

“It is understood that the above-mentioned liberty applies solely to the sea-fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers are hereby reserved exclusively for British fishermen.”

Article XXXII of the same Treaty provides :

“It is further agreed that the provisions and stipulations of Article XVIII to XXV of this Treaty inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect.”

As soon, therefore, as the necessary Acts relating to Newfoundland should have been passed, United States' citizens would acquire—

1. The right to take fish of every kind, except shell-fish, salmon, and shad on the Coast of Newfoundland for a term of twelve years (the period stipulated in the Treaty) *in common* with British subjects.

2. The right to land *for the purpose of drying their nets and curing their fish* ; provided that they did not interfere with the rights of private property or with British fishermen.

With regard to the first of these privileges, the words *in common with British subjects* seem to imply, as the intention of the Article, that United States' citizens were only to enjoy such privileges as were then enjoyed by British subjects.

The Law Officers, who were requested to report on this point in 1873, say—

“We submit, for your Lordship's consideration, that the words ‘in common with the subjects of Her Britannic Majesty,’ which occur in Article XVIII, in fair construction mean that the American and British fishermen shall be upon an equality, and that if a close time is to apply to British fishermen, and the necessity of the case seem to require that, the same restriction shall apply to American fishermen.”

J. D. Coleridge.  
G. Jessel.  
J. P. Deane.  
July 19, 1873.

The Consolidated Statutes of Newfoundland, 1872, show under what restrictions British subjects were allowed to prosecute the fisheries of that