

construction, apply, it would follow that the treaty privileges are conceded only to those American vessels whose crews are American fishermen, and experts in the trade-business of fishing, and in the trade-work of drying and curing fish.

Another contention of the Secretary is that "When a vessel had produced papers shewing that she is an American vessel, the officials of Newfoundland have no concern with the character or extent of the privileges accorded to such vessel by the Government of the United States. No question, as between a registry and a license, is a proper subject for their consideration. They are not charged with enforcing any laws or regulations of the United States. As to them if the vessel is American, she has the treaty right, and they are not at liberty to deny it."³³

This contention is also fully answered by the Foreign Office Memorandum, which—in entire harmony with the previous decisions of Lord Salisbury in 1878, 1880 and 1881. Lord Granville, in 1880, Lord Rosebery and Lord Iddesleigh in 1886,—says:³⁴ "In the opinion of His Majesty's Government, American fishermen are bound to comply with all Colonial Laws and Regulations, including any touching the conduct of the Fishery, so long as these are not in their nature unreasonable, and are applicable to all fishermen alike."³⁵

The Foreign Office Memorandum is sustained by the following opinion given by the Law Officers of the Crown, Sir W. Atherton and Sir Roundell Palmer, on the 6th January, 1863, on the fishery clauses in the Treaties of 1818 and 1854:

³³An American law writer says: "There seem to be special reasons why the Dominion authorities may inhibit general commerce by Americans engaged in fishing. Their vessels clear for no particular port; they are accustomed to enter one bay or harbour after another as their needs demand, they might thus carry on a coasting trade; they would certainly have every opportunity for successful smuggling. Indeed this whole subject legitimately belongs to a local customs and revenue system, and not to the fisheries." *American Law Review*, 1870-1, vol. 5, page 414.

³⁴*Foreign Relations (U.S.)*, 1878-9, pages 284 and 323; 1880-1, pages 572 and 589; 1886, page 398; 1887, pages 447 and 469.

³⁵Correspondence, page 7.