

Confidential.

## MEMORANDUM

ON

### POINTS OF LAW CONNECTED WITH THE FISHERIES.

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#### INTRODUCTION.

Before the outbreak of the War of Independence, (in 1775), the fisheries on the coast of British North America were the common property of all British subjects. It has been stated that the acquisition of these fisheries was largely achieved by the enterprise and valor of the people of the New England Colonies. As regards the fisheries on the coasts of what are now the Atlantic Provinces of Canada, viz., Quebec, New Brunswick, Nova Scotia, (including Cape Breton), Prince Edward Island and the islands in the Gulf of St. Lawrence, these became the property of Great Britain, not by discovery, or by conquest, but by transfer from France, under the Treaty of Paris, 1763, which terminated the French dominion on the continent of America.

When peace was concluded between England and the United States at the close of the War of Independence, the thirteen colonies, which had become the United States, obtained the recognition of their independence by the Treaty of 3rd September 1783, and the fisheries on the coast of the remainder of British North America naturally become one of the subjects of discussion by the Plenipotentiaries.

The people of the New England States were unwilling to be confined to their own coast. Their fishing industry had become one of great importance. But, as to their right, it seems clear that when the thirteen colonies proclaimed their independence they ceased to be entitled to the right of fishing on the British American coasts—that right being incidental to the condition of British subjects. As was said by de Vergennes: "To claim the privileges of subjects after renouncing allegiance was unprecedented." (*De Circourt, Vol. 3, De Flasjon; "Hist. de la Diplomatie Française."*)

By every principle of international law and of right it would seem that the fisheries on the coasts of Quebec, New Brunswick, Nova Scotia, Cape Breton, Prince Edward Island and the Islands of the Gulf of the St. Lawrence remained, as they always had been, since the Treaty of Paris of 1763, the property of the British Crown, and there was no reason or right to expect that the enjoyment of them should be continued to the people of the United States any more than to the people of any other Foreign State.

Count de Vergennes, although he had been a partizan of the United States in the revolution, said, in a letter to M. de la Luzerne, the French Minister at Philadelphia, dated Versailles, September 25th, 1777: