

S P E E C H

OF

MR. HAMLIN, OF MAINE,

IN DEFENCE OF THE RIGHTS OF AMERICAN FISHERMEN.

DELIVERED

IN THE SENATE OF THE UNITED STATES, AUGUST 3 AND 5, 1852.

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NORTH AMERICAN FISHERIES.

The Message of the President of the United States transmitting information in regard to the Fisheries on the Coasts of the British Possessions in North America—

Mr. HAMILIN said:

Mr. PRESIDENT: The magnitude and importance of this question are such that I need make no apology for inviting the attention of the Senate and the country to its careful consideration. The interests of Maine and Massachusetts are more directly involved than those of any other State. But it is a question which rises above mere localities, and becomes one of national importance. It affects deeply our national honor; and the expression of this Senate to the country, is a certain indication that our just rights are to be maintained. The great interests of commerce and navigation, as well as those of our Navy, are intimately connected with the subject of the American fisheries, which are well regarded as the great fountains of commercial prosperity and naval power.

To learn what are the rights of Americans, and what are our duties and obligations as statesmen to protect and preserve those rights, a careful examination of their origin, and what has been the action of our Government in relation thereto, becomes not only appropriate, but actually necessary. When these are well understood, it is believed we shall have no trouble in determining our duty in the future.

The right to take fish upon the coast of the British Provinces has always been claimed and exercised by the people of this country from its first settlement. Let it be constantly borne in mind that this has always been claimed as a right. It has never been taken as a grant or concession from any power on earth, but has been claimed and exercised as a right from their first use up to this time. These fisheries grew up with the growth of this country while colonies subject to the British Crown; and the rights of the citizens of all the Colonies to take fish along the coast of New Brunswick, Nova Scotia, and Newfoundland, were as certain and well known as any right they possessed. Possession and cultivation of the soil could hardly secure a more certain right than was secured by the possession and use of these fisheries. They are contiguous and adjacent in part to the State of Maine. They were freely used as God's highway, outside of maritime jurisdiction, should be used by all. Such was the origin of our rights; and so they remained until the commencement of

the revolutionary war, which separated this Government from Great Britain. In the treaty of peace which secured the nationality and independence of the United States, the rights of our Government were acknowledged and defined. It was no grant or concession, but the acknowledgment of a right as much as that of our sovereignty and independence.

The third article of the treaty of 1783 is in these words:

"It is agreed that the people of the United States shall continue to enjoy, unmolested, the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland; also, in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish; and also, that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not to dry or cure the same on that island;) and also, on the coasts, bays, and creeks of all other of His Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for said fishermen to dry or cure fish at such settlements, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground."

This article admits and secures to American citizens "unmolested the right to take fish," &c. It acknowledged and secured the rights which had been acquired as much and as fully as other portions of the treaty secured our right to independence, and to exercise sovereign power over that territory which had belonged to the Crown. These rights, too, unmolested, were used and enjoyed by the American fishermen up to the war of 1812, when they were interrupted—never lost—by that war. The British cruisers would not, of course, allow our fishermen to occupy the fishing grounds during the war. Had they done so, they would have been captured as upon any part of our coast which might have been blockaded by a sufficient force for that purpose.

At the time when the treaty of peace was negotiated with Great Britain in 1814, the subject of these fisheries was under consideration, though nothing was said in the treaty in relation to them. They were entirely omitted. It becomes important to learn why this was so; why they were omitted; what were the instructions of our Government to our ministers negotiating the treaty, and also what were the views and opinions of the ministers themselves; what was said and done by

all the high contracting parties. An investigation into these points, and we shall have no doubt why an article was not incorporated into the treaty of Ghent relating to the fisheries.

The instructions of our Government were as follows in relation to the fisheries:

"Information has been received from a quarter deserving of attention that the late events in France have produced such an effect on the British Government as to make it probable that a demand will be made at Guttenburg to surrender our right to the fisheries, to abandon all trade beyond the Cape of Good Hope, and to cede Louisiana to Spain. We cannot believe that such a demand will be made. Should it be, you will of course treat it as it deserves. These rights must not be brought into discussion. If insisted on, your negotiations will cease."

It will be seen that our Government claimed the use of these fisheries as a right, and our Ministers were expressly instructed that "these rights must not be brought into discussion, and if insisted on, negotiations will cease." This, too, was at a time when our whole country was desirous of an honorable peace, having been suffering all the evils incident to a war. But anxious as were the Government and the people for a peace, still, with the known importance of these fisheries in a commercial and naval point of view, negotiations were to be broken off, and the war renewed, rather than concede away this valuable right.

Such was the high and patriotic stand taken by Mr. Madison. Let it be ours to imitate his example. The country will be, and should be satisfied with nothing less. The subject was brought forward by the British plenipotentiaries; but our commissioners, true to right, and true to their instructions, would not allow of its discussion.

The demand of the British Government was first advanced in this artful and ensnaring form:

The American commissioners were duly notified by the British plenipotentiaries, "that the British Government did not intend to grant to the United States, gratuitously, the privileges formerly granted by treaty to them, of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the fisheries."

Grant privileges formerly granted by treaty! This involves the whole question, whether we had a right, or whether we held the fisheries by a grant? An assent to the principle that we held the fisheries by a grant, was yielding all, and equivalent to an admission that the war had abrogated the treaty of 1783.

The American Ministers replied as follows:

"In answer to the declaration made by the British plenipotentiaries respecting the fisheries, the undersigned, referring to what passed in conference on the 9th of August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the treaty of 1783, by which they were recognized, no further stipulation has been deemed necessary by the Government of the United States to entitle them to a full enjoyment of all of them."

Thus, promptly, was this matter met by our Government, and placed on the ground of right, admitted and secured in the treaty of 1783. On two other and different times, during these negotiations, was, in different forms, but in substance the same as I have quoted, this subject presented by the British plenipotentiaries, and on both occasions, as on the first, was all discussion of it refused by our commissioners. The treaty was

finally agreed upon, and was silent upon the subject. So stood the matter when negotiations closed and a treaty had been concluded. So far as the fisheries were concerned, they remained, in the language of the negotiators, "*status ante bellum*."

This was the view taken of the question by our commissioners. In their communication to the Secretary of State, dated Ghent, December 25, 1814, they state their views with great clearness and power. It never has been answered. It admits of no answer. They say:

"Our instructions had forbidden us to suffer our right to the fisheries to be brought in discussion, and had not authorized us to make any distinction in the several provisions of the third article of the treaty of 1783, or between that article and any other of the same treaty."

"We had no equivalent to offer for a new recognition of our right to any part of the fisheries, and we had no power to grant any equivalent which might be asked for it by the British Government. We contended that the whole treaty of 1783 must be considered as one entire permanent compact, not liable, like ordinary treaties, to be abrogated by a subsequent war between the parties to it; as an instrument recognizing the rights and liberties enjoyed by the people of the United States as an independent nation, and containing the terms and conditions on which the two parties of one empire had mutually agreed henceforth to constitute two distinct and separate nations. In consenting, by that treaty, that a part of the North American continent should remain subject to the British jurisdiction, the people of the United States had reserved to themselves the liberty, which they had ever before enjoyed, of fishing upon that part of the coast, and of drying and curing fish upon the shores; and this reservation had been agreed to by the other contracting party."

"We saw not why this liberty, then no new grant, but a mere recognition of a prior right always enjoyed, should be forfeited by a war more than any other of the rights of our national independence; or why we should need a new stipulation for its enjoyment more than we needed a new article to declare that the King of Great Britain treated with us as free, sovereign, and independent States. We stated this principle in general terms to the British plenipotentiaries in the note which we sent to them with our *projet* of the treaty, and we alleged it as the ground upon which no new stipulation was deemed by our Government necessary to secure to the people of the United States all the rights and liberties stipulated in their favor by the treaty of 1783. No reply to that part of our note was given by the British plenipotentiaries."

"JOHN QUINCY ADAMS,
"J. A. BAYARD,
"E. CLAY,
"JONAS RUSSELL,
"ALBERT GALLATIN."

