

As stated by Hautefeuille, the stipulation "for ever" in this class of Treaties, is to avoid the necessity of renewals, and is not therefore, indefinitely, or in perpetuity, binding on the conceding nation.

And here it may be claimed that, in any event, this "liberty to take fish," in common with British subjects, cannot be construed to permit the assertion of any jarring claim on the part of American fishermen of an immunity from British and Colonial laws regulating fishing within the Treaty coast-waters, or of any claim of right, or privilege, which could in any way limit, or prejudice, the earlier, or pre-treaty, natural right, or privilege, of the colonial subjects of the Crown to fish in their own coast-waters.

The War of 1812-14 abrogated the previous fishing privileges conceded to American fishermen by the Treaty of Independence of 1783; and during the negotiations for the Treaty of Ghent of 1814, the British Plenipotentiaries informed the American Commissioners that "the privileges formerly granted to the United States of fishing within the limits of British coast-waters, and of landing and drying fish on British-Colonial coasts, would not be renewed gratuitously, or without an equivalent,"²⁸ But in 1818, the British Government gratuitously reversed this policy by intimating to the American Secretary of State that "in estimating the value of these proposals" (of fishery privileges in the coast-waters of Canada and Newfoundland), "the American Government will not fail to recollect that they are offered without any equivalent," of either a financial consideration, or of a reciprocal privilege of fishing within United States coast-waters;²⁹ a proposal which may bring this gratuitous concession of a colonial natural right of property within Hautefeuille's class of "unequal Treaties," which he says "are not binding;" and which Bluntschli and Fiore class as "null."

The territorial coast mileage of these gratuitous fishing privileges to American fishermen extends along about 870 miles of the

²⁸ American State Papers, Foreign Relations, vol. 3, pp. 705 and 708.

²⁹ Ibid., vol. 4, p. 365.