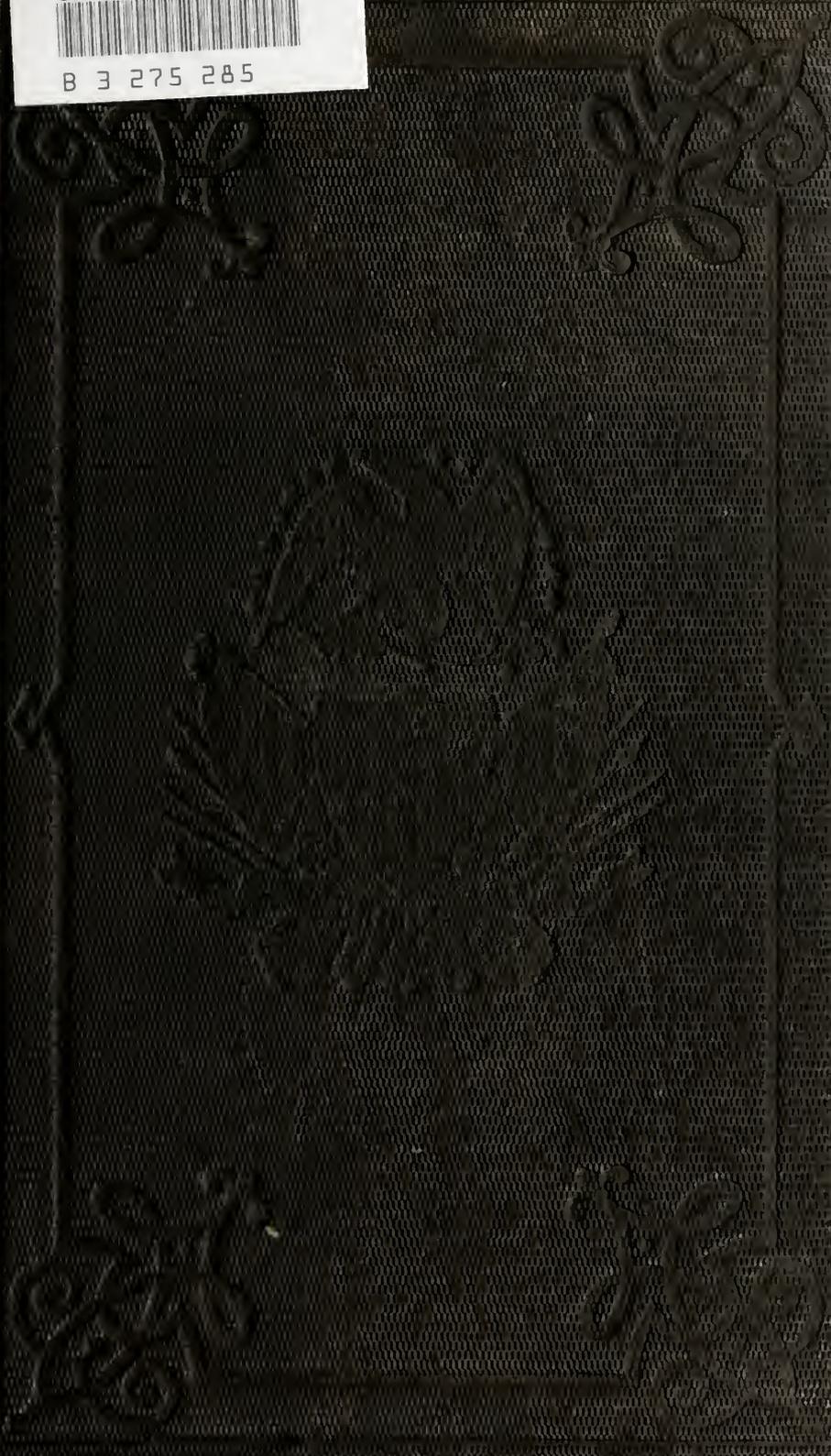


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REPORT

ON

THE PRINCIPAL FISHERIES

OF

THE AMERICAN SEAS:

PREPARED FOR

THE TREASURY DEPARTMENT OF THE UNITED STATES

BY

LORENZO SABINE, OF MASSACHUSETTS;

AND

SUBMITTED BY THE HON. THOMAS CORWIN, SECRETARY OF THE TREASURY,  
AS A PART OF HIS ANNUAL REPORT ON THE FINANCES, AT THE  
SECOND SESSION OF THE THIRTY-SECOND CONGRESS.

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WASHINGTON:  
ROBERT ARMSTRONG, PRINTER.

1853.



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*Extract from the report of Hon. Thomas Corwin, Secretary of the Treasury.*

"TREASURY DEPARTMENT, January 15, 1853.

\* \* \* \* \*

"The subject of the fisheries being one of high importance, and having recently attracted great and general attention, I transmit herewith a highly interesting and valuable report prepared for this Department by Lorenzo Sabine, esq., embracing—

"1. A report on the fisheries in the American seas of France, Spain, and Portugal.

"2. A report on the fisheries of Newfoundland, Nova Scotia, Cape Breton, Prince Edward's island, Magdelene islands, Bay of Chaleurs, Labrador, and New Brunswick.

"3. Report on the fisheries of the United States.

"4. Review of the controversy between the United States and Great Britain as to the intent and meaning of the first article of the convention of 1818."

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# REPORT

ON THE

## PRINCIPAL FISHERIES OF THE AMERICAN SEAS:

BY LORENZO SABINE.

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CUSTOM-HOUSE, BOSTON,  
*Collector's Office, December 10, 1852.*

SIR: I transmit herewith a report on the fisheries, by Lorenzo Sabine, esq., which he has prepared for the department.

I am, sir, very respectfully, your obedient servant,

P. GREELY, Jr.,  
*Collector.*

HON. THOMAS CORWIN,  
*Secretary of the Treasury, Washington, D. C.*

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FRAMINGHAM, *December 6, 1852.*

SIR: I submit herewith the report which I have prepared, in accordance with your instructions of the 2d of February last.

More than twenty years have elapsed since I formed the design of writing a work on the American fisheries, and commenced collecting materials for the purpose. My intention embraced the whale fishery of our flag in distant seas; the fisheries of our own coasts, lakes, and rivers, as well as those which we prosecute within British jurisdiction, under treaty stipulations; and the fisheries of the Indian tribes within the limits of the United States. That a *part* of my plan has now been executed, is owing entirely to the interest and zeal which you have manifested in the undertaking.

Our first interview upon the subject was caused by a communication to you from the Treasury Department, in which the Secretary conveyed a request that a report of limited size should be furnished from your own office. During our conversation, you expressed a desire to look over my collection of documents and state-papers, and they were accordingly deposited with you for examination. On returning them to me, you were pleased to give a favorable opinion of their value, and to say that you would at once suggest and recommend to Mr. Corwin the expediency of employing me to write a paper somewhat more elaborate than he had contemplated.

Subsequently, you announced to me that the Secretary promptly adopted your views, and submitted the whole matter to your discretion.