Vattel, in speaking of the jurisdiction of any one nation over fisheries, says:

"If it has once acknowledged the common right of other nations to come and fish there, it can no longer exclude them from it. It has left that fishery in its primitive freedom, at least in respect to those who have been in possession of it."

And he cites the herring fishery on the coast of England, as being common to them with other nations, because they had not appropriated it to themselves from the beginning. So far was this principle carried, that it is said the Dutch were in the possession and use of these fisheries at a time when they were at war with Great Britain. But it is maintained that the great highway of nations outside of three miles from the shore, the distance of national jurisdiction, is open to all who may desire to use it. That is the doctrine which must be sustained by us. We can admit nothing which shall limit the freedom of the seas in time of peace, unless clearly defined by treaty.

Thus stood the question after the treaty of Ghent, in 1814, until the convention with Great Britain, which resulted in the treaty of 1818, containing the article under which both Governments

are now acting. Before, however, proceeding to the examination of that article to ascertain what is its true and correct interpretation—what is its scope and meaning—the history of the action of both Governments should be scrutinized between the treaties of 1814 and 1818. That shows that the British Government did not claim anything but a *jurisdiction of one marine league along her coast*. She made no claim to a right to exclude our fishermen from the great bays or inland seas, as the Gulf of St. Lawrence really is. Her claim was to a jurisdiction of *three miles from the shore*. In 1815, a British sloop-of-war warned off the coast of Nova Scotia, and about forty-five miles from Cape Sable, an American vessel engaged in the cod fisheries. This was immediately brought to the attention of the British Minister, who promptly disavowed the act, as will appear by his note to Mr. Monroe:

“MR. BAKER TO MR. MONROE.

“PHILADELPHIA, August 31st, 1815.

“SIR: I have the honor to acknowledge the receipt of your letter of the 18th ultimo, together with its inclosure, relating to the warning off, to the distance of sixty miles from the coast of Nova Scotia, of some American fishing vessels by His Majesty's brig Jaseur. This measure was, as you have justly presumed in your note, totally unauthorized by His Majesty's Government; and I have the satisfaction to acquaint you, that orders have been given by the naval Commander-in-Chief on the Halifax and Newfoundland stations, which will effectually prevent the recurrence of any similar interruption to the vessels belonging to the United States, engaged in fishing on the high seas.”

I have examined with great care all the cases of seizure by the British Government, and believe it may be correctly asserted, that none were made outside of *three miles from the coast*, and no distinction is drawn, or attempted to be drawn, between the coast of the sea and the coast of a bay. These acts are all significant, as showing that no claim was preferred for anything but a jurisdiction within three miles of the shore. On the other hand, we maintained that we were entitled to all the rights secured in the treaty of 1783.

On the 16th of June, 1816, an order was issued by Admiral Griffith to the British cruisers to remove our fishing vessels from the coast of the Provinces. This order, however, was revoked, and nothing was done under it. In May following, an order was issued by Rear Admiral Milne to Captain Samuel Chambers for the protection of the revenue, as also the fisheries on the coast of the Provinces. That order shows that vessels were not to be disturbed unless

“Fishing, or at anchor, in any of the harbors or creeks in His Majesty's North American Provinces, or within our maritime jurisdiction.”

That is, within three miles of the shore. Captain Chambers did seize several American vessels in the harbor on Ragged Island, and within British jurisdiction, but they were all discharged by the Provincial court. These are the transactions which took place upon the fishing grounds. During the same time the same subject was under discussion between the two Governments. Mr. Adams, with his great ability and comprehensive knowledge of the whole matter, was our Minister who conducted the correspondence on our part. He maintained the same doctrine that was advanced at Ghent, that our rights were fully secured by the treaty of 1783, and that the war of 1812 did not abrogate them. This was denied by Earl Bathurst on behalf of the British Govern-

ment. Each party maintained its former position. But from that correspondence, from the interviews between the Ministers of the respective Governments, and from the protocol of the contracting parties, when a treaty was concluded, we shall learn precisely what was claimed by the British Government, and what were the intentions of the parties. There is no sounder rule of law than that the intention of a law is to be learned from the discussions of those who enacted it. And so of the formation of treaties. The conferences and protocols of the parties will guide us to a correct conclusion. And we find a remarkable concurrence of evidence to show, beyond doubt, that all Great Britain claimed was to exclude us from within one marine league of the *shore*; not to exclude from inland seas, whether called bays or gulfs. This investigation all becomes important and necessary, to show that such is the construction which should be given to our treaty of 1818.

Mr. Adams writes to Mr. Monroe, September 19, 1815, giving an account of his first interview with Lord Bathurst, and he gives the language used by Lord Bathurst. He, (Lord B.,) said:

“Great Britain could not permit the vessels of the United States to fish within the creeks, and close upon the shores of the British territories. So, on the other hand, it was by no means her intention to interrupt them in fishing anywhere in the open sea, or without the territorial jurisdiction, a marine league from the shore.”

This shows clearly that all that was demanded or claimed was, simply, that our fishermen should not exercise the right to take fish within a “marine league of the shore.” No claim was preferred to exclude us from bays or gulfs. All that was required was, that we should keep three miles from the shore. During all the correspondence that took place between our Government and Great Britain, that right only was insisted upon.

Under this state of the case, each Government adhering to rights as already advanced and discussed, and being unable to agree, Mr. Monroe says, in his note to Lord Bagot, December 30th, 1816, and in answer to a note from Lord Bagot of November 27th, 1816:

“I concur in the sentiment, that it is desirable to avoid a discussion of their respective rights, [the United States and Great Britain to the fisheries,] and to proceed in a spirit of conciliation to examine what arrangement will be adequate to the object. The discussion which has already taken place between our Governments, has, it is presumed, placed the claim of each party in a just light.”

And it was under that suggestion that a convention was finally agreed upon, which negotiated the treaty of 1818. The first article of that treaty is as follows:

“Whereas, differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; on the western and northwestern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company:

“And that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the southern part of the coast of Newfoundland, here above described, and of the coast

of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portions so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbors, of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors, for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

This is the law under which we now exercise our rights. What is its true and correct construction, is the question in dispute between the United States and Great Britain. The construction of that article by our Government has always been, that a line should be drawn along the coast from indentation to indentation, and not from headland to headland. It is contended by the British Government, that by the strict letter of the treaty, we are to be excluded from those great bays, so called, where they are not miles, but some of them degrees in width. The precise terms of the treaty may, at first view, seem to carry that construction, but when tested by what had been claimed by the British Government, as we have seen, such could not have been the intention of the parties. The only thing claimed through all the negotiations, was that we should be excluded from coming within three miles of the shore, not bays that were leagues in extent. Had such been the intention of any party to the treaty, we should find somewhere such a claim. None such was made. Had there been, it would have been promptly denied. That clause, which says, "that the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors, &c.," is to exclude us from the great bays and gulfs! Was such the intention of Great Britain? She never made any such pretensions during all the negotiations, and when we renounced our right to the shore fisheries, as we did in the treaty, and of taking fish within three marine miles of the coasts, bays, creeks, and harbors, that language became necessary to exclude us from the small bays, creeks, and harbors within three miles of the shore—within the jurisdiction of Great Britain, and which we had formerly enjoyed—claimed as a right. That such was the intention of the parties must be inferred from the facts to which I have alluded, which took place during the negotiations.

But the last clause of the article contained in the proviso at the end, will explain what *bays, creeks, and harbors* were surrendered up by our Government. The article says:

"American fishermen shall be admitted to enter such bays and harbors for the purpose of *shelter*, and for *repairing damages therein*, purchasing wood, and obtaining water."

The *bays and harbors* which are surrendered up by the Americans, are the bays and harbors into which the American fishermen may go to find a *shelter*, *repair damages*, purchase wood, and obtain

water. All these things could only be done in the small harbors, which would afford shelter, and where damage could be repaired. But to allow fishermen to go into the Gulf of St. Lawrence or the Bay of Fundy for repair or shelter! They might with far greater propriety seek the open sea for shelter, for with sufficient sea-room they might be safe, while in such bays as the Bay of Fundy, they would be sure of destruction upon a lee shore. Better, far better, to seek the broad and trackless ocean for a *shelter*, to repair, for wood or water. The very uses to which these bays and harbors are to be appropriated, must show what was intended—such harbors and bays as could be used for the purposes named. The same interpretation of the word bay in the treaty, when applied to Fundy, Chaleur, or St. Lawrence, should be understood, as when applied to the Bay of Biscay or the Gulf of Mexico.

Another view of this question will, it is believed, furnish us with what is the true construction of the treaty, by which we are restricted in certain bays, creeks, and harbors, therein named. What were the rights enjoyed by our fishermen under the treaty of 1783? They had the right, and did use, what is known as the shore fisheries, inside of three miles from the shore, and in the bays, creeks, and harbors, with which the whole coast was indented. These were what we occupied; and for many purposes, they were very valuable. To them were claimed a right, and these were the privileges which we renounced. A line drawn from indentation to indentation along the coast, as has always been contended for by our Government, would exclude us from the shore fisheries, which were and are so called in distinction from the sea fisheries, more than three miles from the shore.

Besides, the intention of our ministers who negotiated the treaty, and the evidence which the protocols furnish as the negotiations progressed, all concur to aid us in our construction. These protocols and this evidence of that time are of great importance, and cannot fail to carry conviction along with them, as to what was intended by the language used in the treaty, and the reasons for which it was placed there. Let Messrs. Galatin and Rush speak on this matter. In their dispatch, dated London, October 20, 1818—the very day on which the treaty was signed—to the Secretary of State, communicating the convention or treaty which had been concluded, they say:

"We succeeded in securing, besides the rights of taking and curing fish within the limits designated by our instructions, as a *sine qua non*, the liberty of fishing on the coasts of the Magdalen Islands, and of the western coast of Newfoundland, and the privilege of entering for shelter, wood, and water, in all the British harbors of North America. Both were suggested as important to our fisheries, in the communications on that subject, which were transmitted to us with our instructions. To the exception of the exclusive rights of the Hudson's Bay Company, we did not object, as it was virtually implied in the treaty of 1783, and we had never, any more than the British subjects, enjoyed any right there; the charter of that company having been granted in the year 1670. The exception applies only to the coasts and harbors, and does not affect the right of fishing in Hudson's Bay, beyond three miles from the shores, a right which could not exclusively belong to, or be granted by, any nation.

"It will also be perceived that we insist on the clause, by which the United States renounce their right to the fisheries, relinquished by the convention, that clause having been omitted in the first British counter project. We insisted on it with the view—1st. Of preventing an implication that the fisheries secured to us were a new grant, and

of placing the permanence of the rights secured, and of those renounced precisely on the same footing. 2d. Of its being expressly stated, that our renunciation extended only to the distance of three miles from the coast. This last point was the more important, as, with the exception of the fisheries in open boats within certain harbors, it appeared from the communications above-mentioned, that the fishing-ground, on the whole coast of Nova Scotia, is more than three miles from the shore; whilst, on the contrary, it is almost universally close to the shore on the coasts of Labrador. It is in that point of view that the privilege of entering the ports for shelter is useful, and it is hoped that, with that provision, a considerable portion of the actual fisheries on that coast (of Nova Scotia) will, notwithstanding the renunciation, be preserved."

The first paragraph of this dispatch which invites our attention is the description which they give of the rights which we surrender in the fisheries. It explains what was their intention. They state within what limits we are to fish; and in alluding to the prior rights of the Hudson's Bay Company, in *Hudson Bay*, they say expressly, that we have the right to fish in *that bay* outside of three miles from the shore, and that "WAS A RIGHT WHICH COULD NOT EXCLUSIVELY BELONG TO, OR BE GRANTED BY, ANY NATION." That is and was precisely the American doctrine, and hence we cannot be excluded from other bays more than three miles from the shore. Such is the true meaning of the treaty of 1818. Such the intention of the parties who negotiated it.

The second paragraph of this dispatch shows from the protocol, that renunciation of our Government to the right of the shore fisheries was inserted by our ministers, and for what purpose it was put there—to show, that rights were renounced and that in the treaty of 1818 we admitted no grant to fish elsewhere by forming a new treaty. And, secondly, that it was expressly stated that our renunciation extended *only to fisheries within three miles from the coasts*. But let us hear what Mr. Adams has said on this question, a man better acquainted with the whole subject in all its ramifications than any other man. He was one of our commissioners who negotiated the treaty of 1814, and as Secretary of State he gave instructions to Gallatin and Rush, and in those instructions, referring to the fisheries, he said:

"The British Government may be well assured that not a particle of these rights will be finally yielded by the United States without a struggle, which will cost Great Britain more than the worth of the prize."

Again, John Quincy Adams's construction of the first article of the convention of 1818, and the reason for relinquishing any right by our Government:

"In that instrument the United States have renounced forever that part of the fishing liberties which they had enjoyed, or claimed, in certain parts of the exclusive jurisdiction of British Provinces, and within *three marine miles* of the shores. The first article of this convention affords a signal testimonial of the correctness of the principle assumed by the American plenipotentiaries at Ghent: for as by accepting the express renunciation by the United States of a small portion of the privilege in question, and by confirming and enlarging all the remainder of the privilege forever, the British Government have implicitly acknowledged that the liberties of the third article of the treaty of 1783, has not been abrogated by the war."

This was the opinion of Mr. Adams in 1822, expressed while Secretary of State, in an able review of the subject of the fisheries.

The true intent and meaning of the first article of the treaty, as our Government contend, is to draw a line along the indents of the shore, and not from headland to headland of the great bays and gulfs, which would exclude us from what are really

inland seas. This will comply with the treaty, and will exclude us from the bays, creeks, and harbors three miles from land. That such was the design—that such should be the construction for which we should insist—cannot admit of a reasonable doubt. The actual acquiescence of the British Government for more than twenty-two years, and a virtual acquiescence up to this time, should preclude her from all attempts to give or enforce any other. The most perfect commentary of compacts and treaties is a contemporaneous acquiescence in their execution. Our position is fortified by that acquiescence. It is too late to deny it now, and we shall be derelict in our duty if we do not sustain it. I cannot doubt that our Government will do so.

What is the history of this acquiescence? The British Parliament, in 1819, passed an act "to enable His Majesty to make regulations with respect to the taking and curing of fish on certain parts of the coasts of Newfoundland, Labrador, and His Majesty's other provinces in North America, according to a convention made between His Majesty and the United States." This act recites and contains that article of the treaty relating to the fisheries, but it gives to it no construction. It then confers power upon His Majesty and his Privy Council, by any order or orders in council to be from time to time made for that purpose, to make such regulations and to give such directions, orders, and instructions to the Governor of Newfoundland, &c., for the purpose of carrying into effect said convention. It also contains certain other provisions in relation to the same, not necessary to describe. But not a word is said in said act which gives a construction to said treaty, or of drawing a line from headland to headland of the great bays. That is the only act ever passed so far as I can learn.

March 12, 1836, the province of Nova Scotia passed an act for the preservation of the fisheries, and the first and third sections of said act are conclusive evidence as to what must have been their undoubted understanding of our just rights under the treaty, and what was and is the true intent and meaning thereof. These sections are as follows:

"Sec. 1. Officers of the colonial revenue, sheriffs, magistrates, and any other person duly commissioned for that purpose, may go on board any vessel or boat within any harbor in the Province, or hovering within *three miles* of any of the coasts or harbors thereof, and stay on board so long as they may remain within such place or distance."

"Sec. 3. If the vessel or boat shall be foreign, and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing or preparing to fish, or have been fishing within *three marine miles* of such coasts or harbors, such vessel or boat and the cargo shall be forfeited."

Mark the language of the first section, "Officers of the colonial revenue, &c., may go on board any vessel or boat within any harbor, or hovering within *three miles* of any coast or harbor."

