

to take, dry, or cure fish on or within three 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 admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

An Act, passed in the fifty-ninth year of the reign of His late Majesty George the Third, cap. 38, entitled an "Act to enable His Majesty to make regulations with respect to the taking and curing fish on certain parts of the Coast of Newfoundland, Labrador, and His Majesty's other Possessions in North America, according to a Convention made between His Majesty and the United States of America; and in the year 1836, His late Majesty William the Fourth, in the sixth year of his reign, by an Order in Council, assented to and made the clauses of a certain Act of the Assembly of Nova Scotia the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbours of the province of Nova Scotia; by the first section of which it is enacted "that any ship, vessel, or boat, which shall be foreign, and not navigated according to the laws of Great Britain and Ireland, which shall have been found fishing, or preparing to fish, or to have been fishing, within three marine miles of coasts, bays, creeks, or harbours of this Province, such ship, vessel, or boat, and their respective cargoes, shall be forfeited."

Nova Scotia is indented with bays, many of which reach from 60 to 100 miles into the interior, such as the Bay of Fundy, St. Mary's Bay, the Bras D'Or Lake, and Manchester Bay; the land on the shores is entirely British territory, and Nova Scotia Proper is separated from the Island of Cape Breton by a narrow strait, called the Gut of Canso, in some parts not wider than three-quarters of a mile. In the Bay of Fundy, St. Mary's Bay, and the Straits of Canso, Americans conduct the fishery, and their vessels pass also through the Strait of Canso, or anchor there, and not only fish, but, by using bait, take the mackerel into deep water, thereby injuring the profitable seine fisheries of Fox Island, Crow Harbour, Arichat, St. Peter's Bay, and other stations in the neighbourhood of Canso, which formerly were the most productive fisheries of Nova Scotia. They also land on the Magdalen Islands, set nets, and sweep seines in the spring of the year, at a time when the herring resorts to those waters to spawn, thereby destroying the spawn and young fish, and consequently ruining the fishery.

The opinion of the Law Officers of the Crown in England is requested on the following points:—

1. Whether the Treaty of 1783 was annulled by the war of 1812, and whether the citizens of the United States possess any right of fishery in the waters of the Lower Provinces other than ceded to them by the Convention of 1818, and if so, what right?

2. Have American citizens the right under that Convention to enter any of the bays of Nova Scotia to take fish, if, after they have so entered, they prosecute the fishery more than three marine miles from the shores of such bays; or should the prescribed distance of three marine miles be measured from the headlands at the entrance of such bays, so as to exclude them?

3. Is the distance of three marine miles to be computed from the indents of the coasts of British America or from the extreme headlands, and what is to be considered a headland?

4. Have vessels of the United States of America, fitted out for fishing, a right to pass through the Gulf of Canso, which they cannot do without coming within prescribed limits, or to anchor there, or to fish there; and is casting bait to lure fish in the track of their vessels fishing within the meaning of the Convention?

5. Have citizens of the United States of America a right to land on the Magdalen Islands, and conduct the fishing from the shores thereof by using nets and seines; or what right of fishery do they possess on the shores of those islands, and what is meant by the term shore?

6. Have fishermen of the United States of America the right of entering the bays or harbours of the Province of Nova Scotia for the purpose of purchasing wood and obtaining water, having provided neither of these articles at the commencement of their voyages in their own country, or have they the right only of entering such bays and harbours in cases of distress, or to purchase wood and obtain water after the usual stock of those articles for the voyage of such fishing craft has been exhausted or destroyed?