

(8.) That Lord Bathurst in 1815 mentioned the American right under the treaty of 1783 as a right to be exercised "at the discretion of the United States"; and that this should be held as to be derogatory to the claim of exclusive regulation by Great Britain.

But the Tribunal is unable to agree with this contention:—

(a.) Because these words implied only the necessity of an express stipulation for any liberty to use foreign territory at the pleasure of the grantee, without touching any question as to regulation;

(b.) Because in this same letter Lord Bathurst characterized this right as a policy "temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences from a military, naval and commercial point of view"; so that it cannot have been his intention to acknowledge the exclusion of British interference with this right;

(c.) Because Lord Bathurst, in his note to Governor Sir C. Hamilton in 1819, orders the Governor to take care that the American fishery on the coast of Labrador be carried on *in the same manner* as previous to the late war; showing that he did not interpret the treaty just signed as a grant conveying absolute immunity from interference with the American fishery right.

For the purpose of such proof it is further contended by the United States:—

(9.) That on various other occasions following the conclusion of the treaty, as evidenced by official correspondence, Great Britain made use of expressions inconsistent with the claim to a right of regulation.

The Tribunal, unwilling to invest such expressions with an importance entitling them to affect the general question, considers that such conflicting or inconsistent expressions as have been exposed on either side are sufficiently explained by their relation to ephemeral phases of a controversy of almost secular duration, and should be held to be without direct effect on the principal and present issues.

Now, with regard to the second contention involved in Question I, as to whether the right of regulation can be reason-