The third section, "if any foreign boat shall have been found fishing or preparing to fish within *three marine miles* of such coasts or harbors." The description and terms given in these sections prove beyond a doubt that up to that time our rights were well understood. That language conforms to what was and is our construction of the treaty; we were debarred from fishing within three miles of the shore, and a line drawn from indentation to indentation, as we contend, is just in accordance with this law of the Province, and just in

accordance with our use and occupation. So we have continued to occupy and use these grounds according to our construction—undisputed for more than twenty-two years, and virtually and essentially up to this time. Since 1841, the fishermen have been much annoyed by the Colonies. Laws have been passed which are in plain and unmistakable violation of the treaty. The right of entering her harbors on her coast by the fishermen for shelter, repair, or water, secured by the treaty, have been infringed and limited. By one provision of law, the owner of a vessel, when seized for a violation of law, is required to prove his innocence. According to our maxims of law, a man is called to prove his innocence after proof of guilt has been offered. Our vessels have sometimes been wrongfully seized and confiscated, and it would be strange if instances could not be found where they may, some of them, have infringed upon the terms of the treaty. Still the practical use of these fisheries has been in accordance with the construction for which we contend.

In May, 1841, the Governor of Nova Scotia, in a dispatch to Lord John Russell, said:

"In point of fact I have not been able to learn that any seizures have been made when the vessels have not been within three miles of the distance prescribed by the statute, or considered so to be, although it is true that the Bay of Fundy, as well as smaller bays on the coast of this Province, is thought by the law officers in the Province to form a part of the exclusive jurisdiction of the Crown."

Here, then, we have unequivocal proof of our use of these bays up to 1841; just our construction of the treaty. Nor can I find the evidence of the seizure of any vessel up to this day outside of three miles from the coast, whether in the great bays or out of them.

In 1841, Mr. Stevenson, then our Minister at London, called the attention of the British Government to the true intent and meaning of, or the construction which should be given to the first article of the treaty of 1818. In his dispatch, dated March 27, 1841, to Lord Palmerston, then principal Secretary of State for Foreign Affairs, Mr. Stevenson says:

"It also appears, from information recently received by the Government of the United States, that the provincial authorities assume a right to exclude the vessels of the United States from all their bays, (even including those of Fundy and Chaleur,) and likewise to prohibit their approach within three miles of a line, drawn from headland to headland, instead of from the indents of the shores of the Provinces!"

"They also assert the right of excluding them from British ports, unless in actual distress, warning them to depart or get under way and leave harbor whenever the provincial custom-house or British naval officers shall suppose that they have remained there a reasonable time, and this without a full examination of the circumstances under which they may have entered the port. Now, the fishermen of the United States believe, (if uniform practice is any evidence of correct construction,) that they can with propriety take fish anywhere on the coasts of the British provinces, if not nearer than three marine miles from land, and have a right to their ports for shelter, wood, and water; nor has this claim, it is believed, ever been seriously disputed, based, as it is, on the plain and obvious terms of the convention. Indeed the main object of the treaty was, not only to secure to American fishermen in the pursuit of their employment, the right of fishing, but likewise to insure him as large a proportion of the convenience afforded by the neighboring coasts of the convenience afforded by the amicable with the just rights and interests of British subjects, and the due administration of Her Majesty's dominions. The construction, therefore, which has been attempted to be put upon the stipulations of the treaty by the authorities of Nova Scotia, is directly in conflict with their object, and entirely subversive of the rights and interests of the citizens of the United States. It is one, moreover, which would lead to the abandonment, to a great extent, of a high-

ly important branch of American industry, which could not for a moment be admitted by the Government of the United States."

Mr. Stevenson thus states, with great clearness and power, what is the construction placed upon the treaty of 1818 by his Government, and that such a construction had been acquiesced in up to that time by the British Government, a term of more than twenty years. This was the first correspondence of the two Governments, as to the true interpretation of the treaty. None other but the one which we had adopted, and Great Britain had assented to, by a quiet acquiescence, is to be found prior to this time. The answer of the British Government to the dispatch of Mr. Stevenson is to be found in the opinion of the Crown officers of Great Britain. A case was prepared by the Governor of Nova Scotia, May 8, 1841, submitting certain questions as to the intent and meaning of the first article of the treaty of 1818. All that part of the case material to our inquiry at this time is embraced in two interrogatories: First, whether the war of 1812 abrogated and annulled our rights to the fisheries secured by the treaty of 1783? And second, whether a line is to be drawn from headland to headland of the great bays? The answer of J. Dodson and Thomas Wilde, Queen's Advocate and Attorney General, August 20, 1841, is very explicit. It says:

"We are of opinion that the treaty of 1783 was annulled by the war of 1812."

To the second point they answer:

"The prescribed distance of three miles is to be measured from the headlands, or extreme points of land next the sea of the coast, or of the entrance of the bays, and not from the interior of such bays or inlets of the coast, and consequently that no right exists on the part of American citizens to enter the bays of Nova Scotia, there to take fish, although the fish being within the bay may be at a greater distance than three miles from the shore of the bay, as we are of opinion that the term *headland* is used in the treaty to express the part of land we have before mentioned, excluding the interior of the bays and the inlets of the coast."

Thus it will be observed that the question, whether our rights under the treaty of 1783 were abrogated or not, is most summarily disposed of. The manner of running from headland to headland is also disposed of in the same way. The reasoning for these profound conclusions we are not permitted to see. All that we can know is upon a case made up by the government of Nova Scotia; the Attorney General and Queen's Advocate have so decided. There is one expression used in the opinion of these officers which is significant, and which we may well suppose aided, if it did not control, the result to which they came. They say that the "*term headland is used in the treaty to express the part of land,*" &c. There is no such word as headland used in the treaty. Had such been the case, there would be some reason for the conclusion to which they came. The absence of that very term on which they say their opinion is based proves their error. The reason for their opinion is not there, and without it their opinion or conclusion must be incorrect by their own showing.

This is but an *ex parte* decision, and one which our Government has never assented to, and one to which we were not a party. It in no way controls or disturbs the position of our Government upon these questions. We are left to maintain our own construction, which involves all that is now in dispute. What is the construction which

shall be given to the treaty, is a question for both Governments to settle and determine.

This construction, thus formally given by the British Government, was allowed to remain without any attempt to enforce it by Great Britain. In the mean time, from 1841 to 1845, the Provincial Legislature of Nova Scotia had adopted sundry reports in relation to the fisheries, and some attempts were made by the provinces to exclude our fishermen from the Bay of Fundy, which led to a renewal of correspondence between the two Governments. All the information which I gather upon the point is from the dispatch of Mr. Everett, the American Minister at London, dated April 23, 1845, to Mr. Buchanan, Secretary of State:

"Sir, with my dispatch, No. 278, of the 25th of March, I transmitted the note of Lord Aberdeen of the 10th of March, communicating the important information that this Government had come to the determination to concede to American fishermen the right of pursuing their occupation within the Bay of Fundy. It was left somewhat uncertain by Lord Aberdeen's note, whether this concession was intended to be confined to the Bay of Fundy, or to extend to other portions of the coast of the Anglo-American possessions, to which the principle contended for by the United States equally apply, and particularly to the waters of the northwestern shores of Cape Breton, where the 'Argus' was captured. In my notes of the 25th ultimo and the 2d instant, on the subject of the 'Washington' and 'Argus,' I was careful to point out to Lord Aberdeen, that all the reasoning for admitting the right of the Americans to fish in the Bay of Fundy apply to those waters with superior force, inasmuch as they are less land-locked than the Bay of Fundy, and to express the hope that the concession was meant to extend to them, which there was some reason to think, from the mode in which Lord Aberdeen expressed himself, was the case.

"I received last evening the answer of his lordship, informing me that my two notes had been referred to the Colonial Office, and that a final reply could not be returned till he should be made acquainted with the result of that reference; and that in the mean time, the concession must be understood to be limited to the Bay of Fundy.

"The merits of the question are so clear that I cannot but anticipate that the decision of the Colonial Office will be in favor of a literal construction of the convention."