I undertook the task with all my heart, and with a determination to complete it, if possible, in a manner to meet the expectations of the department and of yourself. It is finished. Whatever the judgment pronounced upon it, I have still to express my grateful acknowledgments to Mr. Corwin for the kindness which has allowed the partial gratification of a long-cherished wish, and to you for the original suggestion, for your countenance, your sympathy, and your personal supervision.

If I may venture to hope that, as the result of my labors, an important branch of national industry will hereafter be better understood and appreciated by such of our countrymen as have never devoted particular attention to its history, I may venture to repeat that all commendation rightfully belongs to you.

Nor would I forget that my thanks are also due to William A. Wellman, esq., your principal deputy collector, who, at our second interview, generously relinquished his own favorite plan of writing a report upon our cod and mackerel fisheries, and expressed a decided wish that the duty should be transferred to me, as well as his readiness to afford me all possible aid. His knowledge and experience have been of material assistance. I am indebted to him for important facts which were to be obtained of no other person, for information which has corrected my views and opinions in several particulars, and for statistical matter of great value.

I have the honor to be, sir, your obedient servant,

LORENZO SABINE.

PHILIP GREELY, Jr., Esq.,

*Collector of the Customs port of Boston and Charlestown.*

## PART I.

### FRANCE, SPAIN, PORTUGAL.

#### COD-FISHERY OF FRANCE.

The French were the first European cod-fishers in the American seas. There is a tradition among the fishermen of Biscay that their countrymen visited Newfoundland before the time of Columbus. It is said, indeed, that the great discoverer was informed of the fact by a pilot who had been engaged in the enterprises. The story, improbable as it is, seems to have been treated with respect by some writers of the sixteenth century, but may be dismissed now as one which rests upon no clear and authentic testimony.

But that the Newfoundland fisheries were known to the Biscayans and Normans as early as the year 1504, is quite certain. When Cabot discovered our continent, Europe, including England, was Catholic; and during the fasts of the church, the pickled herring of Holland was the principal food. The consumption of fish was immense;\* and the Dutch, having enjoyed the monopoly of the supply, had become immensely rich. The knowledge communicated by Cabot and the voyagers who followed him, that the waters of America contained, not only an abundance, but many varieties of fish, gave rise to an excitement on the subject of fishing hardly less intense than is witnessed at the present time relative to mining. Persons of the highest rank, and not engaged in commercial pursuits, became shareholders in adventures to the new fishing-grounds. And though the Dutch refused to abandon the particular fishery by which they had obtained both wealth and celebrity, vessels wearing the flags of France, England, Spain, and Portugal came annually in search of the cod—as we shall see—for nearly a century before a single European colony was founded in America north of the ancient limits of the United States.

Of the incidents of the French fishing voyage of 1504 I have not

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\* Documents which show the immense consumption of fish are to be met with by the students of history everywhere. The following incidents, selected from a number, will sufficiently illustrate the statement in the text:

“The bill of fare of the feast given on the marriage of Henry IV to his Queen Joan, of Navarre, at Winchester, in 1403, ‘is yet in existence, written on parchment,’ remarks a chronicler of curious things of ‘the olden time;’ and the banquet consisted of six courses—three of flesh and fowl, and *three of fish*. In the ‘first course of *Fyshe*,’ were ‘*Salty fyshe*,’ and ‘*Brene samoun rostyd*.’ ‘Of the comforts of the *poor*,’ 16th century, says an English journal, ‘we may form a tolerably correct notion from the *luxuries* registered in the household book of the great Earl of Northumberland.’ From this document it appears that, in one of the most noble and splendid establishments of the kingdom, the retainers and servants had but spare and unwholesome diet—salt beef, mutton, and *fish three-fourths* of the year, with little or no vegetables; so that, as Hume says, ‘there cannot be anything more erroneous than the magnificent ideas formed of the *roast beef of old England*.’ Nor does it seem that ‘my lord and lady’ themselves fared much better than their ‘retainers,’ since for their breakfast they had ‘a quart of beer, as much wine, *two pieces of salt fish, six red herrings, four white ones, and a dish of sprats*.’ In England, in the same century, ‘the first dish brought to table on Easter day was a *red herring* riding away on horseback;’ that is, it was the cook’s duty to set this fish ‘in corn sallad,’ and make it look like a man riding on a horse.”

been able to find any account; but there is mention, four years later, of Thomas Aubert, who came from Dieppe to Newfoundland, and who, previous to his return, explored the river St. Lawrence. We learn, further, that the fishery increased rapidly, and that, in 1517, quite fifty ships of different nations were employed in it.

The flag of France was probably the most numerous, since, in 1527, an English captain at Newfoundland wrote to his sovereign, Henry VIII, that in the harbor of St. John alone he found fishing eleven sail of Norman and one Breton. Francis I, at this period, was engrossed by a passionate and unsuccessful rivalry with Charles V of Spain, and could hardly attend to so humble an interest. "But Chabot, admiral of France, acquainted by his office with the fishermen, on whose vessels he levied some small exactions for his private emolument, interested Francis in the design of exploring and colonizing the new world." Jacques Cartier,\* of St. Malo, who was considered the best seaman of his day, was accordingly intrusted with the command of an expedition in 1534.

The French appear to have had establishments on shore, for the purposes of the fishery, in 1540; but we have no certain information with regard to them. In 1577 they employed no less than one hundred and fifty vessels, and prosecuted the business with great vigor and success. After the accession of Henry IV—the first of the Bourbons—and under the auspices of his illustrious minister, Sully, the Newfoundland cod-fishery was placed under the protection of the government.

Previous to 1609, so constant and regular was intercourse with our fishing-grounds that Scavalet, an old fisherman, had made forty voyages.

Without statistics in the early part of the seventeenth century, we only know, generally, that there was a material decline in this distant branch of industry, caused, possibly, by the civil commotions at home. But in the year 1645, though the number of vessels employed was fifty less than in 1577, the fishermen of France were deemed by English writers to be formidable rivals of their own. Disputes and bloodshed had then occurred—precursors of long and distressing wars for the mastery of the fishing-grounds.

Meantime the successes, the explorations, and the representations of the hardy adventurers to our waters for an article of food for the fast-days of the church had led to the most important political results. The limits of this report do not permit minute statements; and I will only remark that, when Cartier—already referred to—made his first voyage, the design of the French monarch was merely to found a single colony in the neighborhood of the fishing-banks, but that the information of the country communicated to Francis on the navigator's return, confirming as it did the descriptions of the fishermen of Normandy

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\* Jacques Cartier was a native of St. Malo. Francis I sent him on his first voyage in 1534. He made a second voyage in 1535; and, when ready to depart from France, he went to the cathedral, with his whole company, to receive the bishop's benediction. Many of his companions were young men of distinction. He came to the French possessions in America a third time in 1540, as pilot, and in command of five ships, under Francois de la Roque, lord of Roberval, who, commissioned as governor of Canada, was intrusted with the supreme authority. Cartier published an account of Canada after his second voyage.

and Brittany, induced a more extended plan, and the possession, for permanent colonization, of the vast region from which, after the voyages and discoveries of Pontgrave, of Champlain, and others, were formed the colonies of Canada and Nova Scotia, and, in due time, Cape Breton. Thus it is historically true that France was directly indebted to her fisheries for her possessions in America.

The right to these possessions was soon disputed. In an age when kings claimed, each for himself, all the lauds and seas that his subjects saw or sailed over, and when charters and grants were framed in perfect ignorance of the domains which they transferred, almost in levity, to favorites, it could not but sometimes happen that the subjects of different crowns received patents of precisely the same tracts of country, and that, on lines where French and English grants met, the boundaries were so vaguely and uncertainly described as to produce long and bitter contentions.

Such, indeed, was the case to an extent to disturb the peace of the colonists of America for more than a century. As most of the controversies from this source are connected with our subject, a notice of them is indispensable.

The first difficulties occurred in the country known for a long time as "Acadia," which may be described, generally, as embracing the whole of the present colonies of Nova Scotia and New Brunswick, and Maine between the Kennebec and the St. Croix rivers. It is sufficiently definite for our purpose to say that this immense territory was claimed by both crowns, and that the subjects of both—the one resting on the English grant to Sir William Alexander, and the other on the French patent to De Monts—settled upon it, and fished in its seas, as inclination led them.

The treaty of St. Germain's, in 1632, hushed for a while the earlier disputes, since Charles I, who had married a French princess, resigned by that instrument all the places in Canada, Nova Scotia, and Cape Breton occupied by persons who owed allegiance to him; yet, as the English people condemned the cession, and as neither lines nor limits were defined, new contentions arose, which, as we shall see, were terminated only with the extinction of French power in this hemisphere. In fact, historians of acknowledged authority consider the treaty of St. Germain's as among the prominent causes of the American Revolution, inasmuch as the disputes to which it gave rise disturbed, finally, the relations between England and her thirteen colonies.

Twenty-two years elapsed, and Cromwell, in a time of profound peace with France, took forcible possession of Nova Scotia, claiming that its cession by Charles was fraudulent. He erected it into a colony, and organized a government. It was considered highly valuable, and Englishmen of rank aspired to become its proprietary lords from the moment of its acquisition.

The French court remonstrated, without changing the purpose of the protector. But, after the restoration of the Stuarts, and by the treaty of Breda, in 1667, this colony passed a second time to France.\* Though

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\* Edward Randolph, the first collector of the customs of Boston, in a Narrative to the Lords of Trade and Plantations, in 1676, says that "The French, upon the last treaty of peace concluded between the two crowns of England and France, had Nova Scotia, now called Acadie,

St. John, Port Royal, La Heve, Cape Sable, as well as Pentagaet or Penobscot, were specially named in the cession, the general boundaries were not mentioned, and the soil and the fishing-grounds were again the scenes of collisions, reprisals, and fierce quarrels. A third treaty—that of London—in 1686, confirmed the two powers in the possession of the American colonies respectively held at the commencement of hostilities, but left the extent and limits of all as unsettled as before.

Sagacious men in New England had now seen for years that the expulsion of the French was the only measure that would secure peace in the prosecution of the fisheries, and they endeavored to enlist the sympathy and co-operation of the mother country. The war between France and England which followed the accession of William and Mary was no sooner proclaimed at Boston than the general court of Massachusetts commenced preparations for the conquest of Nova Scotia and Canada. Sir William Phips, who was born and bred among the fishermen of Maine, was intrusted with the command of an expedition against both. He reduced the first, and established a government; but his enterprise in the St. Lawrence was disastrous. It is of interest to add, that the first paper money emitted in America was issued by Massachusetts to defray the expenses of these military operations.

At the peace of Ryswick, in 1697, it was stipulated that mutual restitution should be made of all conquests during the war; and, much to the dissatisfaction of the English colonists, Nova Scotia returned once more to the undisputed possession of the French. The strife in America had been avowedly for the fisheries, and for territory north and west; and this treaty, which, with the exception of the eastern half of Newfoundland, secured to France the whole coasts, the islands, and the fishing-grounds from Maine to beyond Labrador and Hudson's Bay, besides Canada and the valley of the Mississippi, was regarded as dishonorable to England and wantonly injurious to colonial industry and peace.

The evil consequences of the treaty of Ryswick were soon manifest. A year had not elapsed before the French government promulgated a claim to the sole ownership of the fisheries. In 1698, a frigate bound from France to Nova Scotia furnished the master of a Massachusetts vessel with a translated order from the king, which authorized the seizure of all vessels not of the French flag that should be found fishing on the coast. General publicity of the order followed, and its execution was rigidly enforced. Bonaventure, in the ship-of-war *Enviux*, boarded and sent home every English colonial vessel that appeared on

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delivered up to them, to the great discontent and murmuring of the government of Boston, that his Majesty, without their knowledge or consent, should part with a place so profitable to them, from whence they drew great quantities of beaver and other peltry, besides the fishing for cod. Nevertheless," he adds, "the people of Boston have continued a private trade with the French and Indians inhabiting those parts for beaver skins and other commodities, and have openly kept on their fishing upon the said coasts."

He says further, that "Monsieur La Bourne, governor for the French king there, upon pretence of some affronts and injuries offered him by the government of Boston, did strictly inhibit the inhabitants any trade with the English, and moreover layd in imposition of four hundred codfish upon every vessel that should fish upon the coasts, and such as refused had their fish and provisions seized on and taken away." By the "Boston government," Randolph means the government of Massachusetts.

his cruising-ground; while Villabon, governor of Nova Scotia, in an official despatch to the executive of Massachusetts, declared that instructions from his royal master demanded of him the seizure of every American fisherman that ventured *east of the Kennebeck river, in Maine*. The claim was monstrous. If I understand its extent, the only fisheries which were to be open and free to vessels of the English flag were those westerly from the Kennebeck to Cape Cod, and those of the western half of Newfoundland. It seems never to have occurred to a single French statesman that the supply of fish in our seas is inexhaustible, and that, reserving certain and sufficient coasts for the exclusive use of their own people, other coasts might have been secured to their rivals, without injury to any, and with advantage to all. In fact, evidence that such a plan was suggested by our fathers, or by the ministry "at home," does not, I think, exist. On both sides the strife was for the monopoly and for the mastery.

Richard, Earl Bellamont, arrived in Boston in 1699,\* and, having assumed the administration of affairs in Massachusetts, pointedly referred to these pretensions in a speech to the general court, and to the execrable treachery of the Stuart who had parted last with Nova Scotia and "the noble fishery on its coast." But his lordship could afford no redress.

In the first year of the reign of Queen Anne, the two nations were again involved in war. Among its causes was the claim of France to a part of Maine and to the whole of the fishing-grounds. The people of New England, driven from the Acadian seas by the common enemy, needed no solicitation from the mother country to engage heartily in the contest. On the other hand, employing armed vessels of their own, they were hardly restrained, in their zeal and success, from hanging as common pirates some of the French officers who had been the instruments of interrupting their pursuits in the forbidden waters.

Nor was this all. They attempted the conquest of Nova Scotia, and equipped a fleet at Boston. The enterprise failed. Promised ships from England three years later, but disappointed, a second expedition failed also.

At last, in 1710, Nova Scotia became an English colony. Its reduction was a duty assumed by the ministry, while, in truth, it was accomplished principally by colonists and colonial resources. Of the force assembled at Boston, six ships and a corps of marines were, indeed, sent from England; but the remainder, thirty vessels and four regiments, were furnished by the four northern colonies. Strange it was that Anne, the last of her family who occupied the throne, should have permanently annexed to the English crown the colony and the "noble fishery" which all of her line had sported with so freely and so disastrously.

I have barely glanced at events which occupy hundreds of pages of documentary and written history. Whoever has examined the transactions thus briefly noticed has ceased to wonder that the Stuarts were

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\* It was a new thing to see a nobleman at the head of the government of Massachusetts, and he was received with the greatest respect. "Twenty companies of soldiers and a vast concourse of people met his lordship and the countess, and there was firework and good drink all night." He died in New York in 1701. He was an enemy of the Stuarts.

so odious in New England. I know of nothing more disgraceful to them, either as rulers or as private gentlemen, than their dealings with Sir William Alexander, their own original grantee of Nova Scotia, with the claimants under him, and with their subjects in America, who bled, reign after reign, and throughout *their* reigns, to rid themselves of the calamities entailed upon them by the treaty of St. Germain, and who, in the adjustment of European questions, were defrauded of the fruits of their exertions and sacrifices by the stipulations in the treaties of Breda of London, and Ryswick.

The conquest of one French colony achieved, the ministry, yielding to importunities from America, projected an enterprise for the reduction of Canada also—in which, as usual, the colonists were to bear a large share of the actual burdens. After unnecessary, even inexcusable, delays on the part of those intrusted with the management of the affair in England, a fleet and a land force finally departed from Boston for the St. Lawrence. A more miserable termination to a military operation of moment can hardly be found in history. “The whole design,” wrote the celebrated Lord Bolingbroke, “was formed by me;” and he added, “I have a sort of paternal concern for the success of it.” But how could he have thought “success” possible?

The general appointed to command the troops was known among his bottle-companions as “*honest Jack Hill*,” and was pronounced by the Duke of Marlborough to be “good for nothing.” The admiral was so ignorant—so inefficient generally—as to imagine that “the ice in the river at Quebec, freezing to the bottom, would bilge his vessels,” and that, to avert so fearful a disaster to her Majesty’s ships, he “must place them on dry ground, in frames and cradles, till the thaw!”

He was spared the calamity of wintering in ice one hundred feet in thickness! On the passage up the St. Lawrence, eight of his ships were wrecked, and eight hundred and eighty-four men drowned. But for this, said he, “ten or twelve thousand men must have been left to perish of cold and hunger: by the loss of a part, Providence saved all the rest.” Of course, an expedition consisting of fifteen ships-of-war and forty transports, of troops fresh from the victories of Marlborough, and of colonists trained to the severities of a northern climate, and sufficient for the service, under *such* chiefs, accomplished nothing but a hasty departure.

Peace was concluded in 1713. Down to this period the French fisheries had been more successful, probably, than those conducted by the English or the American colonists.

Their own account is, indeed, that, at the opening of the century, their catch of codfish was equal to the supply of all continental or Catholic Europe. By the treaty of Utrecht, in the year just mentioned, England obtained what she had so long contended for, as her statesmen imagined—namely, a supremacy in, or monopoly of, the fisheries of our seas.

On the coast of Nova Scotia, or Acadia, the French were utterly prohibited from approaching within thirty leagues, beginning at the Isle of Sable, and thence measuring southwesterly; while the unconditional right of England to the whole of Newfoundland, and to the Bay of Hudson and its borders, was formally acknowledged.

Yet, at Newfoundland, the privilege of fishing on a part of the eastern coast from Cape Bonavista to the northern point, and thence along the western shore as far as Point Riche, was granted to the subjects of Louis. It is to be observed that England reserved the exclusive use of the fishing-grounds considered the best, and also the territorial jurisdiction; that the French were not permitted to settle on the soil, or erect any structures other than fishermen's huts and stages; and that the old and well-understood method of fishing was to be continued without change.

By one party this adjustment of a vexed question was deemed favorable to England and just to France. But another party insisted that their rival, humbled by the terms of the peace in other respects, should have been required in this to submit to her own doctrines and to an unconditional exclusion from the American seas. The opponents of the treaty did not view the case fairly. The cession of Acadia was supposed to include the large island of Cape Breton; and, this admitted, the French were to be confined to a region from which their further, or at least considerable, interference with vessels wearing the English flag was hardly possible: while, with regard to that very region, it should be recollected that, though England claimed Newfoundland by the discovery of Cabot and the possession of Gilbert, no strenuous or long-continued opposition had been made, at any time, to all nations fishing, or even forming settlements, there; and that France was entitled to special consideration, inasmuch as her establishments for conducting the fishery had been held without interruption for more than half a century, and had been recognised at the peace of Ryswick. Besides, she had captured several English posts in addition, and, in fact, was in actual possession of a large part of the island and its valuable appendages.

The party in opposition assailed the ministry in terms of bitter denunciation. It was said that they "had been grossly imposed upon," that they "had directly given to France all she wanted," and that the concessions were "universally and justly condemned." Such are some of the words of reproach that appear in an official report. In the political ferocity of the time, Lord Oxford was impeached; and it is among the charges against him that, "in defiance of an express act of Parliament, as well as in contempt of the frequent and earnest representations of the merchants of Great Britain and of the commissioners of trade and plantations," he, Robert, Earl of Oxford, and Earl Mortimer,\* had advised his sovereign that "the subjects of France should have the liberty of fishing and drying fish in Newfoundland."

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\* Robert Harley, Earl of Oxford, and Earl Mortimer, a distinguished minister of state in the reign of Queen Anne, was born in 1661. "After the peace of Utrecht, the tory statesmen, having no longer apprehensions of danger from abroad, began to quarrel among themselves and the two chiefs, Oxford and Bolingbroke, especially, became personal and political foes." Soon after the succession of George I, Oxford was impeached of high treason by the House of Commons, and was committed to the Tower. The Duke of Marlborough was among his enemies. Bolingbroke fled to the continent. Oxford was tried before the House of Peers in 1717, and acquitted of the crimes alleged against him. He was the friend of Pope, Swift, and other literary men of the time. He died in 1724. His son Edward, the second Earl of Oxford, and Earl Mortimer, was also a great and liberal patron of literature and learned men, and completed the valuable collection of manuscripts which he commenced, and which is now in the British Museum.

His lordship was committed to the Tower, and tried for high treason; but such has been the advance of civilization and of the doctrine of human brotherhood, that an act which was a flagrant crime in his own age has become one honorable to his memory. The great principle he thus maintained in disgrace, that the seas of British America are not to be held by British subjects as a monopoly, and to the exclusion of all other people, has never since been wholly disregarded by any British minister, and we may hope will ever now appear in British diplomacy to mark the progress of liberal principles and of "man's humanity to man."

The loss of Nova Scotia caused but a temporary interruption of the French fisheries. Within a year of the ratification of the treaty of Utrecht, fugitive fishermen of that colony and of Newfoundland settled on Cape Breton and resumed their business. I have remarked that, as the English understood the cession of Acadia, "according to its ancient boundaries," this island was held to be a part of it. The French contended, on the other hand, that Acadia was a *continental* possession, and did not embrace, of course, an island sufficient of itself to form a colony. The settlement and fortification of Cape Breton was therefore undertaken immediately, as a government measure. Never has there been a better illustration of the facile character of the French people than is afforded by the case before us. Wasting no energies in useless regrets, but adapting themselves to the circumstances of their position, they recovered from their losses with ease and rapidity. In 1721 their fleet of fishing-vessels was larger than at any former period, and is said to have been quite four hundred.

Reference to the map will show that Cape Breton and Nova Scotia are divided by a narrow strait. The meeting of vessels of the two flags was unavoidable. The revival of old grudges, collisions, and quarrels, was certain; but no serious difficulties appear to have occurred previous to 1734.

In 1744, England and France were still again involved in war. Among the earliest hostile deeds were the surprise of the English garrison at Canseau, Nova Scotia, and the destruction of the buildings, the fort, and the fishery there, by a force from Cape Breton, and the capture at Newfoundland of a French ship, laden with one hundred and fifty tons of dried codfish, by a privateer belonging to Boston. These, however, are incidents of no moment, and may be disposed of in a word.

The French fisheries had continued prosperous. They excited envy and alarm. Accounts which are considered authentic, but which I am compelled to regard as somewhat exaggerated, show that they employed nearly six hundred vessels and upwards of twenty-seven thousand men; and that the annual produce was almost a million and a half quintals of fish, of the value of more than four and a half millions of dollars. More than all else, the fishery at Cape Breton was held to be in violation of the treaty of Utrecht; for, as has been said, that island was in the never-yet-defined country, Acadia.

Robert Auchmuty,\* an eminent lawyer of Boston, and judge of the

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\*Robert Auchmuty was of Scottish descent, but was educated at Dublin. He came to Boston when young, and was appointed judge of the court of admiralty in 1703. In 1740, he was a director of the "Land Bank," or bubble, which involved the father of Samuel Adams and

court of admiralty, when sent to England as agent of Massachusetts on the question of the Rhode Island boundary, published a pamphlet entitled "The importance of Cape Breton to the British nation, and a plan for taking the place," in which he demonstrated that its conquest would put the English in sole possession of the fisheries of North America; would give the colonies ability to purchase manufactures of the mother country of the value of ten millions of dollars annually; would employ many thousand families then earning nothing; increase English mariners and shipping; cut off all communication between France and Canada by the river St. Lawrence, so that, in the fall of Quebec, the French would be driven from the continent; and, finally, open a correspondence with the remote Indian tribes, and transfer the fur trade to Anglo-Saxon hands. All this was to follow the reduction and possession of a cold, distant, and inhospitable island. Such was the sentiment of the time.

In 1745, the conquest of Cape Breton was undertaken. Viewed as a military enterprise, its capture is the most remarkable event in our colonial history. Several colonies south of New England were invited to join the expedition, but none would consent to waste life in a project so mad; and Franklin, forgetting that he was "Boston-born," ridiculed it in one of the wittiest letters he ever wrote. In Massachusetts, and elsewhere at the North, men enlisted as in a crusade. Whitefield made a recruiting house of the sanctuary. To show how the images in the Catholic churches were to be hewn down, axes were brandished and borne about; and, while Puritanism aimed to strike a blow at Catholicism, the concerns of the present life were not forgotten. Fishermen panted for revenge on those who had insulted them and driven them from the fishing-grounds. Merchants, with Auchinuty's pamphlet in their hands, thought of the increased sale and the enhanced price of New England fish in foreign markets. Military officers who had served in Nova Scotia in the previous war were ambitious of further distinction and preferment. Such were the motives.

William Vaughan, who was extensively engaged in the fisheries, and whose home was near Pemaquid, in Maine, claimed that, while listening to the tales of some of his own fishermen, he conceived the design of the expedition. Governor Shirley,\* of Massachusetts, embraced his plans, and submitted them to the general court. By this body they were rejected. Renewed by the governor, and insisted upon by the merchants, they were finally adopted by the vote of the speaker, who had acted previously in opposition.†

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many others in ruin. He was sent to England on important service, and, while there, projected an expedition to Cape Breton. After his return, he was appointed judge of admiralty a second time. He died in 1750. His son, Samuel, a graduate of Harvard University, was an Episcopal minister in New York; and his grandson, Sir Samuel Auchmuty, a lieutenant general in the British army, and died in 1822. The Auchmutys of the revolutionary era adhered to the side of the crown.

\* William Shirley, Governor of Massachusetts, was a native of England, and was bred to the law. He came to Boston about the year 1733, and was appointed governor in 1741. In 1755, he was commander-in-chief of the British forces in America. He died in Roxbury, Massachusetts, in 1771.

† Mr. Oliver, a Boston member, broke his leg on his way to the house, and was not present. His vote would have caused the rejection of the plan a second time. The members deliberated under the first oath of secrecy administered to a legislative assembly in America.

Instantly Boston became the scene of busy preparation.

William Pepperell, of Kittery, in Maine, and the son of a fisherman of the Isles of Shoals, assumed command of the expedition. The merchants of Boston furnished a large part of the armed vessels and transports. The fishermen of Plymouth were the first troops to arrive. Those of Marblehead and Gloucester, and those who had been employed by Pepperell and Vaughan, followed in rapid succession. Lumberers, mechanics, and husbandmen completed the force.

Louisbourg was the point of attack; for Cape Breton would fall with its capital without another blow. This city was named in honor of the king. Twenty-five years and thirty millions of livres were required to complete it. Its walls were built of bricks brought from France. More than two hundred pieces of cannon were mounted to defend it. So great was its strength that it was called the "Dunkirk of America." It had nunneries and palaces, terraces and gardens. That such a city rose upon a lone, desolate isle, in the infancy of American colonization, appears incredible. Explanation is alone found in the fishing enthusiasm of the period.

The fleet sailed from Boston in March. Singular to remark, of a military order, Shirley's instructions required an ample supply of cod-lines for use on the passage, so that the troops might be fed, as much as possible, on the products of the sea.

A more undisciplined and disorderly body of men never disembarked to attempt the reduction of a walled city. The squadron commanded by Warren, and ordered by the ministry to co-operate with Pepperell, arrived in time to share in the perils and honors of the siege. The colonial fleet and the ships of the royal navy kept up a close blockade. The colonists on shore, without a regular encampment, lodged in huts built of turf and bushes. With straps across their shoulders, they dragged cannon in sledges over morasses impassable with wheels. Making jest of military subordination, they fired at marks, they fished and fowled, wrestled and raced, and chased after balls shot from the French guns. Badly sheltered, and exhausted by toil in mud and water, and by exposure in a cold and foggy climate, fifteen hundred became sick and unfit for duty. Still the siege was conducted with surpassing energy, with some skill, and courage seldom equalled. Nine thousand cannon-balls and six hundred bombs were discharged by the assailants. The French commander submitted on the forty-ninth day of the investment. The victors entered the "Dunkirk of the western world" amazed at their own achievement.

