POOR DOCUMENT

THE SEMI-WEEKLY TELEGRAPH, ST. JOHN N. B., JANUARY 7, 1803

NEW BRUNSWICK'S CLAIMS FOR FISHERY AWARD.

ATTORNEY-GENERAL PUGSLEY AND SUBMITTED TO THE DOMINION GOVERNMENT-A STRONG CASE SET FORTH FOR. NEW BRUNSWICK.

General Pugsley's argument submitted to perusal of the fishery articles in that the dominion government in the matter treaty. of the Fishery Award in which there is widespread interest and by which, if the British crown has always asserted and contention of the provinces is sustained, New Brunswick will receive in all about

It is proposed to deal generally and fully with the question of the right of the province to be paid its proportion of the Halifax award, the other questions, viz., as to the proprietary rights of the province in the inshore fisheries, being necessarily involved in the fisheries.

wolved in the first.

By article 18 of the treaty of 1871 between Great Britain and the United States (the treaty of Washington) it was agreed that, in addition to the liberties secured to the United States under the treaty of 1818 of taking, curing and drying fish on certain coasts f the British North Ameri-can colonies, the United States should can colonies, the United States should have in common with British subjects, for the term of years mentioned in article 33 of the treaty, the right to take fish of every kind, except shell fish, on the sea coast, on the shores and in the bays, harbours and creeks of the provinces of Quebec, Nova Scotia, New Brunswick and Prince Edward Island, and of adjacent islands, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores

privideges to British fishermen on the east-ern sea coast and shores of the United States, north of the 39th parallel of North and in the bays and creeks of the said coasts and shores and islands, without

Article 22 provided that, inasmuch as Great Britain claimed that the United States would gain greater benefits under this treaty than would accure to Great Britain, a commission should be appointed to determine the amount of any commission which is the appoint of the pensation which in the opinion of the pensation which in the opinion of the commission ought to be paid by the government of the United States to the government of her majesty in return for the greater privileges which it was alleged would be so enjoyed by the United States and which amount was to be paid the

Article 32 provided that the articles 18 d to Newfoundland as far as applic

missioners were appointed and entered upon the discharge of the duties imposed

The commissioners, by their award dated the 23rd of November, 1877, award ed the sum of \$5,500,000 to be paid by the government of Great Britain. The amoun of the award having been paid by the United States, the British government paid to the government of Newfoundland \$1,000,000 thereof, and the balance of \$4. \$1,000,000 thereof, and the balance of \$4, 600,000 to the government of Canada. In the British case laid before the commission that a belt or zone steamer in the British case laid before the commission that a belt or zone steamer in the British case laid before the commission that a belt or zone steamer in the British case laid before the commission that a belt or zone steamer in the British case laid before the commission that a belt or zone steamer in the British Channel within three miles of the coast of Kent and as a result of the collision, one of the passsion, it was claimed that in respect to Quebec, New Brunswick, Nova Scotia and twelve million dollars, and that Newfoundland should receive two million eight hundred and eighty thousand dollars.

New Brunswick now seeks to have its due proportion of said award paid to its

ject to the right of navigation, the sea and the land under it for three marine the coast of each country, is the property of such country. The authorities sustain-ing this doctrine are so numerous that this (three miles) question may be said to be

would seem that the English and American governments have estopped themselves by express words used in the different treaties made between them upon the subtreaties made between them upon the sub-ject of the inshore fisheries of the United States and the provinces of Canada from setting up that such fisheries are not the exclusive property of the nation owning exclusive property of the nation owning the adjoining shores. The matter was fully aly denied the right of the United expressly denied the right of the United States fishermen to fish in British waters, (that is the right to fish within three "In addition to the authority of the "In addition to the "In additi miles of the coast, because the right to fish on the Grand Banks of Newfoundland and in the open sea was admitted) or to land for the purpose of drying their

nets or curing their fish.