The concession made was in fact, and could be only an abandonment on the part of Great Britain of her construction of the convention or treaty—for I use the words as synonymous—so far as it applied to the Bay of Fundy. It was in fact no concession. It only allowed what was in our view the true intent and meaning of the treaty. Nor does the term used at all disturb our construction. The substance was important, and the most that can be said is, that it leaves Great Britain in a position where she may insist that she has not abandoned her construction of the treaty. It was but a reiteration of her claim which she put forth in 1814, when, in the negotiations at Ghent, her Ministers declared that no new *grants* would be made to the United States to fish on the coasts of her provinces, without an equivalent. This *concession* was made on our claim of the *right*, and the terms used in securing our rights, cannot be used to deprive us subsequently of them.

It will also be noted that Mr. Everett speaks with an unqualified confidence that a *literal construction of the convention will be given by the Colonial Office*; the plain meaning of which is, that a literal construction of the convention will secure to us the right to fish in all harbors more than three miles from the shore. That was what Mr. Everett meant.

The only other reference which I propose to make is a dispatch of Lord Stanley, (now Earl of Derby, and Prime Minister of England,) to Lord

Falkland, Governor of Nova Scotia, dated September 17, 1845.

"DOWNING STREET, September 17, 1845.

"MY LORD: * * * * * Her Majesty's Government have attentively considered the representations contained in your dispatches, No. 324 and 331, of the 17th June and the 2d July, respecting the policy of granting permission to the fisheries of the United States to fish in the Bay of Chaleur, and other large bays of a similar character on the coast of New Brunswick and Nova Scotia, and, apprehending from your statements that any such general concession would be injurious to the interests of the British North American Provinces, we have abandoned the intention we entertained upon the subject, and still adhere to the strict letter of the treaties which exist between Great Britain and the United States, relative to the fisheries in North America, except so far as they may relate to the Bay of Fundy, which has been thrown open to the North Americans under certain restrictions."

This, it will be seen, is dated but a few months after the note of Lord Aberdeen, to which Mr. Everett referred, relating to the fisheries in the Bay of Fundy. That note gave us what we claimed as our right in that bay. This last dispatch of Lord Stanley applies the British construction of the treaty to the Bay of Chaleur, and other large bays. It is their construction only, and can have no binding force upon us, or our construction. This dispatch has never been enforced, except as we understand it is now attempted. We have continued to enjoy our ancient rights, hearing only the muttered threats of the colonies.

From all this history of the facts connected with, and growing out of this question; from our original rights; from what was demanded by Great Britain; from the correspondence and protocols of negotiating ministers; and from an acquiescence in our claim of rights, and their use for more than thirty years, we are justified in saying that our construction of the treaty is not only just and right, but that it is the true intent and meaning thereof. And, admitting that it is an unsettled question—the most that Great Britain can claim—the courtesy and the honor of our nation will demand that nothing less will be conceded in any settlement of the same, than our right to fish in all waters one marine league from the shore.

Now we are informed, from such sources as are believed to be reliable, that Great Britain is enforcing her construction of the treaty, and is now driving American fishermen from the bays in which they have always used the right to fish, or to seize and confiscate their vessels. So far as we know, not a word of notice or warning has been given to our Government. The first intimation we have, a hostile fleet is sent to enforce, with naval power, this construction upon our honest and hard-working fishermen. The ordinary rules of courtesy, which should mark the acts of all Governments, it would seem, should have induced a different course.

Mr. SEWARD. If the Senator from Maine will allow me, I will state that, from the papers this day communicated to the Senate, I find that the British Minister did communicate to our Government, on the 5th of July last, that a sufficient force had been ordered upon the British coast for the purpose of protecting the fisheries. I state this that the Senator may have the whole case as it is. I say nothing here of the character of that notice.

Mr. HAMLIN. I was speaking of what had been made public. And this dispatch, after the squadron had been ordered upon our coast, does not at all obviate the objection made; and such

a fleet is not required for such a purpose. Notice was not given until after the act was done. Such a notice does not alter the case at all; it is, in fact, but an aggravation. This was like the action of Charles the XII, the mad King of Sweden on another occasion. He sent his army first, and then gave notice that his minister would follow to negotiate. That will not do in this age, and with our Government. The movement may be regarded as most remarkable, and leads to the conclusion that it has some ulterior purpose. It is said that reciprocal trade between the United States and the British colonies is thus to be enforced. If such be the object—for it cannot be supposed that, at this day, we are to surrender the freedom of the seas—I will only say, in my opinion, the wrong mode has been adopted to secure the end desired. It may have been designed to aid or strengthen a Tory Ministry, which came in by accident, and, judging from the recent elections in England, it will be likely to go out by design.

What are the designs of the British Government is of much less importance than what are her acts. It is with them that we must deal. What are they? Our information is not yet official, but is presumed to be reliable. The Halifax Chronicle, in the last month, gives a list of the naval force cruising in British waters. That paper says:

"For the information of all concerned, we subjoin a list of the cruisers our calculating neighbors are likely to fall in with on the coast—all of which will, we apprehend, do their duty, without fear or favor:

Cumberland*	74	Capt. Seymour.
Sappho	12	Com. Cochrane.
Devastation†	6	Com. Campbell.
Buzzard	6	Com.
Janus†	4	Lient.
Nesley	3	Com. Kynaston.
Bermuda	3	Lieut. Jolly.
Arrow		brigantine
Telegraph		schooner
Halifax	2	brigantine
Belle	2	brigantine
Responsible	2	schooner
Daring	2	schooner

* Flag, Sir G. F. Seymour. † 300 horse power. ‡ 220 horse power.

"In addition to this formidable force, his Excellency Sir G. F. Seymour requires, we learn, *two more* vessels, besides the Arrow and Telegraph, (two beautiful craft, of whose merits we have previously spoken,) to be fitted, provisioned, officered, and manned by the British Government. The Buzzard, hourly expected from Portsmouth, brings out men to man these hired vessels. To these must be added *two* from New Brunswick, *one* from Canada, and *one* from Prince Edward's Island, making a total of *nineteen* armed vessels, from the "tall Admiral" to the tiny Tender, engaged in this important service. His Excellency the Vice Admiral deserves the thanks of the people of British North America for the zeal with which he has taken up this momentous matter, and also for the promptitude of his cooperation with the Provincial Government. Janus comes to Newfoundland direct from Gibraltar; she is an experimental steamer, constructed by Sir Charles Napier, and by some said to be a splendid failure. Cumberland sails immediately for St. John's and the Newfoundland coast."

A formidable force indeed, to prevent the peaceable and unoffending fishermen from violating the treaty of 1818. And more are required as it is stated. That such a force is at all necessary for such a purpose will not be credited by any familiar with the business. Nor is such the intention, can any one believe. Such cannot be the object. The true design is to enforce a construction of the treaty foreign to its intention, and, as we believe, against its fair interpretation; a construction which has been left for a Tory Ministry to enforce after it has been negated by an acquiescence in a dif-

ferent one for more than thirty years; and a construction, too, which we believe we have shown to be in accordance with the design and intention of the parties. Such a state of things cannot be submitted to without disgrace and dishonor—nor will it be. With firm and patriotic councils no fear or alarm need be entertained, though we may well be astonished and startled at the flagrant violations of our flag in the recent seizures of American fishermen. The acts which have already taken place demonstrate the great propriety of the call made by the resolution of the honorable chairman on Foreign Relations [Mr. Mason.] There was a necessity for knowing officially what had been done by Great Britain, and what was intended to be done by our Government, so far as that knowledge should be compatible with the public interests.

We learn daily, by the mails, through the press, and by the telegraph, of the continued seizures of our vessels under the solemn protestations of the parties that no violations of the treaty have been either designed or committed. And we are also informed from the same sources, that duties are imposed upon our vessels, when seeking a harbor for shelter, to repair, or for wood or water—rights which we possess under the positive stipulations of the treaty, and about which there can be no mistake. If duties can be thus imposed upon our vessels, they may be prohibited from the use of these ports at all. It is a gross violation of our treaty rights, and is another evidence that the faith of Great Britain in relation to her treaties with us is but a Punic faith. I fear much that our acquiescence in her violation of the Nicaragua treaty, has served as an inducement to this.

