem, not less than four inches in height and proportionate.

On the bows of every fishing-vessel the initial letters of the port to which she is registered, together with the number, must be painted "in oil colour," the size of

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the lettering being definitely fixed according to the size of the boat.

Another interesting detail is that on 'first- and third-class' boats the numbers *follow* the distinguishing port



POACHING IN START BAY

letters, in 'second-class' boats they precede. Letters and numbers have to be painted in oil colour on every sail—white on tanned sails, black on white sails. Nets and buoys also have to be carefully marked, and if a skipper forgets to comply with these regulations he can be heavily fined.

It is not easy to remember all the port distinguishing letters of fishing-vessels in Northern Europe. They are rendered even more complicated by the fact that the same letters are used by more than one port, so that it is only by noticing the type of boat, her build and rig, or even the actual shape of the lettering employed, that one can guess where she definitely belongs.

For instance, the letter 'A' may stand for Aalborg, Aberdeen, Antwerp, or Aabenraa, while 'AA,' for some mysterious reason, belongs to Alloa and Westeraccumersiel, in Germany! The French fishing-vessels sometimes have the *first* two or three letters of their port of registry—*e.g.*, DI = Dieppe; CAN = Cancale;

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but GN stands for Guilvinec, and D^z for Douarnenez, so one is quite liable to get confused.

The letters on the German boats give little or no help to locating their port of registry unless one happens to have a *Mariner's Almanac* handy. I wonder why AY stands for Norden or AZ for Neuhartlingersiel, or AX for Borkum? No doubt there is a reason, but it is not obvious. I suppose Buckie boats are lettered BCK to prevent them being confused with those of Barnstaple, which have BE on their bows. But I had often wondered why the Hastings boats, registered at Rye, should have the letters

RX when there is no other port to compete with them for RE, and only Raansby in Sweden for RY, but one day it occurred to me that X is the last letter of Sussex, in which county Rye is situated.

A word about the lights that have to be shown at night on fishing-vessels.

Open boats when fishing at night with outlying tackle have to carry one 'all-round' white light, and, in addition, when approaching or being approached by other vessels, show a second white light at least three



PAINTING PORT LETTERS AND NUMBERS
ON THE BOW OF A DRIFTER

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feet below the first light, and at a horizontal distance of at least five feet away from it in the direction in which the outlying gear is attached.

When fishing with drift-nets the rules concerning lights are rather more complicated. They have to carry two white lights,

placed so that the vertical distance between them shall be not less than six feet and no more than fifteen feet, and so that the horizontal distance between them, measured in a line with the keel, shall be not less than five feet and not more than ten feet. The lower of these two lights shall be in the direction of the nets [that is the important point] and both of them shall be of such a character as to show all round the horizon, and be visible at a distance of not less than three miles.

The same regulations apply to vessels actually in line-fishing with their lines out or hauling. When fishing with towing-lines they merely carry the same lights as an ordinary steam or sailing vessel.

Steam-trawlers when actually fishing have to carry

a tricoloured lantern, so constructed and fixed as to show a white light from right ahead to two points on each bow, and a green light and a red light over an arc of the horizon from two points abaft the beam on the starboard and port sides respectively; and no less than six nor more than twelve feet below the tricoloured lantern, a white light in a lantern, so constructed as to show a clear, uniform and unbroken light all round the horizon.

Sailing-trawlers—*i.e.*, smacks—need carry only a white light, but on the approach of other vessels “show where it can best be seen a white flare-up light, or torch, in sufficient time to prevent collision.”

All vessels fishing with nets, lines, or trawls during the daytime have to “indicate their occupation to an

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approaching vessel by displaying a basket or other efficient signal where it can best be seen." One generally sees this basket hoisted up between the funnel and foremast of a steam-trawler.

The enforcement of fishery legislation is always a difficult matter, and another place where fishermen are constantly tempted to break the laws is off Iceland, where, owing to the vigilance of the Icelandic gunboat, British skippers are constantly getting into trouble and being subjected to heavy fines for illegal trawling, very often without sufficient evidence having been brought against them.

And what I have written about poaching off the coast of Scotland might have been told of fishermen in almost every other part of the world—human nature is the same everywhere, and the fisherman, no matter whether he is on the Newfoundland Banks, on the coast of British Columbia, trawling off Iceland or the shores of South Devon, is always trying to evade tiresome legislation which the State, like a conscientious parent, has passed in most cases for his own security.