

that by the Convention of 1818, the United States had renounced the right of fishing, not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. But the question, what is a British bay or creek, being one that had been the occasion of difficulty in former times, it was not at present the wish of Her Majesty's Government either to concede or, for the present, to enforce any rights in this respect which were in their nature open to any serious question. Even before the conclusion of the Reciprocity Treaty Her Majesty's Government had consented to forego the exercise of its strict right to exclude American fishermen from the Bay of Fundy; and they were of opinion that during the (then) present season that right should not be exercised in the body of the Bay of Fundy, and that American fishermen should not be interfered with either by notice or otherwise unless they were found within three miles of the shore or within three miles of a line drawn across the mouth of a bay or creek which was less than ten geographical miles in width, in conformity with the arrangement made with France in 1839. American vessels found within these limits were to be warned that by engaging or preparing to engage in fishing they would be liable to forfeiture, and should receive the notice to depart contemplated by certain local laws; but they should not be carried into port except after wilful and persevering neglect of the warnings which they might receive; and in case it should become necessary to proceed to forfeiture, cases should, if possible, be selected for that extreme step in which the offence of fishing had been committed within three miles of land.

It was stated that Her Majesty's Government did not desire that the prohibition to enter British bays should be generally insisted on, except when there was reason to apprehend some substantial invasion of British rights. And in particular, they did not desire American vessels to be prevented from navigating the Gut of Canso (from which Her Majesty's Government were advised they might be lawfully excluded), unless it should appear that this permission was used to the injury of Colonial fishermen, or for other improper objects.

The limit of ten miles across the mouth of bays, referred to in these instructions, was adopted by Canada, but was subsequently changed under directions from Lord Granville, 6th June, 1870; the Canadian Government being informed that Her Majesty's Government thought it advisable that United States fishermen "should not be excluded from any waters, except within three miles of shore, or in the unusual case of a bay which is less than six miles wide at its mouth that spreads out to a greater width within."

With regard to the right of fishing vessels to enter ports on the same footing as trading vessels, Lord Kimberley informed the Governor-General