

this Commission, and with regard to the exclusive right of fishing in bays, the literal and obvious construction of Article I of the Convention of 1818 must be adopted.

The view consistently maintained by successive Governments of Great Britain has been that, under that Convention, the United States renounced for ever the right to fish in any bays, whether large or small, of Her Majesty's North American Possessions; and I have accordingly elaborated this view in a Brief which I am drawing up with Counsel, and which I propose to submit to the Commissioners.

The line taken in this Brief is, that although Her Majesty's Government have from time to time granted certain indulgences to American fishermen with regard to fishing in bays, the right to exclude them has ever been expressly reserved; a slight distinction being drawn, however, in the case of the Bay of Fundy, which, for various reasons with which your Lordship is acquainted, has been practically thrown open to citizens of the United States.

I am anxious to be able to lay this paper before the Commissioners at as early a date as possible, inasmuch as, although I do not contemplate inviting them to give any open decision on the Headland question, their judgment of the merits of the case will doubtless be materially affected by the arguments which can be brought forward in support of the contention of either side.

I trust that your Lordship will approve of my proceedings in this important matter; and I can only repeat that I shall be most careful to guard against making any statements which might be construed as binding Her Majesty's Government for the future to any line of policy with regard to the general question of maritime jurisdiction or international law, upon which, as has been expressly stated both in the United States' Answer and in the British Reply, the Commissioners have no power to decide.

The arguments advanced to refute the several assertions on other important points treated in the United States' Answer are so fully expressed in the Reply, that I deem it unnecessary to trouble your Lordship with any observations with regard to them.

I have, &c.
(Signed) FRANCIS CLARE FORD.

Inclosure in No. 26.

Reply on behalf of Her Britannic Majesty's Government to the Answer of the United States.

[See Appendix D.—Record of Proceedings.]

No. 27.

Mr. Lister to Mr. Herbert.

Sir,

Foreign Office, August 7, 1877.

I AM directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a further despatch from Mr. Ford, inclosing a copy of the Reply to the "Answer" of the United States, which he has delivered to the Secretary of the Halifax Fishery Commission, and reporting his views with regard to the Brief on the Headlands question, which he is drawing up, and which he is anxious to lay before the Commissioners as soon as possible.*

* No. 26.