

coast-waters of the several States, to be "subject to the authority or will" of the United States or of any of the States of the Union, or "to be interfered with at all, whether reasonably or unreasonably."

And if the argument of "long-continued acquiescence," so strenuously claimed against Great Britain by the United States in the Alaska boundary case, and sustained by the American jurists on that tribunal, is a doctrine of International Law affecting national sovereignties, it must be held to be more forceful when claimed against the United States in these fishery disputes. In the Alaska case "the long-continued acquiescence of Great Britain" consisted chiefly of boundary lines on maps, published by subjects, and some officials, not representatives of the British Government in its relations with foreign powers. In these fishery cases, however, "the long-continued acquiescence of the United States" is evidenced by the executive actions of its Government, in agreeing to a succession of treaties conceding fishery privileges to American fishermen within the territorial coast-waters of Canada and Newfoundland, from 1818 to the signed, but Senate-unratified, Treaty of 1888,—the later ones recognizing the Colonial Sovereignty of legislative ratification,—and to the *modus vivendi* of 1888, operative in Newfoundland until lately, and still operative in Canada.<sup>50</sup> The fishery laws of Newfoundland, now objected to, had been passed prior to the Washington Treaty, as stated by Lord Salisbury; and as there is nothing in any of the protocols, or treaties, nor in the *modus vivendi* of 1888, objecting to the now impeached fishery laws, it is therefore reasonable to claim that by the legislative ratification clauses in these treaties, and the *modus vivendi*, and the official admissions of Secretaries Marcy, Bayard and Boutwell, quoted above, there has been "a long continued acquiescence" by the United

<sup>50</sup>The *modus vivendi* provides in clause 4: "Forfeiture to be exacted only for the offences of fishing, or preparing to fish, in territorial waters," which imports into the *modus vivendi* the statutory penalties for such offences. See Statutes of Canada, 1888, 51 Vict. c. 30. The previous Canadian Fishing Acts are recited in 31 Vict. c. 60, s. 20.