

sea and return with the fruits of their labor at night. Our farmers in the same way go out in the early morning to their fields and bring in their harvest in the harvest time at night. If we preserve this policy which is embodied in the Treaty of 1888, the result will be, Mr. Speaker, that we will keep our fishermen at home, that we will make our fisheries a productive and a permanent industry in the country, and when by-and-bye the day will come when we will have, as all growing people must have, to raise a navy and support a navy for her own defence we have there the nucleus of a fine body of men out of which a navy can be made. It is a statesmanlike principle to guard our fisheries for our own people, and just as necessary as to guard our forests, our mining area or our marsh lands and not sell them *en bloc* to a stranger. The hon. member for Bothwell (Mr. Mills) said that the headland question was the great question, and I quite agree with him. It has been the material cause of the quarrel between the two peoples. It has been in controversy since 1818, and I agree with him that the difficulty, however, is largely a difficulty as to a principle of law, for the words of the treaty are reasonably clear. Hon. members all know very well the several contentions on this question. The rule, of course, is that the high seas are free from the dominion of any one and that the property in the fish there is free to all. Everyone understands that some small bays are part and parcel of the State that has its headlands and strand lying between them, but the controversy lies as to how large a bay must be before it may properly be called part of the high sea. When the plenipotentiaries met last November in Washington, they had before them the old Treaty of 1818, which simply says:

"Whereby American fishermen renounce forever their right to come into British seas."

The word "British" is not defined and the whole question has been how are we to come to the meaning of "British" or to its equivalent word "territorial?" The hon. gentleman said that in our negotiating this treaty we had gone to the American Government in a spirit of 200 years ago and that our diplomacy was a mediæval one. I tell the hon. member for Bothwell (Mr. Mills) that his law is mediæval law, and that he has quoted to this House on this subject exploded authorities of the last century. He has quoted here the opinions of Judge Story, which are opinions given many years ago. I wonder why he did not quote Chancellor Kent, who was an authority on this subject many years ago. With his permission I will quote from Woolsey who has reviewed the opinions of those men who held that bays stretching from quite distant headlands, such as from Cape Ann to Cape Cod, and from Nantucket to Montank Point, and from that point to the Capes of the Delaware, and from the South Cape of Florida to the Mississippi, were within the limit. Woolsey holds that those are not territorial waters and he says:

"But such broad claims have not it is believed been much urged and they are out of character for a nation that has ever asserted the freedom of doubtful waters as well as contrary to the spirit of more recent times."

The hon. member for Bothwell (Mr. Mills) quoted the Attorney General of the United States, but he did not do us the favor to say what Attorney General. He did not tell us, and the opinion may be as old and obsolete as the opinion of Judge Story. The hon. gentleman proposed to deal with the opinions of the English courts on this matter. He said the common law courts in England dealt with this matter and he spoke of a case where the English court claimed to have jurisdiction over a vessel in the Bristol Channel. That particular point of the Bristol Channel is in the county of Glamorganshire in Wales and the channel is properly speaking but the mouth of the river and bears no analogy whatever to any of the waters in controversy in this country, for example the Bay des Chaleurs. He dealt

more fairly and stated more appositely the case when he dealt with a decision of the Privy Council in the Conception Bay case, in which the question was raised as to the authority of the Newfoundland Legislature over a point of land four miles from the inner part of Conception Bay, where a cable company had placed a buoy. The hon. gentleman misled this House. I do not say that he deliberately and intentionally misled the House but he led us to understand that the English court in that case proceeded upon a rule of law, that a point four miles from the shore of Conception Bay was a part of the high seas. I say that is not the ruling of the court in this case and the ruling of the court is quite the contrary. They said that the British Parliament had declared that Conception Bay was part of the British waters and a British court is bound by the words of an Imperial statute whatever their opinion of the law may be. I will read what Lord Blackburn said in giving judgment on this Conception Bay case. Lord Blackburn had not made up his mind on this point, but the hon. member for Bothwell (Mr. Mills) seems to have made up his mind on it if Lord Blackburn did not:

"It does not appear to their lordships that jurists and text-writers are agreed what were the rules as to dimensions and configuration, which, apart from other considerations, would lead to the conclusion that a bay is or is not a part of the territory of the State possessing the adjoining coasts, and it has never, that they can find, been made the ground of judicial determination."

The hon. gentleman said that there had been judgment in different courts on this rule of law. Lord Blackburn says there has been no judgment with which he is acquainted.

"If it were necessary in this case to lay down a rule, the difficulty of the task would not deter their Lordships from attempting to fulfil it. But in their opinion it is not necessary to do so. It seems to them that, in point of fact, the British Government has for a long period exercised dominion over this bay, and that their claim has been acquiesced in by other nations, so as to show that the bay has been for a long time occupied exclusively by Great Britain, a circumstance which, in the tribunals of any country, would be very important. And, moreover (which in a British tribunal is conclusive), the British Legislature has by Acts of Parliament declared it to be part of the British territory, and part of the country made subject to the Legislature of Newfoundland."

I think, Mr. Speaker, that this effectually disposes of that aspect of the case. By the law of nations, what are our rights in land-locked bays, like the Bay of Chaleurs? We can only find the law of nations from two sources—the opinions of the great text-writers and the courts, and the history and practice of nations. I do not know any subject in international law about which there is so much controversy, disagreement and confusion, as the subject of the jurisdiction of nations in land-locked bays. I have obtained in the library the opinions of all the authorities on this subject that I could find, leaving out English and American authorities, and I will venture to give them to the House. Azuni, Vol. I, p. 46, after asking the question: How wide at the mouth a bay must be before the State which owns the two defining headlands and the intervening strand loses exclusive dominion over such bay, answers: "Nevertheless, there is no consensus of opinion, and no accord in national practice, respecting the extent of this sovereignty." Bluntschli, at section 309 of his book on International Law, says, "Where the width is but small." Reyneval, in his law of Nature and Nations, Vol. I, p. 299, says that there is great uncertainty, "but the extent of this property is not determined by a uniform rule." Prof. De Martens states that there are conflicting theories, and seems to favor the range of a double-cannon shot, so that the bay could be defended from both sides. Fiore, Vol. I, p. 374, says: "We speak of bays of small extent, not those a great width." De Hautefeuille, Vol. I, page 93, says: "The authors, unanimous upon the principle of sovereignty, over the territorial sea, are far from agreed as to its extent." Some say "100 miles, some say 60, some 3" miles, and some the horizon." Vattel, a standard author of not so many years ago, expresses himself in