By the treaty of 1854, commonly called the Reciprocity Treaty, British waters on the Reciprocity Treaty, British waters on the coast of North America were thrown open to United States' citizens, and the United States' waters north of the 39th degree of north latitude were thrown open to British fishermen, excepting always the salmon and shad fisheries (which were exclusively reserved to the subjects of salmon and shad hence subjects of exclusively reserved to the subjects of each country), and certain rivers and such capture were made beyond this dispose. Certain articles of produce of the British colonies and of the United States and in fact the House of Lords, recogwere admitted to each country respec-tively free of duty. The treaty was to re-

Following is the full text of Attorney | against the other, as will appear from a

It would see clear, therefore, that the be the rules of international law as to other matters, or as between Great Britian and other nations, this much is certain that the governments of Great Britain and the United States have both formally and more than once acknowledged that each country has an exclusive control over, and proprety in, its respective inshore fisher es, and each, of course, while
admitting such exclusive control and
property in the other, claimed the same

For the purpose of this argument formal admissions would, it is contended, be sufficient; but the authorities, far from conflicting with the rights there express-ly conferred by each of these nations uptrine that every nation for a distance of But the rights of the crown were even op in his Criminal Law, par. 104. says ship of certain minerals found under the that the sea adjoining the coast is within sea beyond low water mark and within the territorial sovereignty which controls the three mile limit. It was first de-the adjacent shores. In the case of Reg. cided that the prince was the owner of all the adjacent shores. In the case of Reg.

v. Keyn, Lindley J. says at p. 89:—

"The contention of Mr. Benjamin, that the high seas adjoining the land are not to all legal intents and purposes the same as the land, appears to me to be well founded; for those seas are subject to a syrrything found beyond that point but

founded: for those seas are subject to a everything found beyond that point, but freedom of passage which land is certain-ly not; and but for the statutes above troversy was referred, decided in favor of referred to, or some other enactment or the crown, and by the above mentioned evidence shewing that offences on the act his decision was declared to be good high seas were punishable by English law, I should not hold that the criminal law applicable to the land had any application beyond it."

act his decision was declared to be good law. This decision and Act were much relied upon by L. C. J. Coleridge in his judgment in the case of Reg. v. Keyn, and though L. C. J. Cockburn in his

"I am, however, unable to assent to Mr. Benjamin's further contention, viz., that the dominion of a state over the seas ad- has not done so. joining its shores exists only for certain definite purposes for which such dominion has been conceded to it by other nations; that the crown has not and could not i. e., the protection of its coasts from the effects of hostilities between other nations which may be at war, the protections which may be at war, the protection of its revenue and of its fisheries, ted, does not go to this extent. The court

tion of its revenue and of its fisheries, and the preservation of order by its police. On the contrary, I think the weight of authority is entirely in favor of a general dominion for all purposes consistent with peaceful navigation."

In the case of The Leda, Swa. Adm. 40, the words "United Kingdom" were held by Dr. Lushington to include three miles from the shore. Grove J. in his judgment in Reg. v. Keyn at p. 109, says:

"The proposition that a belt or zone to do this extent. The court was divided as nearly equally as a court to six; and of the seven, Bramwell, J. A., expressly puts his decision on the narrowest possible ground, that as the jurisdiction claimed had never been claimed before, it never existed. The facts of that case were that a German vessel, the Franconia, of which the defendant, Keyn, was the captain, collided with a British steamer in the English Channel within termed territorial water-is the property

of that nation, as a river flowing through its land would be, or, if through its land would be, or, if not the property, is subject to its jurisdiction and law, is not in its terms of ancient date; but this defined limit, so far at least as a maritime country like court to try a foreign seaman for an of fence committed on board a foreign voy tion than an enlargement of its earlier claims, which were at one time sought to be extended to a general dominion on the sea, and subsequently over the channels between it and other countries, or, as they were termed, the narrow seas. The origin of the three-mile zone appears undoubted. It was an assumed limit to the range of cannon, an assumed distance of which a nation was supposed able to exercise dominion. The majorit. The majorit.