A single day's delay in the surrender might have resulted in discomfiture and defeat, and in extensive mortal sickness, since, within a few hours of the capitulation, a storm of rain set in, which, in the ten days it continued, flooded the camp-ground and beat down the huts which the colonists abandoned for quarters within the walls.

Pepperell and his companions were the most fortunate of men. Even after the fall of the city, the French flag (which was kept flying as a decoy) lured within their grasp ships with cargoes of merchandise worth more than a million of dollars. The exploit was commended in the highest and loftiest terms. Even thirty years afterwards, Mr. Hart-

they\* said, in the House of Commons, that the colonists “took Louisbourg from the French single-handed, without any European assistance—as settled an enterprise as any in our history—an everlasting memorial to the zeal, courage, and perseverance of the troops of New England.”†

These are the mere outlines of the accounts of this extraordinary affair.‡ Several of our books of history contain full details; but the correspondence of Shirley, Pepperell, and Warren, which is preserved in the Collections of the Historical Society of Massachusetts, as well as the letters and narratives of subordinate actors, should be read in connexion.

A century has elapsed. With the present condition of Cape Breton in view, we almost imagine that we hold in our hands books of fiction rather than the records of the real, when we read, as we do in Smollet, that the conquest of Louisbourg was “*the most important achievement of the war of 1744* ;” in the Universal History, that “*New England gave peace to Europe* by raising, arming, and transporting four thousand men,” whose success “*proved an equivalent for all the successes of the French upon the continent* ;” and in Lord Chesterfield, that, “in the end it produced peace,” and that the noble duke at the head of the admiralty declared that, “*if France was master of Portsmouth, he would hang the men who should give Cape Breton in exchange.*”

The peace of Aix la Chapelle, in 1748, was dishonorable to England at home and in her colonies. Of the adjustment of the questions which relate to our subject, I may remark, that she not only restored Cape Breton to France, and submitted to the humiliating condition of sending two persons of rank and distinction to reside in that kingdom as hostages until that island and other conquests should be actually surrendered, but consented also to omit all mention of the right of English subjects to navigate the American seas without being liable to search and molestation, though that pretension on the part of the French was one of the original causes of the war, as well as the basis of the attacks made on Walpole’s ministry. The results of the peace to England were an immense debt, the barren glory of supporting the German sovereignty of Maria Theresa, and the alienation of the affections of

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\* He was one of the British commissioners of peace in 1763.

† Horace Walpole calls Sir Peter Warren “the conqueror of Cape Breton,” and says that he was “richer than Anson, and absurd as Vernon.” Walpole also quotes a remark of Marshal Belleisle, who, when he was told of the taking of Cape Breton, said, “he could believe that, because the ministry had no hand in it.” Walpole adds: “We are making bonfires for Cape Breton, and thundering over Genoa, while our army in Flanders is running away and dropping to pieces by detachments taken prisoners every day.”

‡ April 4, 1748, a committee of the House of Commons came to the following resolution: “*Resolved*, That it is the opinion of this committee that it is just and reasonable that the several provinces and colonies of Massachusetts Bay, New Hampshire, Connecticut, and Rhode Island be reimbursed the expenses they have been at in taking and securing to the crown of Great Britain the island of Cape Breton and its dependencies.”

Mr. Burke remarks on this resolution that “these expenses were immense for such colonies; they were above £200,000 sterling—money first raised and advanced on their public credit.”

William Bollen, collector of the customs for Salem and Marblehead, who married a daughter of Governor Shirley, was sent to England to solicit the reimbursement of these expenses. He obtained the sum of £183,619 sterling, after a difficult and toilsome agency of three years.

He returned to Boston in 1748, with six hundred and fifty-three thousand ounces of silver and ten tons of copper. This money was landed on Long Wharf, placed in wagons, and carried through the streets with much rejoicing.

the people of New England, who saw evidence that the house of Hannover, like the Stuarts, were ready to sacrifice their victories and their interests as "equivalents" for defeats and disasters in Europe.

The fall of Louisbourg and the general hazards of war reduced the number of French vessels employed in the fisheries upwards of four hundred in a single year—to follow the received accounts; while, of the one hundred which still remained, nearly the whole, probably, made their fares at Newfoundland. This branch of industry was destined to a slow recovery of prosperity; for, in 1756, we record still another war between France and England.

Among the causes of hostilities on the part of the latter power, as announced in the royal declaration, were the aggressions of the French in Nova Scotia.\* In that region, and on other coasts frequented by fishermen, the war was attended with many distressing circumstances.† Without space for details, I can only give a single example at Newfoundland, where M. de Tournay, in command of a French force of four ships-of-the-line, a bomb-ketch, and a body of troops, landed at the Bay of Bulls, destroyed the English settlements of Trinity and Carbonear, captured several vessels, destroyed the stages and implements of fishery of the inhabitants, and, appearing off St. John, the capital of the island, demanded and obtained its surrender.

Omitting notice of minor events, we come, in 1759, to the second siege of Louisbourg. The force employed was immense, consisting of twenty ships-of-the-line, eighteen frigates, a large fleet of smaller vessels, and an army of fourteen thousand men. The success of this expedition caused great rejoicings throughout the British empire. The French colors were deposited in St. Paul's, London, and a form of thanksgiving was ordered to be used in all the churches; while in New England, prayers and thanksgivings were solemnly offered on the domestic altar and in public worship.

General Wolfe commanded a detached body of two thousand troops, and was highly distinguished.‡ He sailed from Louisbourg the following year, at the head of eight thousand men, to "die satisfied" on the Plains of Abraham. Well might he utter these words! He was the victor in one of the decisive battles of the world! In the hour that the British troops entered Quebec, the rule of America passed from the Gallic to the Anglo-Saxon race. Between the death of a Jesuit father and the breaking up of a French settlement in Maine, and the treaty of Paris, was just a century and a half. We have seen how large a part

\* Mr. Huskisson, in a speech in Parliament in 1826, said: "Sir, the war which began in the year 1756, commonly called the Seven Years' War, was, *strictly speaking, so far as relates to this country and to the Bourbon governments of France and Spain, a war for colonial privileges, colonial claims, and colonial ascendancy.* In the course of that war, British skill and British valor placed in the hands of this country Quebec and the Havana. By the capture of these fortresses, Great Britain became mistress of the colonial destinies of the western world."

† The first conquests of British arms in America in the French war were the French fort of Beau Séjour, in the Bay of Fundy, and two other posts in the same region. Colonel Monekton, the conqueror, gave the name of Fort Cumberland to Beau Séjour.

‡ "Wolfe," says Horace Walpole, "who was no friend of Mr. Conway last year, and for whom I consequently have no affection, has great merit, spirit, and alacrity, and shone extremely at Louisbourg."

of the period was devoted to war. The contest was at an end. The Gaul resigned the mastery of the New World to the Briton.\*

In view of the PAST and the FUTURE, our fathers were "SATISFIED."

It remains to give a summary of the exertions of the northern colonists to achieve the conquest of Canada. So numerous were the seamen and fishermen of New England on board of the ships-of-war, that her merchants were compelled to navigate their own vessels with Indians and negroes. More than four hundred privateers were fitted out during the contest to ravage the French West Indies and distress the commerce of France in all parts of the world; and it was asserted in the House of Commons, without contradiction, that, of the seamen employed in the British navy, ten thousand were natives of America. For the attack on Louisbourg and Quebec alone, the number furnished by the single colony of Massachusetts was five hundred, besides the fishermen who were impressed.† A single example of the pecuniary burdens of those who personally bore no part in hostile deeds will suffice. A Boston gentleman of fortune sent one of his tax-bills to a friend in London for his opinion, and received for answer that "he did not believe there was a man in all England who paid so much, in pro-

\* It may be said that Great Britain has hardly had a moment's quiet with Canada since the day when Wolfe rose from a sick bed to "die happy" in planting her flag on the walls of Quebec. We cannot stop to trace the reasons for this state of things, but must confine our remarks to the course of events immediately following the conquest. After the fall of Quebec and the reduction of the entire country, but before the final cession, there arose an exciting controversy among some of the leading statesmen of the time, whether Canada should be retained or restored to France, and the island of Guadalupe be added to the British dominions in its stead. There seems to have been a prevalent fear that, if Canada were kept, the colonies, rid of all apprehensions from the French, would increase at an alarming rate, and finally throw off their dependence on the mother country. A tract was published in support of this view, supposed to have been written either by Edmund or William Burke, to which Franklin replied in his happiest and ablest manner. Franklin's answer, in the judgment of Mr. Sparks, "was believed to have had great weight in the ministerial councils, and to have been mainly instrumental in causing Canada to be held at the peace."

In the course of the dispute, the charge was openly made that the treaty of peace which restored to France the conquests of Bellisle, Goree, Gaudaloupe, St. Lucia, Martinique, and Havana, which guaranteed to her people the use of the Newfoundland fishery, and which retained an acquisition of so doubtful value as Canada, was the result of corrupt bargaining.

Lord St. Vincent (a great naval captain, and hardly inferior to Nelson) was of the opinion, even in 1783, that Canada ought not to be retained by England. Lord Brougham, in his historical sketches, relates that, "when Lord Shelburne's peace (1783) was signed, and before the terms were made public, he sent for the admiral, and, showing them, asked his opinion." "I like them very well," said he, "but there is a great omission." "In what?" "In leaving Canada as a British province." "How could we possibly give it up?" inquired Lord Shelburne. "How can you hope to keep it?" replied the veteran warrior: "with an English republic just established in the sight of Canada, and with a population of a handful of English settled among a body of hereditary Frenchmen, it is impossible; and, rely on it, you only retain a running sore, the source of endless disquiet and expense." "Would the country bear it? have you forgotten Wolfe and Quebec?" asked his lordship. "No: it is because I remember both. I served with Wolfe at Quebec. Having lived so long, I have had full time for reflection on this matter: and my clear opinion is, that if this fair occasion for giving up Canada is neglected, nothing but difficulty, in either keeping or resigning it, will ever after be known." This remarkable prediction has been fulfilled, as every one who is familiar with Canadian affairs will admit.

† "The Massachusetts forces," in 1759, says Hutchinson, "were of great service. Twenty-five hundred served in garrison at Louisbourg and Nova Scotia, in the room of the regular troops taken from thence to serve under General Wolfe. Several hundred served on board the king's ships as seamen, and the remainder of the six thousand five hundred men voted in the spring served under General Amherst. Besides this force, upon application of General Wolfe, three hundred more were raised and sent to Quebec by the lieutenant governor, in the absence of the governor at P'euobscot."

portion, for the support of government." I find it stated that the amount assessed, in taxes of every kind, was nearly half of the payer's income.

In this rapid notice of the events which preceded and led to the extinction of French power, I have not exaggerated the importance attached to the fisheries. Few of the far-sighted saw, even in the distant future, as we really see, in New France, and that half-fabulous country, Acadia, the building of ships to preserve and increase the maritime strength of England, wheat-lands to rival our own, the great lakes united with the ocean, and upon the St. Lawrence and St. John some of the principal timber-marts of the world. Nay, among the wisest, the Indian was forever to glide in his canoe on the waters—forever to roam the dark, limitless forest. In a word, the vision of most was bounded by the fur trade on the soil, and by the fish trade on the sea.

A single remark upon the influence of these events in producing the Revolution, limited as is the plan of this report, cannot be omitted. In the "paper stuff" emitted by Massachusetts to pay off "Phips's men," we see the germ of the "continental money." In the levying of taxes, in the raising of troops, and the general independence of the colonial assemblies during periods of war, we find explanation of the wonderful ease of the transition of these bodies into "provincial congresses." In the many armies embodied and fleets fitted at Boston, we learn why the people, familiar with military men and measures, almost recklessly provoked collision with the troops sent by their own sovereign to overawe and subdue them.

In truth, the prominent actors in the wars of 1744 and of 1756 were the prominent actors in the struggle of freedom. Thus, with Pepperell at the siege of Louisbourg were Thornton, who became a signer of the Declaration of Independence; Bradford, who commanded a continental regiment; and Gridley, who laid out the works on Bunker's Hill. On the frontiers of Virginia and in the west, in the last-mentioned war was the illustrious Washington. Engaged in one or both of the French wars were Lewis, Wolcott, Williams, and Livingston, who were signers of the Declaration of Independence; and Prescott, who commanded on the memorable 17th of June. Among those who became generals in the Revolution were Montgomery, who fell at Quebec; Gates, the victor at Saratoga; Mercer, who was slain at Princeton, and who, in the estimation of some, was second only to Washington; Morgan, the hero of the "Cowpens;" Thomas, who commanded in Canada after the fall of Montgomery; James Clinton, the father of De Witt Clinton; Stark, the victor at Bennington; Spencer, Israel and Rufus Putnam, Nixon, St. Clair, Gibson, Bull, Charles Lee, and Durke. There were also Butler, the second in command at Wyoming; and Campbell, a distinguished colonel; and Dyer, chief justice of Connecticut; Craik, director-general of the American hospital, and the "old and intimate friend" of Washington; Jones, the physician of Franklin; John Morgan, director-general and physician-general of the army; and Hynde, the medical adviser of Wolfe, who was with him when he fell, and accompanied Patrick Henry against Lord Dunmore.

It was in Nova Scotia and Canada, and on the Ohio, then—at Port Royal, Cansau, Louisbourg, Quebec, and in the wilds of Virginia—

and in putting down French pretensions, that our fathers acquired the skill and experience necessary for the successful assertion of their own.

We pass to consider the terms of the treaty of 1763. In reply to the propositions of the court of London, the French ministry, at the commencement of the negotiations in 1761, consented to guaranty to England the possession of Canada, provided England would restore the island of Cape Breton, and confirm the right of French subjects to take and cure fish in the Gulf of St. Lawrence, as well as on the banks and in the island of Newfoundland. The fortifications of Louisbourg, the court of Versailles, however, suggested should be destroyed, and the harbor laid open for common use. These terms seem to have been the ultimatum of France.

