

in fishing, and responding to the suggestion made to you by the Earl of Iddesleigh in the month of September last that a *modus vivendi* should be agreed upon between the two countries to prevent encroachment by American fishermen upon the Canadian inshore fisheries, and equally to secure them from all molestation when exercising only their just and ancient rights, I now inclose the draft of a Memorandum which you may propose to Lord Iddesleigh, and which, I trust, will be found to contain a satisfactory basis for the solution of existing difficulties, and assist in securing an assured, just, honourable, and therefore mutually satisfactory settlement of the long-vexed question of the North Atlantic fisheries.

I am encouraged in the expectation that the propositions embodied in the Memorandum referred to will be acceptable to Her Majesty's Government, because, in the month of April 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States' Minister in London, the draft of a Protocol which in substance coincides with the first Article of the proposal now sent to you, as you will see by reference to vol. i of the United States' Diplomatic Correspondence for 1866, p. 98 *et seq.*

I find that in a published instruction to Sir F. Bruce, then Her Majesty's Minister in the United States, under date of the 11th May, 1866, the Earl of Clarendon, at that time Her Majesty's Secretary of State for Foreign Affairs, approved them, but declined to accept the final proposition of Mr. Seward's Protocol, which is not contained in the Memorandum now forwarded.

Your attention is drawn to the great value of these three propositions as containing a well-defined and practical interpretation of Article I of the Convention of 1818, the enforcement of which co-operatively by the two Governments, it may reasonably be hoped, will efficiently remove those causes of irritation of which variant constructions hitherto have been so unhappily fruitful.

In proposing the adoption of a width of 10 miles at the mouth as a proper definition of the bays in which, except on certain specified coasts; the fishermen of the United States are not to take fish, I have followed the example furnished by France and Great Britain in their Convention signed at Paris on the 2nd of August, 1839. This definition was referred to and approved by Mr. Bates, the Umpire of the Commission under the Treaty of 1853, in the case of the United States' fishing-schooner "Washington," and has since been notably approved and adopted in the Convention signed at the Hague in 1882, and subsequently ratified in relation to fishing in the North Sea between Germany, Belgium, Denmark, France, Great Britain, and the Netherlands.

The present Memorandum also contains provisions for the usual commercial facilities allowed everywhere for the promotion of legitimate trade, and nowhere more freely than in British ports and under the commercial policies of that nation. Such facilities cannot with any show of reason be denied to American fishing-vessels when plying their vocation in deep-sea fishing-grounds in the localities open to them equally with other nationalities. The Convention of 1818 inhibits the "taking, drying, or curing fish" by American fishermen in certain waters and on certain coasts, and when these objects are effected, the inhibitory features are exhausted. Everything that may presumably guard against an infraction of these provisions will be recognized and obeyed by the Government of the United States, but should not be pressed beyond its natural force.

By its very terms and necessary intendment the same Treaty recognizes the continuance permanently of the accustomed rights of American fishermen in those places not embraced in the renunciation of the Treaty to prosecute the business as freely as did their forefathers.

No construction of the Convention of 1818 that strikes at or impedes the open-sea fishing by citizens of the United States can be accepted, nor should a Treaty of Friendship be tortured into a means of such offence, nor should such an end be accomplished by indirection. Therefore, by causing the same Port Regulations and commercial rights to be applied to vessels engaged therein as are enforced relative to other trading craft, we propose to prevent a ban from being put upon the lawful and regular business of open-sea fishing.

Arrangements now exist between the Governments of Great Britain and France and Great Britain and Germany for the submission in the first instance of all cases of seizure to the joint examination and decision of two discreet and able commanding officers of the navy of the respective countries whose vessels are to be sent on duty to cruize in the waters to be guarded against encroachment. Copies of these Agreements are herewith inclosed for reference. The additional feature of an Umpire, in case of a