

Mr. Secretary Root makes the admission that there are two classes of American vessels (1) "vessels which are registered and (2) vessels which are licensed to fish and not registered." "The vessels with a license can fish but cannot trade; the registered vessels can lawfully both fish and trade;" which latter class includes the whole mercantile marine of the United States. And he claims that: "Any American vessel is entitled to go into the waters of the treaty coast and take fish of any kind." "She derives this right from the treaty, and not from any permission or authority proceeding from the Government of Newfoundland."<sup>31</sup>

A Foreign Office Memorandum published by the Imperial Parliament in 1906, affectively answers this contention by shewing that Mr. Root misquotes the treaty: "The privilege of fishing, conceded by Article 1, of the Convention of 1818, is conceded—not to American vessels, but—to the 'inhabitants of the United States' and to 'American fishermen.' His Majesty's Government are unable to agree to this contention or any of the subsequent propositions, if they are meant to assert any right of American vessels to prosecute the fishery under the Convention of 1818, except when the fishery is carried on by the inhabitants of the United States. The Convention confers no right on American vessels as such."<sup>32</sup>

As supplementary to the answer given above, it may be added that the treaty, by the use of the expression "American fishermen," and of the trade-work terms "take, dry, and cure, fish," has designated the special trade-class of the privileged "inhabitants of the United States," and their special marine class of vessels employed therefor, and to whom the treaty privileges of fishing in the British territorial coast-waters of Canada and Newfoundland, and of using their unsettled coasts for the trade-work purposes of drying and curing their fish, are conceded; and assuming that the maxim *expressio unius est exclusio alterius*, and that the doctrine as to strict treaty-cession

<sup>31</sup>Correspondence respecting the Newfoundland Fisheries, 1906, page 2.

<sup>32</sup>Ibid., page 6.