We have accounts which are presumed to be correct, of the seizure of Hayades, of Lubec, Maine. The schooner Wellfleet reports that, on the 23d of July, two American vessels were taken off Gosperhead by a British steam-frigate. Captain Saybold, of the brigantine Halifax, informed Captain Whalan that his orders were to seize all vessels found fishing within the line laid down by the British Government. This will cut off our vessels from fishing on all the grounds, except in the neighborhood of Gaspe and Magdalen islands. The distance from this line to the shore in some places is fifty or sixty miles. Another restriction has been placed upon our vessels, in the shape of anchorage duty, at sixpence per ton. In all the Provinces the fishing vessels have been obliged, heretofore, to pay a like duty at Canso, and now they are obliged to pay this anchorage duty at other Provinces in addition, which is something never required before.

"BOSTON, July 31st.—The fishing schooner Northern Light, which arrived at Booth Bay, Maine, from the Gulf of St. Lawrence, reports having been boarded by a British cutter and requested not to fish within three miles of land, a line from headland to headland being marked out in their presence.

"The schooner Wave, which has arrived at Gloucester, reports that on Monday last, while lying at anchor near Sable Island, in company with the schooner Helen Maria, of Gloucester, they were boarded by a British cutter, and fish bait being found on the Helen Maria, she was taken in Pubures. The crew of the Helen Maria allege that they had not been fishing, and had no intention of evading the treaty but had only put in for supplies. The intelligence has caused great excitement among the Gloucester fishermen."

"SEIZURE OF ANOTHER AMERICAN FISHING VESSEL.—BOSTON, August 2.—The American fishing schooner Union

has been seized for an alleged violation of the fishery treaty and carried into Charlotestown."

[SECOND DISPATCH.]

"BOSTON, August 2.—The schooner Coral was sold at St. John's to-day for a breach of the fishing treaty."

Such are the accounts of some of the many seizures which have taken place, and they can leave no doubt that they are seized many miles from shore. But I will pass from the consideration of this part of the subject, and will proceed to the examination of the other branch of it. I propose to show the importance of our fisheries, as connected with our commerce and our Navy, and exhibit the amount of means and the number of men engaged in the same, for the purpose of presenting their true importance to the country, and demonstrating the necessity, as well as justice, of protecting their just rights and sustaining the honor of our country.

THURSDAY, August 5, 1852.

The President's message, in relation to the North American fisheries, being again under consideration—

MR. HAMLIN resumed, and concluded as follows:

MR. PRESIDENT: It will now be my purpose to call, as briefly as I can, the attention of the Senate to the importance of these fisheries in a commercial and maritime point of view, for the purpose of showing that, not only as a matter of right, but as an obligation of duty arising as well from right as from interest, our Government should protect our fishermen in the rights which properly and justly belong to them by the treaty of 1783, by the convention of 1818, and by the law of nations.

We must have men for our Navy; we must have men for our commercial marine. Those men can only be had who have followed the occupation, and who have become proficient, by a training in the sea service for a series of years. There is no nation that has ever existed which has not reposed with confidence on the fisheries as the great fountain of supply for its commerce and its Navy. Our own Government, from its foundation to the present time, have regarded the fisheries as the great source from whence we are to draw our supply. They are the school in which our seamen are to be trained to fight our battles on the ocean and on the lakes. There is no other school; there is no other training adequate to the purpose. There is no nation now existing that has been distinguished for its commerce or its naval power, which has not had such a body of men as a corps on which it could rely for the purpose to which I have alluded.

From the days of the commercial prosperity of Venice down to the present time, every nation which has been distinguished for its commerce and naval power, it will be found, has not only devoted its energies to this branch of industry, but it has relied implicitly upon it as a great source from which its navy and its commerce were to be sustained. When Venice was mistress of the Adriatic; when she commanded absolutely the Mediterranean, and almost the whole of Europe; when she was indeed the first commercial Power in all Europe, and it is said by some writers, equal to all Europe, she had a corps of fishermen, with which to supply her commerce and her navy along her coasts and bays. They covered the lagoons, they swarmed the Mediterranean, and

her argosies were found in every port along the British coast. Her vessels visited every port of the Mediterranean, and every coast of Europe. Her maritime commerce was probably not much inferior to all the rest of Christendom. Such was Venice in the day of her greatest commercial prosperity, and that prosperity was in a great degree attributable to the enterprise of her seamen, who had been trained and educated in the school of her fisheries. They were hardy, industrious, and energetic, and they went wherever commerce could find an avenue.

Holland also furnishes a remarkable example of the prosperity and commercial power of that country, in connection with her fisheries and her seamen. Indeed, sir, the old Dutch proverb is, that the city of Amsterdam was built upon fishes' bones. When Holland was the mistress of commerce, as she was from the year 1588 to the year 1750, Amsterdam was perhaps the first commercial city of Europe. History informs us that that distinction was obtained by her fisheries and her commerce. Indeed, she had little else. By her fisheries she won this great commercial power, and that commerce was sustained by her fishermen. When Von Tromp swept the British ocean, with a broom at his mast-head, threatening entire destruction to the British navy, and annihilation to the commerce of that nation, his vessels were manned by those hardy and persevering men which were supplied from the fisheries of Holland. These were the men who were in fact a terror to all her adversaries, and by which Holland acquired such renown. Her commercial prosperity and the prosperity of her fishermen were coexistent with each other. The Government itself, in a dispatch on the causes of its commercial prosperity, prepared with great care by the direction of the Stadtholder, places the fisheries in the first class of causes as contributing to the advancement of the Republic in its unexampled prosperity. Such was beyond all doubt the fact.

France furnishes a most remarkable example, too, of the intimate relation which exists between commerce, the naval power, and the fisheries. While that nation held her eastern colonies, and their fisheries, we all know that she was rapidly equaling Great Britain in her commerce and in her navy; and an examination of the history of these times will show clearly and conclusively that, from the very hour she parted with her fisheries, which had been the nurseries of her seamen and her commerce, her navy began to decline. Under Louis XIV., and under that most remarkable minister, Colbert, we find that her commerce had extended, and had become almost equal to that of England. Her navy was indeed formidable.

Allow me to read here from a communication made to the National Assembly of France, at its session in 1851, by M. Ancet, in relation to the fisheries. It has been very kindly furnished me by a friend, and is not only an able, but a most valuable paper. In that review, which the French Government have given to this subject very recently, I find very clear and satisfactory evidence of the value which they place upon their fisheries at this time, and of the extraordinary measures which they are taking, not only to retain their present interest in them, but to extend the same. He says:

"It is not, therefore, a commercial law that we have the honor to propose to the Assembly, but rather a maritime law—a law conceived for the advancement of the naval power of this country."

"No other school can compare with this in preparing them [seamen] so well, and in numbers so important, for the service of the navy."

"It may be said of this fishery that if it prepares fewer men for the sea, it forms better sailors—the *élite* of the navy."

"The preservation of the great fisheries assumes a degree of importance more serious when they are viewed as being in fact the nursery of our military marine."

To foster their fishermen they give a bounty of twenty francs on a French quintal of two hundred and twenty and a half pounds avoirdupois—nearly equal to two dollars per American quintal of one hundred and twelve pounds; a sum almost equal to what our fishermen obtain for their dried fish when fit for market.

This shows the estimate in which the fisheries are held by that Government at this time. Another extract to which I will call the attention of the Senate, is from the same report. In speaking of the character of these fisheries, it shows the estimation in which they were held at the period of time to which I have already alluded—that period when the colonies which now belong to Great Britain were in the possession of France.

M. Ancet continues:

"The loss of her most magnificent colonies has occasioned irreparable injury to the commercial marine, which is an essential element of naval power."

"In order to preserve them [the fisheries] we must continue the encouragements they have received, even at periods when a commercial and colonial prosperity, infinitely superior to that now existing, multiplied our shipping, and created abundance of seamen. It is on our fisheries that at this day repose all the most serious hopes of our maritime enlistments."

