

ther reported that, contrary to the terms of the treaty, the American fishermen were fishing illegally, interfering with the rights of British fishermen and their peaceful use of that part of the coast then occupied by them, and of which they were in actual possession by their seines and boats, their huts and gardens and lands granted by Government."²¹

This report of the illegal proceedings of American fishermen under the Treaty of 1815, and Lord Bathurst's statement of the colonial experience of Canada and Newfoundland under the Treaty of 1783, shew how the concession of free fishery privileges in the colonial territorial coast-waters under both treaties, had been aggressively abused by American fishermen.

Mr. Secretary Evarts, in discussing these Fortune Bay disturbances, maintained the "broad doctrine" that no British authority had a right to pass any kind of laws binding on American fishermen while fishing in British waters, saying: "If our fishing fleet is subject to the Sunday laws of Newfoundland, made for the coast population; if it is excluded from the fishing grounds from October to April (by the close season law), if our seines and other contrivances for catching fish are subject to the Regulation of the Legislature of Newfoundland, it is not easy to see what firm or valuable measure for the privilege of Article 18 of the Treaty of 1871, as conceded to the United States, this Government can promise to its citizens under the guaranty of the treaty." And as a corollary he claimed: "If there are to be Regulations of a common enjoyment, they must be authenticated by a common or joint authority;"²² a doctrine of joint sovereignty over British territorial waters and coasts, which must have given a startling surprise to both British and International Law.

And Mr. Evarts further argued: "Manifestly the subject of the Regulation of the enjoyment of the in-shore fishery by the resident Provincial population, and of the in-shore fishery by our fleet of fishing cruisers, does not tolerate the control of

²¹Ibid., page 285.

²²Ibid., page 310.