

ish North America, within the limits hereinbefore set out,—their rights are strictly defined by the Convention of 1818, and must be confined within the limits therein specially mentioned. The general rules of International Law, the provisions of the Treaty of 1783, and the privileges extended to them by that of 1854, cannot be invoked in order to liberate them from the terms of the compromise of 1818, construed and interpreted according to the then established custom and usage of the British and American Governments.

Another question which has been frequently raised in connection with the fisheries, is the right of Great Britain to close the Gut of Canso against American vessels.

The Gut of Canso is "a strait in British North America, dividing Cape Breton from Nova Scotia and forming a secure and much frequented passage from the Atlantic into the Gulf of St. Lawrence; it is about twenty-one miles long and varying from one mile to one mile and a half broad." (18)

Taking it for granted that it forms a part of the maritime territory of Canada, still being a means of communication formed by nature between the Atlantic Ocean and the Gulf of St. Lawrence, both, portions of the common property of the nations of the world, it follows as a consequence, that the right of peaceable passage exists in favor of vessels of every nationality. The right being one based on the principles of International Law and exercised independently of Great Britain, that power cannot prevent the passage of United States vessels through that Strait. (19)

Writers on International Law are divided in opinion upon the subject, but the greater number espouse the side of the question opposed to the pretensions of Great Britain. Moreover, the general principles of law, and the current of modern opinion as expressed in Treaties, clearly indicate the fallacy of the idea that the right of peaceable passage does not exist in favor of foreign vessels through the Gut of Canso.

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(18) Imperial Gazetteer.

(19) Abdy's Kent, p. 116. Laurence's Wheaton, pt. 2, c. 4 § 9. 1 Haute-feuille, pp 97 & 99. 1 Phillimore § 178. 1 Cauchy, p. 42. 1 Cussy, b. 1, tit. 2, § 41. 1 Azuni, pt. 1, c. 3, art. 2 § 1. 1 Ortolan, b. 2, c. 8, p. 146. Vattel, b. 1, c. 23, § 292. Rayneval b. 2, c. 9, § 7. Heffter § 33, 76. Petruschevecz, art. 9.

Contra—1 Twiss, § 174. Kluber, § 130. Martens Précis, pp. 171-168.