In the same connection, allow me to read, for the purpose of showing the estimate placed upon these fisheries, not only by the English, but by the French Government at the period to which I have alluded, before they passed from the French to the English jurisdiction, an extract from a report on commercial tariffs and regulations, made to the British Parliament in 1846, by Mr. Macgregor. In that report he says:

"In speaking of the fisheries, De Witt says:

"That the English navy became formidable by the discovery of the inexpressibly rich fishing bank of Newfoundland."

"And from 1618, the fisheries were carried on by England, and became of great national consideration."

"Before the conquest of Cape Breton, by these alone France became formidable to all Europe."

"It was a maxim with the French Government, that their American fisheries were of more national value, in regard to navigation and power, than the gold mines of Mexico could have been if the latter were possessed by France."

He says further:

"It is very remarkable that, in our treaties with France, the fisheries of North America were made a stipulation of extraordinary importance. The Minister of that Power considered the value of those fisheries, not so much in a commercial point of view, but as essential in providing their navy with that physical strength which would enable them to cope with other nations."

"The policy of the French, from their first planting colonies in North America, insists particularly on training seamen by means of these fisheries. In conducting their cod fishery, one third, or at least one quarter, of the men employed in it were 'green men,' or men who were never at sea before; and by this trade they bred up from four thousand to six thousand seamen annually."

I beg leave also to call the attention of the Senate to an extract from the message of Jefferson, in

the early history of the country, calling the attention of the Government to the importance of this branch of our industry. I quote from his message of December 15, 1802. He says:

"To cultivate peace, and maintain commerce and navigation in all their lawful enterprises; to foster our fisheries and nurseries of navigation, and for the nurture of man; * * are the landmarks by which we are to guide ourselves in all our proceedings."

He states very succinctly the importance of the fisheries in a national point of view, as a school in which to train the seamen of our commerce and our Navy. This shows very clearly the importance placed upon these fisheries by France, by England, by all great or commercial nations, and by our own Government. And, sir, that importance is in no way diminished at this period of time. We are to rely upon them now and hereafter to maintain our supremacy upon the ocean.

A like lesson could be drawn from the history of Spain, when her commerce and her navy had reached its culminating point. She, too, drew her support from the fisheries in which she then participated, and which she then held.

This branch of industry has always been considered by the English Government as one of very great importance; and she owes to it that supremacy which in times past she has exercised upon almost every sea. She owes it to the hardy seamen, that she has educated that her commerce has been found in every quarter of the world. She owes it to this class of men that she has been enabled to maintain a naval superiority over any Power that has ever existed.

Such is the importance of our fisheries in a commercial and maritime point of view. They are also important when we examine them in connection with the amount of means, the number of men, and the persons who are engaged in them who are citizens of this Government. The American tonnage employed in these fisheries at the close of the fiscal year 1851, amounts, in the total, to 146,155 84.95 tons, a fleet which, in another age of the world, would have been regarded as adequate to the commercial purpose of a whole nation. This is classified as follows:

Amount of Tonnage engaged in Cod Fisheries for the year ending June 30, 1851.

STATES.	Enrolled vessels over 20 tons.	Licensed vessels under 20 tons.	Total.
Maine.....	41,233.00	4,394.72	45,527.72
New Hampshire....	1,705.33	211.62	1,917.20
Massachusetts.....	38,110.57	1,871.58	39,982.20
Rhode Island.....	26.40	344.73	371.13
Connecticut.....	5,591.13	1,193.72	6,784.85
New York.....	808.41	224.16	1,033.57
	87,475.89	8,140.88	95,616.82

Amount of Tonnage engaged in Mackerel Fisheries, ending June 30, 1851.

STATES.	In Mackerel Fish.	Total Cod and Mackerel.
Maine.....	9,857.59	55,385.36
New Hampshire.....	481.16	2,398.36
Massachusetts.....	39,416.40	79,398.60
Rhode Island.....	189.76	560.94
Connecticut.....	594.01	7,378.86
New York.....	-	1,033.57
	50,539.92	146,155.84

The Boston merchants, who are practical men, who are engaged in the business, and are so situated that they can avail themselves of more reliable information than can be by any possibility acquired at this point, have estimated the whole number of vessels employed in this branch of industry at 2,500, and their value at \$12,000,000, including the outfit. The value of fish caught by this fleet cannot be estimated with any considerable degree of accuracy. It varies from \$3,000,000 to \$5,000,000 annually. According to the information which I have been able to acquire, I am inclined to the belief that an estimate varying from \$3,000,000 to \$4,000,000 annually, will be very near the true point. It is a fluctuating and an uncertain business, and the results of one year cannot form at all a reliable basis for the results of a subsequent year.

A trouble which arises, and which prevents the obtaining of such information as is desirable, and as will enable us to state with accuracy what is the annual amount of production of our fisheries, arises from the want of accuracy in the returns, and from the fact that full returns are hardly ever made. There are, however, some returns which may be found at stated periods, and other returns at particular localities, from which we may draw a conclusion that will safely justify us in the opinion that the annual production of our fisheries must be at least from \$3,000,000 to \$4,000,000. Some years they may exceed that sum. The report of the inspector general of fish, in Massachusetts, gives the quantity and value of the mackerel inspected by him in 1851. He puts down 940 vessels, making 59,417 tons, with 9,998 men.

Now, it will be remarked that in our commercial tables the tonnage engaged in the mackerel fisheries is put down only at 50,539 tons, while the inspector general of Massachusetts puts it down at 59,417. The difference between the two may be explained in this manner: By a decision of the late Justice Woodbury, fishermen who were engaged in the codfisheries, and who were compelled to complete their four months between February and the November following, might devote a portion of their time to the mackerel fisheries. A portion of them were engaged in the mackerel fisheries; and by the estimate made by the inspector of Massachusetts, are placed in that column, thus making the aggregate of tonnage engaged in the mackerel fisheries, some 10,000 tons above that which appears in the commercial tables reported at the Treasury Department. The first part of those tables exhibits the number of vessels, the number of tons, and the number of men engaged.

The same report also gives us information as to the localities in which the mackerel were caught. I find that 140,906 barrels were caught in the Bay of Chaleur, and other large bays on the coasts of the Provinces from which we are to be excluded, under a line drawn from headland to headland, and that 188,336 barrels were caught in all other waters. Therefore, we learn from the report of the inspector general that if we are excluded from those large bays by drawing a line from headland to headland, we are excluded from waters in which very nearly one half the mackerel caught in the year 1851 were taken. The value of these, according to the estimate placed upon them by the inspector general of Massachusetts, was \$2,315,576. This is only the amount of mackerel caught in

1851, and inspected within Massachusetts alone. It embraces the whole amount caught and inspected there, and it gives to us the localities in which they were caught. The quantity of cod, or the value of the same, taken by Massachusetts vessels, or inspected in that State, for the year 1851, I cannot obtain. If the quantity and value of all descriptions of fish could all be ascertained from one State, it might furnish a rule upon which estimates for all could be based.

I find from Macgregor's report, to which I have already alluded, that he has given to us the result of his investigations in relation to the fisheries of Massachusetts alone in 1837. His is not an authority which would be likely to over-estimate the quantity of fish taken, or the importance of those fisheries. According to his estimate, in 1837, we have the following in regard to the fisheries in Massachusetts:

Number of vessels employed in the cod and mackerel fishery.....	12,290
Tonnage of the same.....	76,089
Number of quintals of cod fish caught.....	510,554
Value of the same.....	\$1,589,517
Number of barrels of mackerel caught.....	234,059
Value of the same.....	\$1,639,049
Men employed.....	11,146
Total value of cod and mackerel.....	\$3,228,566

The number of seamen estimated there, as being engaged in that year, is placed at 11,146. That is the number of seamen actually engaged upon the ocean. There is another class of men, very numerous, which serves to increase the number a very considerable per cent., who are left upon the shore for the purpose of curing, preserving, and taking care of the fish; and who alternate with those who do the fishing; consequently the number of fishermen who are returned as actually employed in the business, is not the actual number of those who devote their lives to that occupation. And the number of seamen who are engaged at different times in the fisheries cannot be accurately ascertained; but it is at least fifty per cent. above the number of those who are employed at any given time in fishing.