Apart altogether from the authorities, which a nation was supposed able to exwhich will be referred to hereafter, it would seem that the English and American Puffendorf, Bynkershoek, Casaregis, Mozer, Azuni, Kluber, Wheaton, Hautefeuille, and Kaltenborn, though not all placing the limit of territorial jurisdiction at tion to the jurisdiction, but seem to regard it as if, having regard to the difference of land and water, it were an absolute territorial possession." And again at

publicists, this three mile range, if not expressly recognized as an absolute boundary by international law, is yet fixed on, apparently without dispute, in Acts of Parliament, in treaties, and in judgnents of courts of law in this country

and America." C. Rob. 162. Lord Stowell held that a vessel lying in the open sea but within n Prussian territory and could not make a valid capture by her boats even though tance. In Gammel v. Commissioners of Woods and Forests, 3 Macq. 465, both nized that not only was the three mile

main in force for twelve months after either party was a case in which a dispute had arisen between the crown and the owner of a wight to terminate the same. And find the wight to terminate the same. And find the wight to terminate the same exclusive rights were recognized by both governments and were set off one by both governments and were set off one which a dispute had arisen between the crown and the owner of a majesty of the province. At page 1539 of the province. At page 1539 of the provinces named, the value of the value of the value of the very large catches could be made in the obdies of those bays, and that the fish other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheries and the other in return for the right of participating in the inshore fisheri



THE SCOTTISH CURLERS.

Provost Gordon, Bathgate.

Dirleton, captain.

Provost Ballantyne, Peebles Major Bertram, Medwin. R. Bramwell, Upper Nithsdale Robert Cousin, Mershiston. A. E. Campbell, Gourock. Major Scott Davidson, Hercule

This case of Reg. v. Keyn, 2 Ex. Div.

63, may be cited as an authority to shew

engers on the British ship was drowned. The captain being in England, was indict-

jurisdiction which formerly could have been exercised by the admiralty, they were of the opinion that the conviction was right. The majority of the court, however, held that the criminal court had

no such jurisdiction. It was admitted by all the judges, however, even by Cock-burn, L. C. J., who gave the leading judgment for quashing the conviction, that parliament could have conferred such

authority upon the central criminal court.
but that it had not done so. But whatever
may have been the effect of the decision
in the above case if left untouched, it

red to and described in the words of Lord Halsbury in Carr v. Fracis, Times and Company, 62 L. J. H. L. 361, 1902 May

Number Appeal Cases. This act, whi

was known as the territorial jurisdiction waters act, 1878, reversed the decision

was declared never to have been law.

The preamble to this statute recites "Whereas the rightful jurisdiction of he

majesty, her heirs and successors extends and has always extended over the open

W. Henderson, Kinnochtry.
R. Johnston, Upper Annandale.
Dr. Kirk, Bathgate.
D. Bentley Murray, Airthery Castle.

mitted on board or by means of a foreign ship, and the person who committed such offence may be arrested, tried and pun-

ished accordingly. coast, on the thores and in the bays, harbours and creeks of the provinces of Quebours and Creeks and creeks and provinces of Quebours and Creeks of the provinces of Quebours and Creeks and Cr more emphatically stated in the Act of within the territorial waters of her majesty's dominions." beyond low water mark and within In delivering his judgment in Carr v.

Fracis, Times & Co. (May No. of App. Cases 1902) the Lord Chancellor, referring to Reg. v. Keyn says on p. 181: "For whatever purpose Reg. v. Keyn was quoted, this I think is manifest, speaking of it as an authoritative judgment, I cannot Mr. Justice Pattison, to whom the convery narrow majorsty) in that case was one that was not the law of England, be and the right of landing, drying nets and curing fish. cause the act does not purport simply to alter the law, but it declares the law 1540 and 1541. Mr. Foster further rejudgment in the same case endeavors to avoid the force of it, it is submitted he

"My lords, while I say that, it is only right to add that a great deal of the argument in that case, indeed I think I may say the judgment of Cockburn, C. J., who gave the leading judgment on that side 'the question is not whether or not this tract of land covered by water is one over which this country could legislate, but the question is whether it has legislated over it,' and then he proceeds to point out that this country had not legislated in such a way as to give the ordinary courts of law the jurisdiction which was insisted upon in that case." that case were that a German vessel, the Franconia, of which the defendant, Keyn,

