

sideration, and report to your Lordship our opinion, whether there is anything in the proposed regulations which would be inconsistent with the stipulations of the Convention of the 23th of October, 1818, between Great Britain and the United States of America.

We are also honoured with Mr. Backhouse's letter of the 19th April, stating that he was directed to transmit to us a further letter from the Colonial Office, dated the 16th instant, inclosing the copy of a despatch from the Lieutenant-Governor of Nova Scotia, covering a copy of an address from the Legislative Council of that Province, objecting to one of the above-mentioned regulations proposed by the House of Assembly in the session of 1810, and to request that we would take these papers into consideration, in addition to those referred to in his letter of the 26th of May last, and that we would report to your Lordship, at our early convenience, our opinion thereupon.

We are also honoured with Mr. Backhouse's letter of the 8th of June, stating that he was directed to transmit to us the accompanying copy of a letter from the Colonial Office, together with a copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing a copy of a Report of the House of Assembly on the subject of the fisheries of that province, and also inclosing a case for opinion as to what rights have been ceded to the citizens of the United States of America, and as to what rights have been exclusively reserved to Her Majesty's subjects; and to request that we would take these papers into consideration, and report to your Lordship our opinion upon the several questions stated in the case above mentioned.

We are also honoured with Mr. Backhouse's letter of the 5th ultimo, stating that he was directed to transmit to us a correspondence, as marked in the margin, which has passed between the Foreign Office and Mr. Stevenson, the American Minister at this Court, and the Colonial Department, on the subject of a remonstrance addressed by Mr. Stevenson against the proceedings of the authorities of Nova Scotia towards American fishing vessels encroaching on the fisheries of that coast, and to request that we would take these papers into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands, we have taken these papers into consideration, and have the honour to report that we are of opinion that the Treaty of 1783 was annulled by the war of 1812, and we are also of opinion that the rights of fishery of the citizens of the United States must now be considered as defined and regulated by the Convention of 1818; and, with respect to the general question "if so, what right," we can only refer to the terms of the Convention, as explained and elucidated, by the observations which will occur, in answering the other specific queries.

Except within certain defined limits to which the query put to us does not apply, we are of opinion that, by the terms of the Convention, American citizens are excluded from any right of fishing within three miles of the coast of British America, and that the prescribed distance of three miles is to be measured from the headlands, or extreme points of land next the sea of the coast, or of the entrance of the bays, and not from the interior of such bays, or indents of the coast, and, consequently, that no right exists on the part of American citizens to enter the bays of Nova Scotia, there to take fish, although the fishing being within the bay may be at a greater distance than three miles from the shore of the bay, as we are of opinion that the term "headland" is used in the Treaty to express the part of the land we have before mentioned, excluding the interior of the bays and the indents of the coast.

By the Convention of 1818 it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence (and within certain defined limits), in common with British subjects; and such Convention does not contain any words negating the right to navigate the passage or Gut of Canso, and, therefore it may be conceded that such right of navigation is not taken away by that Convention; but we have now attentively considered the course of navigation to the Gulf of Cape Breton, and likewise the nature and situation of the passage of Canso, and of the British dominions on either side; and we are of opinion that, independently of Treaty, no foreign country has the right to use or navigate the passage of Canso; and attending to the terms of the Convention relating to the liberty of fishery to be enjoyed by the American citizens, we are also of opinion, that that Convention did not, either expressly, or by necessary implication, concede any such right of using or navigating the passage in question. We are also of opinion that, casting bait to lure fish in the tract of any American vessels navigating the passage, would constitute a fishing within the negative terms of the Convention.

With reference to the claim of a right to land on the Magdalen Islands, and to