

APPENDIX (B).

"In such capacity, your jurisdiction must be strictly confined within the limit of 'three marine miles of any of the coasts, bays, creeks, or harbours' of Canada with respect to any action you may take against American fishing-vessels and United States' citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed 6 geographical miles in width, you will consider that the line of demarcation extends from headland to headland either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof, at any place nearest the mouth where the shores are less than 6 miles apart, and may exclude foreign fishermen and fishing-vessels therefrom, or seize if found within 3 marine miles of the coast.

"*Jurisdiction.*—The limits within which you will, if necessary, exercise the power to exclude United States' fishermen, or to detain American fishing-vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion that, by the Convention of 1818, the United States have renounced the right of fishing not only within 3 miles of the colonial shores, but within 3 miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce, any rights in this respect, which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within 3 miles of the shore, or within 3 miles of a line drawn across the mouth of a bay or a creek which, though in parts more than 6 miles wide, is less than 6 geographical miles in width at its mouth. *In the case of any other bay, as Baie des Chaleurs, for example, you will not interfere with any United States' fishing vessel or boat, or any American fishermen, unless they are found within 3 miles of the shore.*

"*Action.*—You will accost every United States' vessel or boat actually within 3 marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within 3 marine miles of the entrance of any bay, harbour, or creek which is less than 6 geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof, not wider apart than 6 geographical miles, and if either fishing, preparing to fish, or having obviously fished, within the exclusive limits, you will, in accordance with the above-recited Acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation; but you are not to do so unless it is evident and can be clearly proved that the offence of fishing has been committed, and that the vessel is captured within the prohibited limits." (Session Papers, vol. iv., No. 4, 1871.)

APPENDIX (C).

The Secretary of State for the Colonies to the Governor-General.

Sir,

Downing Street, October 10, 1870.

I enclose a copy of a Memorandum, which I have requested Lord Granville to transmit to Sir E. Thornton, with instructions to communicate with you before addressing himself to the Government of the United States on the subject to which the Memorandum relates.

The object of Her Majesty's Government is, as you will observe, to give effect to the wishes of your Government, by appointing a Joint Commission, on which Great Britain, the United States, and Canada are to be represented, with the object of inquiring what ought to be the geographical limits of the exclusive fisheries of the British North American Colonies. In accordance with the understood desire of your advisers, it is proposed that the inquiry should be held in America.

The proposal contained in the last paragraph is made with a view to avoid diplomatic difficulties, which might otherwise attend the negotiation.

I have, &c.

(Signed) **KIMBERLEY.**

Governor-General the Right Hon. Sir John Young, G.C.B., G.C.M.G.

Memorandum for Foreign Office respecting a Commission to settle Limits of the right of exclusive Fishery on the Coast of British North America.

A Convention made between Great Britain and the United States on the 20th October, 1818, after securing to American fishermen certain rights to be exercised on part of the coasts of Newfoundland and Labrador, proceeded as follows:—

"And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within 3 miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above limits."

The right of Great Britain to exclude American fishermen from waters within three miles of the coast is unambiguous, and, it is believed, uncontested. But there appears to be some doubt what are the waters described as within 3 miles of bays, creeks, and harbours. When a bay is less than 6 miles broad, its waters are within 3 miles limit, and therefore clearly within the meaning of the Treaty; but when it is more than that breadth, the question arises whether it is a bay of Her Britannic Majesty's dominions.