Lord Lindley in Carr v. Fracis, Times & Co., with regard to Reg. v. Keyn on p. 186, says "Mr. Walton relied on passaged in the judgments in the celebrated case

ness admit that it bears as strongly or

See p. 1539 of proceedings before the com-mission of Halifax 1877, (documents and proceedings of the Halifax commission, 1877, printed at the government printing office, Washington, 1878) where Mr. Fosomee, Washington, 18/38 where Mr. 180 ter, agent for the United States, says:
"The concession made to the citizens of
the United States (meaning the concession by the treaty of 1871) is the right to the treaty of 1818, etc." It may be ar-firmed without any possibility of success-ful contradiction that the United States did not put forward any argument or proposition that involved a doubt, but of the majority of the judges in Regina v. Keyn, and the doctrine of the decision only right which the United States had to the same was by the treaty of 1871

and has always extended over the open seas adjacent to the coasts of the United Kingdom and in all other parts of her majesty's dominions to such a distance as is necessary for the defence and security of such dominions. And whereas, it is expedient that all offences committed on the open sea within a certain dictance of the coasts of the United Kingdom and the property of the coasts of the United Kingdom and the property of the coasts of the United Kingdom and the property of the coasts of the United Kingdom and the property of the coasts of the United Kingdom and they further conceded thereby that the treaty of 1871, and they further conceded thereby that the treaty of 1871, and they further conceded thereby that the treaty of 1818 excluded them from any right of fishing within the three majestics of the coasts of the coasts of the United Kingdom and in all other parts of her majesty's dominions. The Halifax commission proceeded thereby that the treaty of 1818 excluded them from any right of fishing within the three mile limit of the British territories. The Halifax commission proceeded to any right of fishing within the three mile limit of the British territories. of the coasts of the Officed Kingdom and of all other parts of her majesty's dominions by whomsoever committed should be dealt with according to law."

D. Murray, Kelvindock.
James McGregor, Camperdown.
Henry Prain, Castle Huntly.
D. Provan, Craighlockhart.
G. Deans Ritchie, Proughton United.
Mark Sanderson, Duddington. E. Gibson, Biggar. R Husband, hon. secretary and treasurer,

In the seventh section of this act it is declared as follows: The territorial within the three mile limit and for landconcessions made to the citizens of the United States is the right to fish inshore without being excluded three miles from the shore as they were excluded by the the shore as they were excluded by the treaty of the claim that the coast waters of the the shore as they were excluded by the whatever purpose Reg. v. Keyn was quoted, this I think is manifest, speaking of it as an authoritative judgment, I cannot forbear from saying that somewhat unforbear from saying the shore as they were excluded by the renunciation contained in the treaty of land on the coast and shores and islands for the purpose of drying nets and curing the shore as they were excluded by the renunciation contained in the treaty of land on the coast and shores and islands for the purpose of drying nets and curing the shore as they were excluded by the renunciation contained in the treaty of land of the coast and shores and islands for the purpose of drying nets and curing the shore as they were excluded by the renunciation contained in the treaty of a state of the coast waters of the shore as they were excluded by the renunciation contained in the treaty of the coast and shores and islands for the coast and shores and islands f forbear from saying that somewhat unusually the legislature of this country in the very next session but one passed an act of parliament reversing that judgment, that is to say, affirming in the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit that the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the three mile limit the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision of the commission are strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision of the commission are strongest terms that the decision which had been arrived at by the majority (a the fisheries within the strongest terms that the decision which had been arrived at the strongest terms that the decision which the strongest terms that th

The matter is again discussed on pages and says in very plain terms that that is and always had been the law of this pleased to observe and our friends on the other side to take notice that the United States utterly repudiates any obpay damages for any of these matters; that they maintain as they have from the first that the question submitted here is solely and exclusively the adjustment of equivalents relating to the inshore fish-

Mr. Foster is here referring to the desire of the United States to exclude the commercial portion of the British rbitrators found that under the treaty f 1871 the United States got more bene fit from the British inshore fisheries than did the British from the American in-shore fisheries, an award should be made for to the headland question. I feel that I

in favor of Great Britain.

chapter 73, it may be added that by it the jurisdiction of her majesty was extended over the coast waters not only of the United Kingdom, but of all her majesty's and to the landing and drying nets and to the counsel for her majesty's government, and that the United Kingdom, but of all her majesty's and to the landing and drying nets and to the landing and drying nets and part of the counsel for her majesty's government, and that the undergourness and part of the counsel for her majesty's government, and that the landing and drying nets and part of the counsel for her majesty's government, and that the landing and drying nets and part of the counsel for her majesty's government, and that the landing and drying nets and part of the counsel for her majesty's government.

principle entered into the award at all comes admit that it bears as strongly or conclusively the other way.