I have, Mr. President, some other tables to which I wish to call the attention of the Senate. They are as follows. They are not as full and complete as I could desire, but they are the best which can be obtained, and are sufficient to show that our fishing interest is a great and important one:

Statement of the Tonnage of Vessels employed in the Fisheries of the United States each year from June, 1843, to June, 1851.

Year.	Cod fisheries.	Mackerel fisheries.	Total.
1843	61,223	11,775	72,998
1844	85,224	16,170	101,394
1845	76,990	21,413	98,203
1846	79,318	36,463	115,781
1847	78,260	31,451	109,731
1848	89,856	43,558	133,414
1849	81,695	42,942	124,637
1850	93,806	58,112	151,918
1851	95,616	50,539	146,155

I offer this for the purpose of showing that the amount of tonnage engaged in that branch of industry is very large, and has continually increased from that period of time up to the present—showing its growing importance.

Statement of Pickled Fish inspected in Massachusetts, from 1841 to 1850, inclusive.

	Barrels.
1841.....	50,992
1842.....	46,537
1843.....	74,893
1844.....	98,014
1845.....	212,296
1846.....	195,194
1847.....	238,980
1848.....	300,336
1849.....	203,499
1850.....	246,463

This is the amount of pickled fish inspected in Massachusetts only. It is hardly sufficient to base a calculation of value upon, but is still one element that will aid in a correct understanding of the magnitude of the whole business.

Exports of Dried and Pickled Fish from the United States during the years ending June 30, 1843, to 1850, inclusive.

Years	Dried Fish— quint'ls.	Value.	Pickled Fish— barrels.	Value.*	Total value.
1843*	174,320	\$381,175	30,554	\$116,042	\$497,217
1844..	271,610	699,833	46,170	197,179	897,015
1845..	288,380	803,353	44,303	208,654	1,012,007
1846..	277,401	699,559	57,060	230,495	930,050
1847..	258,870	659,629	31,361	136,221	795,851
1848..	206,549	609,482	23,736	109,315	718,797
1849..	197,457	419,092	25,835	93,085	513,177
1850..	168,600	365,349	19,944	91,445	456,794

*The returns for 1843 were but for nine months.

This exhibits that while we have lost the market of the Mediterranean for our fish, and much of the market of Cuba, and other West India islands, yet, from our fisheries we exported, for that period of time, about three fourths of a million annually.

The next table which I present, is for the purpose of showing the hazard and loss of life which is incurred by the fishermen who follow this pursuit. It is a table which exhibits—

Number and value of American Fishing Vessels, and number of lives lost in 1851.

District of—	No. of vessels.	Tonnage.	Value.	Loss of life.
Gloucester.....	9	629.49	\$19,366	24
Penobscot.....	14	696.01	14,400	22
Portland.....	7	369.54	5,600	66
Barnstable.....	10	563.50	24,100	43
Portsmouth.....	6	328.00	16,300	47
Passamaquoddy..	3	143.91	3,600	17
Total.....	49	2,730.53	\$83,366	219

What the number of lives, the number of tons, and the value of vessels would be, if we could get correct estimates from all the ports, it is impossible to tell; but this table exhibits, at a single glance, the great hazard which is experienced by our fishermen in the pursuit of their lawful calling. The life of a fisherman is not only one which deprives him of the comforts of home, but is a constant scene of disaster and danger. More severe toil is endured by none. He labors harder and obtains a smaller return than is afforded in any other branch of industry.

I have thus briefly, Mr. President, called the attention of the Senate to the importance of these fisheries, as the great source and fountain of our

commercial and naval prosperity, and the great fountain and source of the commercial and naval prosperity of every maritime nation that has existed. Thus hastily as I presented, as far as I have been able, the amount, the value of our fisheries, the number of men employed, and the productions of these fisheries—all showing their importance, and imposing upon us the obligation to maintain the just rights of our fishermen, and to sustain them in what properly belongs to them. A few words more, sir, and I shall have done; and in these few words I shall invite the attention of the Senate to the character of the men whom we are called upon to protect—whose interests are involved, whose rights are invaded, and who come here to call upon us to stand by them, as they have stood by the flag of their country in the day and hour of trial and peril.

These men come here and claim of us the protection which we, as a nation, owe to them; and it is a protection that we must give to them, or we shall be faithless to the trust reposed in us. We have induced them to embark their all upon this perilous enterprise. We have induced them, by bounties, and encouraged them for commercial and maritime purposes, to pass their lives upon the stormy ocean; and there, sir, it is, in sunshine and in storm, that they are following that vocation which fits them for, or makes them the best seamen the world can produce. Our Government has given to them a just right to protection by insisting, from the treaty of 1783, and from the treaty of 1818, and by the principles of international law, that they have a right to fish within those waters. But it is said that they are now to be prohibited; and, sir, if their vessels are to be seized—if they are to be excluded from those waters—if their vessels are to be confiscated, then this immense amount of property, thus invested, will become useless, and leave them in want and beggary, or in prison in foreign jails.

Many of them, indeed, have embarked their all in the enterprise. In the great majority of cases these fisheries are conducted by men who own the vessels in small shares, who have not even the ability to own the whole vessel. Few instances can be found where a single fishing vessel is owned by a single individual. They are divided into very small fractions. They are built, they are sailed, they are conducted by the men who own them in fractional parts.

We shall need these men hereafter; we shall need them, as we have needed them, to fight our battles upon the ocean and upon the lakes. God grant, sir, that the time may never come when the supremacy of our commerce upon the ocean shall be tested by the force of arms. Still, judging from the past—and we know that the past is "philosophy teaching by example"—we may not suppose that that supremacy is always to be maintained by peaceful and quiet movements. We should be prepared when that struggle shall arrive to assert that supremacy in whatever way may be demanded at the moment. And when that time shall come, it is the American fisherman who is to fight your battles; it is your American fisherman who is to fight them as he fought them in the war of 1812. Then, when the British Government threatened to sweep our little, but gallant Navy, from the bosom of the ocean or sink it in its vortex, and to annihilate our commerce, it

was the fishermen from Marblehead, and all along our coast, who rallied with patriotic hearts and with ready hands to sustain the stars and stripes of our country. And it was by their prowess that Great Britain was made to feel the force of a freeman's arm whenever wielded in a holy cause. Whenever the cross of St. George came down to the stars and stripes we were indebted mainly to them for that victory. We shall be faithless to the trust that has been reposed in us if we do not sustain and stand by what are their legal, their international, and their treaty rights. Why, sir, in that war of 1812 we captured from the British more than 2,300 sail of vessels, mounting more than 8,000 guns; we captured 56 men-of-war, mounting 886 cannon; and took in all about 30,000 prisoners of war.

The American loss was, three frigates—the Chesapeake, the Essex, and the President; six brigs, and fourteen small vessels, two sloops, and one gun-boat;—making in all twenty-five. And, by the Admiralty report of Great Britain to the House of Commons, it was stated that 1,407 American merchantmen were captured or destroyed by the British, and 20,960 seamen taken prisoners of war. Now, sir, not only were all your

naval battles proper fought mainly by your fishermen, but the greater portion of the commercial vessels of Great Britain was captured by these very men. We do not desire to train every seaman for naval purposes in the Navy; that would require thousands of dollars, while training in the fisheries would cost not a single dollar. It is for these reasons, in addition to the duty of our Government to protect the rights of every citizen everywhere, and at all times, that we are to sustain them and protect them in their rights. If we do our duty faithfully by them, we shall find them when the calls of a common country are made upon them, rallying to support that flag to which they now look for support. I cannot doubt that they are to be protected, nor can I doubt that any branch of this Government, either legislative or executive, will be derelict in its duty. Though not in the language of diplomacy, or legislation, yet it is appropriate to this occasion for me to say, that I shall do what has been said by the individual who is now conducting the negotiation—stand by them in their just rights, defend them at all hazards, and “protect them, hook and line, bob and sinker.” Stand by them as they have always stood by their country—they ask no more.