

British subjects, is as complete and absolute as is the right of citizens of New York to fish in the waters of the Hudson River. The Treaty of 1818 furnishes no more excuse for the exclusion of a deep-sea fisherman from the port of Halifax, or any other open port of the Dominion of Canada, than for the exclusion by the Secretary of the Treasury of a deep-sea fisherman from entering the port of New York according to the forms of law, and for the ordinary purposes of trade and commerce. The exclusion, if made, must be justified, if at all, for other reasons than any yet given by Canada.

Keeping in mind the words of the IIIrd Article of the Treaty of Peace in 1783, which not only acknowledged the right of the united American Colonies to fish in the open sea as freely as to navigate the open sea, but also acknowledged and stipulated for the liberty to "take fish of every kind" on coasts, bays, and creeks of all of His Britannic Majesty's dominions in America, it will be discerned that this contention of the Privy Council of Canada makes of the renunciation by the United States in 1818 of the liberty theretofore enjoyed or claimed by American fishermen within 3 miles of certain carefully defined coasts, bays, creeks, or harbours, not merely a renunciation of specific local liberty, but a forsaking, a relinquishment, a surrender, an abandonment by the United States of other rights held up to 1818.

*Certain Canadian Coasts are subservient to American Fishermen.*

The Treaty of 1783 diminished and impaired, and was intended to diminish and impair, British sovereignty over the remaining British Colonies of North America. The United States had conquered full and complete dominion over the right of fishing in the jurisdictional waters of each of the thirteen United States, but the British Colonies did not emerge from the negotiations of the Treaty of Peace with similar dominion over the fisheries on the shores and coasts of the thirteen recognized States. British fishermen cannot fish on the coasts of Massachusetts, but American fishermen can fish on certain shores and coasts of the Dominion of Canada and of Newfoundland. Apart from fishing and the incidents of fishing, it is conceded that the British Government has exclusive control, as against the United States, of the customary and usual rights of navigation in the jurisdictional waters of the British Colonies. What we claim for ourselves, under the rules of public law, and apart from Treaties, we concede to others. Rights of navigation are ordinarily separate from rights of fishing. The Commonwealth of Massachusetts may control the right and liberty of fishing on her coast, as against any Power other than the Government of Washington, but the right of navigation of the jurisdictional waters of Massachusetts is always subject to the control of the United States. The use of waters in respect of navigation is easily distinguishable from the fruit of waters in respect to fishing or fish. The United States have, so far as the British North American Colonies and all the world are concerned, the right of navigating and fishing on the high seas, and in addition the right of fishing in certain British territorial and jurisdictional waters. That right of fishing, either inshore or offshore, should carry with it the natural and necessary navigating incidents of the right.

It may be conceded that, apart from the right of American fishermen to take fish of all kinds within certain clearly defined British waters, American deep-sea fishermen have no greater rights, by Treaty or public law, in British ports, than British fishermen have in American ports, so far as concerns revenue police, maritime tolls or taxes, pilotage, light-houses, quarantine, and all matters of ceremonial. But the contention of the Privy Council of Canada is, that if a vessel bearing the registry, or enrolment, or licence of the Treasury Department (which alone makes her an American vessel) be licensed, equipped, and under contract with her seamen as an American fisherman on the open sea, she thereby comes under the ban of the Treaty of 1818, and is thereby abandoned by the nation whose flag is at her mast-head, and is by the Treaty excluded from an entrance into a Canadian or Newfoundland port, excepting for one of the objects enumerated in that Treaty. Canadian ports are closed to her as to an outcast. An American or a Canadian fishing-vessel on the high seas, and lawfully wearing the flag of its country, should be, if permitted by its own Government to touch and trade, entitled to the same rights of navigation and the same treatment in a foreign port as any trading vessel.

*Canadian Inhumanity.*

If the Privy Council and the Governor-General of the Canadian Dominion excluded all American vessels from all rights of touching or trading in Canadian ports excepting to obtain shelter, repairs, wood, or water, the contention would be logical and more tolerable; but to every American vessel other than a fishing-vessel, be the fisherman big