It is further submitted that the treaty of 1818 between Great Britain and the United States has, so far as these two nations are concerned, settled forever the question as to the right of property in the fisheries within the three-mile limit. See p. 1539 of proceedings before the comistion of property of the respective provinces and the fisheries within the three-mile limit. See p. 1539 of proceedings before the comist of the award at all comes to this: that in this part cular inportant that it was made for anything but what was the property of the respective provinces and the respective provinces and the respective provinces and the second of the respective provinces and the resp is that when framing the Treaty of Washington, the British commissioners explained that the fisheries within the liimts of maritime jurisdiction were the property of the several British colonies, and that it would be necessary to refer any arrangement which might affect colonial property or rights to the colonial or provincial parliaments: See p. 240.

As further showing the admitted inberest of the maritime provinces in the questions involved before the commission ed that it was recognized by the commissioners that each province was en-titled to be represented by counsel p. 13. It having been shown that the whole and, Nova Scotia and New Brunswick and for the right of landing upon the uninces in order to dry their nets and cure their fish, the question necessary to be decided is whether or not such sum so awarded does not belong to the separate sels in those bays. They have not done so. provinces rather than to the dominion at large. If the award had been divided to a very great extent, the value of the

THE FACTS IS A MASTERLY AND CONVINCING ONE. even at the time of making the award, | bays; but we tendered evidence chiefly it would hardly have been disputed that with relation to the fisheries within three this latter sum would have been the pro- miles of the shore, by no means intending perty of the individual provinces. Af, to have it understood-in fact, we expressherefore, it can be demonstrated that ly disclaimed the intention of having it the provinces are entitled individually to such amount as may have been given on account of the inshore fisheries the

THIS PROVINCE'S SHARE, WITH INTEREST

IS ABOUT \$2,000,000, AND THE ATTOR-

NEY-GENERAL'S PRESENTATION OF

other would follow in the same direction and you may dismiss it, therefore, from as a matter of course. as a matter of course.

First, as to the meaning of the term "inshore fisherics." Whatever may have been the case as to Newfoundland, a very slight and hasty glance at the proceedings of the commission will show that the right of taking fish within the three mile limit measured according to the American view by following the sinusoistic states are not according to the control of the course o as regards the other provinces, namely, Quebec, Prince Edward Island, Nova Scotia and New Brunswick, the term includes and only includes fisheries within the three mile limit; in fact the provinces of the sea more than six miles in width at their entrance, and whatever claims might be made in reference to fishing outside of the three mile limit in such layer as the Bay of Fundy, Miramichi Bay, the only dispute between the high contracting parties before the fishery commission upon this point was as to the manner in which the said three mile mission by the British side of any fishing limit was to be ascertained, the agent for save that done within three miles of the

ays or arms of the sea, the entrance of

county of Northumberland, is clearly held and forcibly expressed by Mr. Thompson in his closing argument on behalf of Great Britain before the fishery commissioners. He says: "They (the Americans) have not apprehend they must pay. If a man has a I presume he must pay compensation for it; I presume he cannot get the right unless compensation is agreed upon. That is what we say, taking fish from our waters is precisely the same as taking trees off our land."

The opening passages of Mr. Thompson's

address also show clearly for what rights of fishing the British were claiming com of citation.

"which, if I may use the expression o my learned friend, the agent of the Unite States, at one time appeared likely can congratulate this commission that, f of Reg. vs. Keyn, but they do not, nor does any authority that I know of justify your lordships in going so far as this and in the absence of authority your lordships ought not in my opinion to accede to Mr. Walton's argument."

In respect to the statute 41 and 42 Vic., chapter 73, it may be added that by it the jurisdiction of her majesty was extended by the presented to the proceedings.

The decision of the commission to exclude the commercial claim was delivered at page 1585 of the proceedings.

