

either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such Settlement without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

When that Treaty of Peace was signed the British Navigation Act of Charles II and other laws prevented trade in foreign vessels with the Anglo-American Colonies. The corner-stone of that policy was a monopoly of colonial trade for British vessels. The American Colonies were founded in subservience to British commerce. A double monopoly was established by England—a monopoly of their whole import, which is all to be from England; a monopoly of their whole export, which is to be sent nowhere but to Great Britain. The Colonies were to send all their products raw to England, and take everything from England in the last stage of manufacture. The Treaty of Peace did not stipulate for a change of that policy as between the United States and Canada, although the American Congress did, in April 1776, sweep away, so far as it could, that monopoly system from the ports it controlled, abolish British custom-houses and put none in their stead, proclaim absolute free trade in the place of heavy restrictions, invite products from any place to come in friendly vessels, and authorize American products to be exported without tax.

After the thirteen States had acquired their independence, American vessels were not only excluded from the ports of the British colonies, but Canada, as a reward for its loyalty, received the exclusive privilege of supplying the British West Indies with timber and provisions, to the great injury of the latter, whose nearest ports were the American Gulf ports and South American ports.

It will be observed that this Article, in ~~confirming~~, confirming, and establishing the thirteen States and their inhabitants in the taking of fish on the banks, in the gulf, and in the sea, uses the word "rights," but uses the word "liberty" in confirming to American fishermen the taking of fish on the coasts, bays, and creeks of every part of the British dominions in America. The word "rights" is thus applied to fishing in the open sea, which by public law is common to all nations, and was intended to affirm that Great Britain did not claim to hold by Treaty engagements, or in any other manner, an exclusive right of fishing therein. The word "liberty" is thus applied to taking fish, to drying and curing fish, on what was, anterior to the Treaty, within the jurisdiction, or territorial waters, of Great Britain, but an exclusive right of taking fish therein was not hers. "Liberty," as thus used, implies a freedom from restraint or interference in fishing along the British coasts.

Canada having been, by the aid of men of the New England Colonies, conquered for the English in 1759, the conquest having been confirmed in 1763 by the Treaty of Paris, and the sovereignty of Newfoundland having been conceded to Great Britain by the peace of Utrecht in 1713, the American colonists, who bravely endured sacrifices in war to accomplish those results, shared therein, as British subjects, down to 1783, when, by Treaty, England stipulated that the citizens of the "free, sovereign, and independent States" of America shall continue to share, and share alike, with British subjects in such coast fishing. Lord North having, in 1775, proposed to the House of Commons to exclude the fishermen of New England from the banks of Newfoundland, and to restrain them from a toil in which they excelled the world, the joint right to the fisheries became a vital part of the great American struggle. "God and nature," said Johnston, "have given that fishery to New England, and not to Old." Americans, Britons, and British Canadians became by the Treaty partners in the fisheries. It created a "servitude of public law" in favour of American fishermen. All British "coasts, bays, and creeks" in America were thereby, as Secretary Manning so aptly says, made a part of our "American fisheries," to which our Tariff laws, thereafter enacted, referred and attached, and so made the products thereof exempt from duty on entry at our ports.

The Treaty of Ghent.

Thus stood American rights and liberties of fishing on the high seas, and within the limits of British dominion in North America, down to the war of 1812, and to the Treaty of peace negotiated at Ghent, which closed that war. Till then it was nowhere denied that American fishermen could fish on the high seas and on those coasts wherever British fishermen could fish. But during the negotiations at Ghent, in 1814, the British negotiators declared that their Government "did not intend to grant to the United States gratuitously the privileges formerly granted by Treaty to them of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the British fisheries." In answer to this declaration the American negotiators said they were "not authorized to bring into discussion any of