

Day, and shall not take fish at the time they come to spawn. The judgment of the Chief Justice of Newfoundland, October 26th, 1820, is not held by the Tribunal sufficient to set aside the proclamations referred to. After 1783 the statute 26 Geo. III, cap. 26, 1786, forbids "the use, on the shores of Newfoundland, of seines or nets for catching cod by hauling on shore or taking into boat with meshes less than 4 inches"; a prohibition which cannot be considered as limited to the bank fishery. The Act for regulating the fisheries of New Brunswick, 1793, which forbids "the placing of nets or seines across any cove or creek in the province so as to obstruct the natural course of fish," and which makes specific provision for fishing in the harbour of St. John, as to the manner and time of fishing, cannot be read as being limited to fishing from the shore. The Act for regulating the fishing on the coast of Northumberland (1799) contains very elaborate dispositions concerning the fisheries in the Bay of Miramichi, which were continued in 1823, 1829 and 1834. The statutes of Lower Canada, 1788 and 1807, forbid the throwing overboard of offal. The fact that these Acts extend the prohibition over a greater distance than the first marine league from the shore may make them non-operative against foreigners without the territorial limits of Great Britain, but is certainly no reason to deny their obligatory character for foreigners within these limits;

(h.) Because the fact that Great Britain rarely exercised the right of regulation in the period immediately succeeding 1818 is to be explained by various circumstances, and is not evidence of the non-existence of the right;

(i.) Because the words "in common with British subjects" tend to confirm the opinion that the inhabitants of the United States were admitted to a regulated fishery;

(j.) Because the statute of Great Britain, 1819, which gives legislative sanction of the treaty of 1818, provides for the making of "regulations with relation to the taking, drying and curing of fish by inhabitants of the United States 'in common.'"

For the purpose of such proof it is further contended by the United States, in this latter connection:—

4. That the words "in common with British subjects" used in the treaty should not be held as importing a common subjection to regulation, but as intending to negative a