Mr. Galt, while aquiescing in the decision, intimates that he thinks the two governments in making the treaty of 1871 had no idea of so limiting the end of the purpose of their decision upon the clude the commercial claim was delivered and the subject submitted to them, that question this inquiry. But I wish to guard my self distinctly from assenting to the view presented by Mr. Foster, when alluding the treaty of 1871 had no idea of so limiting the end of the purpose of their decision upon the clude the commercial claim was delivered and the subject submitted to them, that question the subject submitted to them, that question the subject submitted to them, that question in this inquiry. But I wish to government in making the treaty of 1871 had no idea of so limiting the end of the purpose of their decision upon the clude the commercial claim was delivered and the purpose of their decision upon the clude the commercial claim was delivered and the clude the commercial claim was delivered. dominions. Those therefore who relied upon the decision of the majority of the court in Reg. v. Keyn as being an authority strongly or conclusively against the provincial contention must now in fairness admit that it bears as strongly or tlement of that much-vexed quest on. In cidentally, no doubt, it might have faller within your province to determine whether can government, in reference to that que bodies of great bays, such as Miramich once necessary to come to a decision a to whether we were entitled to be credite with those catches. But, in fact, no such evidence has been given. And that course was taken somewhat with the view of sparing you the trouble of investigating that question, when the treaty did not empower you to effect a final decision of it. The learned counsel, associated with and myself shaped our evidence as muc as possible with reference to the inshore fisheries. We concluded that if the American government, who had put this matter

commission there is no evidence of that,

your minds."

From this it would appear that all the

Again, the British claim, as put by Mr. Doutre in his final address to the com-

was finally admitted by the counsel of both parties that evidence should only be offered as to fishing within the three miles as measured according to the value of those inshore fisheries, as compared to a privilege of a similar character, amounted by the United States' to the subjects of her majesty, on some parts of the United States' coasts, and then to inquire what appreciable benefit may, result to the Canadians from the admission of the produce of their fisheries in the United States, free of duty, in excess of a simliar privilege granted to the United States' citizens in Canada; and if over that made to the subjects of her

of the British North-American coast fish eries, I think I may with all safety say that in the waters surrounding the threemile limits there are no deep-sea fisheries at all. The assert on may appear hazard-ous to our American friends, but I am mind them of the whole bearing of their own evidence. No doubt their witnesses fisher es proper; but is there one of their witnesses who has ever pretended to have caught fish in any other place than banks

when it was not inshore? "There is an enormous quantity of testimony produced on the part of her najesty's government to show that the United States' fishing fleet constantly, hroughout the season, fished within three miles of aimost all the shores of the Gulf of St. Lawrence, on the shores of Nova Scotia (including all the shores of Cape Breton), the shores of Prince Edvard Island, the west shore of the gulf, the shores of the Bay de Chaleur and Gaspe, both shores of the River St. Lawrence, and the whole north shore to Labrador, the shores of Articosti, as well s the shores of the Bay of Fundy. The various fleets of United States' vessels were very seldom, if ever, during the ishing season, out of sight of very large numbers of respectable and intelligent vitnesses residing on various parts of the coast, whose sworn evidence has been received by the commission. Besides, vitnesses too numerous to mention have given evidence, sufficient literally to fill volume, of having fished in American ottoms, and they testify that the comnon custom of the various fleets was to ish within three miles of all the shores hrown open by the Treaty of Washing-

As to what the commission were limit d in awarding compensation see Mr. Coster's closing argument:

"The decision of the commission, made on the 6th September, by which it was ield not to be competent for this tribuhal to award compensation for commer-tial intercourse between the two coun-tries, or for purchasing bait, ice, supblies, etc., or for permission to tranship he principle—the obvious principle, per-uaps I may properly say—that no award an be made by this tribunal against the United States, except for rights which or the period of twelve years, they be ong to our citizens, and cannot be taken rom them. For advantages conferred by the treaty, as vested rights, you are em-

That which you have been empoware gainers by having, for the term of welve years, liberty to take fish on the can government, who had put this matter prominently forward in their brief, in tended to challenge a decision from this tended to challenge a decision from this minions, without being restricted to any distance from the land. It is the right fishing. In other words, the removal of a restriction by which our fishermen were forbidden to come within poses, and that is all. No rights to anything upon the land are conferred upon the citizens of the United States under the treaty, with the single excep-(Continued on page 8, first column.)