

the rights or liberties which the United States have heretofore enjoyed in relation thereto."

England contended that the word "right" in the Treaty of 1783 was used as applicable to what the United States were to enjoy in virtue of a recognized independence, and the word "liberty" to what they were to enjoy as concessions strictly dependent on the existence of the Treaty in full force, which concessions fell, as England asserted, on the declaration of war by the United States, and would not be revived excepting for an equivalent.

In the alarming condition of affairs, at home and abroad, in the autumn of 1814, our Government did finally authorize our negotiators at Ghent to agree to the *status quo ante bellum* as the basis of negotiation, provided only that our national independence was preserved. (See introductory notes by Hon. J. C. Bancroft Davis to "Treaties and Conventions," published by the Department of State in 1873, p. 1021.) The Treaty was signed on the 24th December, 1814. How different might have been its terms had there been procrastination till the news came of General Jackson's brilliant victory at New Orleans only fifteen days afterward, or till the escape of Napoleon from Elba only two months later.

The Treaty of 1818.

Within a short time after the close of the year 1814 England announced her purpose to exclude American fishermen from the "liberty" of fishing within one marine league of her shores in North America, and of drying and curing fish on the unsettled part of those territories.

The announcement led up to the Treaty of 1818, whereby the "liberty" conceded in 1783 to belong to American fishermen was confined within narrower limits, and the area of American fisheries was greatly reduced, as well as the quantity of American caught fish arriving exempt from taxation at our ports. That Treaty of 1818, and the misunderstanding under it, led up to the Marcy-Elgin Reciprocity Treaty of 1854, terminating in 1866, which covered by a new stipulation a part of the stipulations contained in the Treaty of 1818. Your Committee do not now express an opinion whether or not the termination of the Reciprocity Treaty of 1854 revived the superseded and dead stipulation of the Convention of 1818, contained in its renunciation sentences, which are the last sentences of the 1st Article, for which stipulation in the Treaty of 1818 a new and positive stipulation was substituted and inserted in the Treaty of 1854, which last-named Treaty might, in accordance with its terms, have been in force indefinitely.

The 1st Article of the Treaty of 1818, which has been the cause of such unnumbered international differences and disputes, is in these words:—

"Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind—

"1. On that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, from the said Cape Ray to the Quirpon Islands;

"2. On the shores of the Magdalen Islands;

"3. And also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company.

"And that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, heretofore described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground.

"And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within 3 marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits:

"Provided, however, that the American fishermen shall be permitted to enter such bays or harbours (1) for the purpose of shelter, and (2) of repairing damages therein; of (3) purchasing wood, and (4) of obtaining water, and for no other purpose whatever. But