

Officers of the day adopted the view of the Colonial Governments as to the limits within which foreign fishermen were prohibited from following their business. They acknowledged, indeed, that the Convention of 1818 did not take away the right to navigate the Strait of Canso, but they held that, independently of Treaty, no foreign country had that right, and that the Convention of 1818 did not concede it to the United States. A copy of the material part of the Law Officers' opinion is appended to this Memorandum. At a later date, in 1845, the Imperial Government, whilst insisting that the Bay of Fundy was a close bay under the Convention of 1818, nevertheless, as an act of grace and for the avoidance of disagreement, conceded to United States' fishermen the right to fish in any part of the Bay of Fundy, provided they did not approach within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick Proper, except for the purposes sanctioned by the Convention of 1818, namely, shelter, repairs, or supplies of wood or water.

4. In the same year the idea was entertained of accepting as bays, in the sense of the Convention of 1818, those bays only of which the entrance was not more than six miles wide. The idea was abandoned; but, by a correspondence which took place in 1850, Mr. Perley appears to have been disposed to interpret the Convention with a latitude as to bays upon which the Home Government was not prepared to act.*

5. Under these circumstances it was usual to issue to Admirals assuming the command on the North American and West Indian station instructions, of which the following extract from the instructions to Admiral Fanshawe may be taken as an example:—

“And as various complaints have been made from the authorities in Canada on the subject of the encroachments of American fishermen in the River and Gulf of St. Lawrence on the limits prescribed

* Mr. Perley proposed to exclude United States' fishermen from fishing within three miles of a line drawn from the northern extremity of Cape Breton to the eastern extremity of Prince Edward Island, thence to the northern extremity, thence to the north-east point of New Brunswick, thence across the Bay of Chaleur to the east point of Canada, thence to the east point of Anticosti, and thence to Mount Ioli on the Coast of Labrador.

*A. issued not long before
the Reciprocity Treaty*