

of the former British possessions in North America, and that, in the partition, the rights of fishing on the coasts of the remaining Provinces, fell to the lot of the United States.

In accordance with a universally recognized principle the exclusive right of fishing within three marine miles of the coasts at least follows the ownership of the coasts—the United States did not own the coasts on which Article III of the Treaty of 1783 gave them the liberty to fish. Moreover, it seems inconsistent with the “partition” theory that the liberty, which was conceded by the Treaty, was to be exercised jointly with the enjoyment of the fisheries by the subjects of Britain. The concession then of 1783 may be regarded as a treaty concession, and not as the acknowledgment of a pre-existing right.

The reason for this concession may perhaps be found in the condition of Europe at that period, and in the fact that the coasts of the Atlantic Provinces were very sparsely settled. It was probably induced also, to a large extent, by the concessions on the part of the American plenipotentiaries, in reference to the navigation of the Mississippi and the American lakes by British vessels.

Speaking on the subject in 1814, Mr. Canning brought to the notice of the British Parliament, the necessity for revising the provisions of Article 3 of the Treaty of 1783. He said:—“In our Treaty of 1783 we gave away more than we ought, and we never hear of that Treaty but as a trophy of victory on the one hand, or a monument of degradation and shame on the other. We ought to refer any question with America to the state in which we now stand rather than that in which we once stood.”

But even the very liberal provisions of the Treaty of 1783 did not continue to the people of the United States all the privileges, with regard to the fisheries, which, as British subjects, they had previously enjoyed. They were not to be allowed to land, to dry and cure their fish on any part of Newfoundland, and only on the unsettled parts of Nova Scotia, the Magdalen Islands and Labrador, so long as the same should remain unsettled. They retained no right to land on the shores of Cape Breton, or on Prince Edward Island.

The War of 1812 produced the next change. According to a principle of international law, which will be discussed hereafter at greater length, it was claimed, on the part of Great Britain, that the fishery provisions of the Treaty of 1783 were terminated by that war. When peace was concluded, in 1814, the liberty of the people of the United States to fish on the British North American coasts, and the right to use parts of the shores of British America for purposes connected with the fisheries became again the subject of controversy. The British Commissioners stated at the first meeting, which took place on the 8th August, 1814: “That the British Government did not intend to grant to the United States gratuitously the privileges formerly granted to them by Treaty of fishing within the limits of British territory or of using the shores of the British territories for purposes connected with the fisheries.”