

May 3, 1872

of the principle of exclusion, the American fishermen were driven out of those waters. At that time the United States were free from debt, and from taxation, and they had large capital invested in their fisheries. Our fisheries were then in their infancy. They were a peaceable people just beginning as fishermen, with little capital and little skill and their operations were very restricted. I do not speak disparagingly but in comparison with the fishermen in the United States there was an absence of capital and skill which existed there. The United States were free from taxation; they had this capital and skill and all they wanted was our Canadian waters to exercise that capital and skill. But how is it altered? It can be no lever now.

What do the United States care for our fisheries? The American fishermen are opposed to the Treaty. Those interested in the fisheries are sending petition after petition to the United States Government and Congress praying that the Treaty may be rejected. They say they do not want to come into our waters. The United States Government has gone into this Treaty with every desire to settle all possible sources of difficulty. Their fishermen complain that they will suffer by it but the United States Government desire to meet us face to face, hand to hand, and head to head, and to have an amicable settlement of all disputes. They know that they are not making political friends or gaining political strength, because nearly the whole of the United States are against the Treaty. But they desire that the ill feelings which arose during the rebellion, and from the Alabama case, should be forgotten. A feeling of friendship has grown up between the nations, and it can be no other desire than to foster and encourage that feeling which dictates the agreeing to this Treaty. The United States Government will simply say; well, if you do not like these arrangements, reject them—and the consequence may be on your own head that this friendship so auspiciously commenced is broken by unhappy collisions in your own waters.

AFTER RECESS

Hon. Sir JOHN A. MACDONALD resumed as follows: I am afraid I must apologize to the House for the uninteresting manner in which I have laid the subject before the House so far. I was shewing, as well as I could, my opinion and my reasons for that opinion, that under the circumstances the Treaty, although it is not what we pressed for, ought to be accepted. I shall not pursue that branch of the subject to greater length, as during the discussion of the measure I have no doubt that I shall have again an opportunity to re-urge these and further views on the same subject as they may occur to me, or as they may be elicited. I shall however call the serious attention of the House, and especially of those members of the House who have given attention to the question in dispute, as regards the powers and validity of the several Treaties between the United States and England and the importance of this Treaty, in respect that it sets at rest now, and forever, the disputed question as to whether the Convention of 1818 was not repealed and obliterated

by the Treaty of 1854. This question, Mr. Speaker, is one that has occupied the attention of the United States and has been the subject of serious and elaborate articles.

From my point of view the pretension of the United States is erroneous and has been pressed; and we know the pertinacity with which such views are pressed by the United States. We have an example in the case of the navigation of the river St. Lawrence which while it was discussed from 1822 to 1828 and was apparently settled then forever between the two nations, was revived by the President of the United States in his address of 1870 and the difference between the point of view pressed in 1828 by the United States and that pressed in 1870 was shewn by the result of the Treaty.

Hon. Mr. BLAKE: Hear, hear.

Hon. Sir JOHN A. MACDONALD: The hon. gentleman cries “hear, hear”, and I say so too.

And, Sir, it was of great importance in my point of view that this question, which has been so pressed by American jurists, and considering also the pertinacity with which such views are urged, should be set at rest forever. The question has been strongly put in the American Law Review of April, 1871 in an article supposed to have been written by Judge Story, a jurist of long standing in the United States, and that paper, I believe, expresses his candid opinion—erroneous though I hold it to be—as a lawyer, of the rights of the Americans; and his candour is shown by this fact, as well as from the known standing of the man, that in one portion of the article he demolishes the claim of his own countrymen to the right to trade in our water. He proves by a concise and able argument that the claim of American fishermen to enter our harbours for any purpose other than wood, water, and shelter, is altogether without foundation.

The view taken by that writer and others—and among others by a writer whose name I do not know, but whose papers are very valuable from their ability—they appeared in the New York Nation—is this: The Treaty of 1783, was a treaty of peace, a settlement of boundary, and a division of country between two nations. The United States contended that that Treaty was in force, and is now in force, as it was a treaty respecting boundary, and was not abrogated or affected by the War of 1812. Under the Treaty of 1783, and by the terms of that Treaty, the fishermen of the United States had the unrestrained right to enter into all our waters up to our shores, and to every part of British North America. After 1815, England contended that that permission was abrogated by the war and was not renewed by the Treaty of Peace of 1814. The two nations were thus at issue on that very grave point, and those who look back to the history of that day will find that the difference on that point threatened the renewal of war, and it was only settled by the compromise known as the Convention of 1818, by which the rights of the Americans were pronounced within three miles of our