In reply, the British ministry insisted upon the unconditional cession of Canada, with all its dependencies, and the cession of Cape Breton and all other islands in the Gulf of St. Lawrence. They replied, further, that the important privilege of fishing and curing cod on the coast of Newfoundland, as provided in the treaty of Utrecht, they had not designed to refuse, but merely to connect with stipulations relative to Dunkirk; and that the island of St. Peter would be ceded to France upon four indispensable conditions: first, that the island should not be fortified, or troops be stationed upon it, under any pretext whatever; second, that, denying the vessels of other nations all rights even of shelter, France should use the island and its harbor for her own fishermen alone; third, that the possession of the island should not be deemed to extend in any manner the stipulations of the treaty of Utrecht—that is to say, “*A loco Cap Bonavista non cupato usque ad extremitatem ejusdem insule septentrionalem, indique at latus occidentale recurrendo usque ad locum Pointe Riche appellatum*”—[From the place called Cape Bonavista to the northern extremity of the said island, and thence running westerly to the place denominated Point Riche;] fourth, that an English commissary should be allowed to reside at St. Peter, and the commander of the British ships-of-war on the Newfoundland station have liberty, from time to time, to visit the island, to see that these four conditions be duly observed.

With these propositions the French ministry were dissatisfied. They desired rights of fishing in the Gulf of St. Lawrence, while, with regard to the cession of St. Peter, they remarked that it was so small and so near Placentia, that, as a shelter, it would prove altogether illusive, and serve to create disputes between the two nations, rather than facilitate the fishery of the French subjects; and they referred to the cession of Cape Breton, or of the island of St. John, as at first suggested, but expressed a willingness to accept of Canseau instead of either. Still, if the British ministry, for reasons unknown to them, could not agree to the cession of Canseau, then they submitted that Miquelon, an island, or, as they considered, a part of St. Peter, should be included in the cession of the last-named island, for the two joined together did not exceed three leagues in extent. They said also that they would maintain no military establishment at either of the places mentioned, except a guard of fifty men to support police regulations; and that, as much as possible with so weak a force, they would prevent all foreign vessels from sheltering, as required; while they would limit their fishery on the

coast of Newfoundland to the stipulations of the treaty of Utrecht, provided it should be understood that they could take and dry fish on the coast of St. Peter and Miquelon. To the condition relative to the residence of the commissary on the ceded islands they did not object.

In England, opposition to *any* concessions to France was soon manifest. The fisheries in the Gulf of St. Lawrence and on the Banks of Newfoundland were held to constitute a great source of wealth to France, and to be her principal nursery for seamen. The voluntary offer of the ministry, therefore, to continue the privileges enjoyed under the treaty of Utrecht, was viewed with great displeasure. *The fisheries, it was said, were worth more than all Canada.* The common council of London, as representing the commercial interest of the kingdom, transmitted to the members of the House of Commons from the city peremptory instructions on the subject of the treaty, and particularly that the sole and exclusive right of fishing in the American seas should be reserved to the subjects of the British crown. Such, indeed, were the sentiments of a large party. But their remonstrances were disregarded.

The negotiations were concluded at Paris February 10, 1763. The articles of the treaty which relate to our subject are the following :

“The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as it is specified in the thirteenth article of the treaty of Utrecht, which article is renewed and confirmed by the present treaty, (except what relates to the island of Cape Breton, as well as the other islands and coasts in the mouth and in the Gulf of St. Lawrence.) And his Britannic Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the Gulf of St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said Gulf of St. Lawrence. And as to what relates to the fishery on the coasts of the island of Cape Breton, out of said gulf, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of the island of Cape Breton; and the fishery on the coasts of Nova Scotia, or Acadia, and everywhere else out of the said gulf, shall remain on the footing of former treaties.”

“The King of Great Britain cedes the islands of St. Pierre and Miquelon, in full right, to his Most Christian Majesty, to serve as shelter to the French fishermen; and his said Most Christian Majesty engages not to fortify the said islands, to erect no buildings upon them but merely for the convenience of the fishery, and to keep upon them a guard of fifty men only for the police.”

These stipulations were severely attacked in Parliament and elsewhere. “Junius,” in his celebrated letter to the Duke of Bedford, does not scruple to charge his grace with bribery. “Belleisle, Goree, Guadaloupe, St. Lucia, Martinique, the fishery, and the Havana,” said he, “are glorious monuments of your grace’s talents for negotiation. My lord, we are too well acquainted with your pecuniary character to think it possible that so many public sacrifices should have been made without some

*private compensations. Your conduct carries with it an internal evidence beyond all the legal proofs of a court of justice."*

Peace had hardly been concluded before the French were accused of violations of the treaty. In 1764, a sloop-of-war carried intelligence to England that they had a very formidable naval force at Newfoundland; that they intended to erect strong fortifications on St. Peter's; and that the English commodore on the station was without force sufficient to prevent the consummation of their plans. The party opposed to the ministry pronounced a war with France to be inevitable, unless the British government were disposed to surrender both Newfoundland and Canada. The alarm—which illustrates the spirit of the time, and the sensibility of the English people—proved to be without cause, since the French governor gave assurances that nothing had been or would be done contrary to the letter of the treaty; that he had but a single small cannon mounted, without a platform, designed merely to answer signals to their fishermen in foggy weather; that no buildings or works had been erected; and that his guard consisted of only forty-seven men. It appeared, however, that the French naval force was considerable, consisting of one ship of fifty guns, another of twenty-six guns, and others of smaller rates.

Remarking that the French employed at Newfoundland two hundred and fifty-nine vessels in 1768, and about the same number five years later, we come to the war of our own Revolution. To induce France to aid us in the struggle, our envoys were authorized, in 1776, to stipulate that all the trade between the United States and the French West Indies should be carried on either in French or American vessels: and they were specially instructed to assure his Most Christian Majesty, that if, by their joint efforts, the British should be excluded from any share in the cod-fisheries of America by the reduction of the islands of Newfoundland and Cape Breton, and ships-of-war should be furnished, at the expense of the United States, to reduce Nova Scotia, the fisheries should be enjoyed equally between them, to the exclusion of all other nations; and that one-half of Newfoundland should belong to France, and the other half, with Cape Breton and Nova Scotia, to the United States.

We may smile at—we can hardly commend—our fathers for claiming so large a share as this notable scheme devised; but the spirit which conceived and was prepared to execute so grand an enterprise, additional to the main purposes of their strife with the mother country, is to be placed in strong contrast with the indifference manifested now about preserving our rights in the domains which they thus designed to conquer.

In 1778, the project was renewed. In the instructions to Franklin, he was directed to urge upon the French court the certainty of ruining the British fisheries on the Banks of Newfoundland, and consequently the British marine, by reducing Halifax and Quebec. Accompanying his instructions was a plan for capturing these places, in which the benefits of their acquisition to France and the United States were distinctly pointed out. They were of importance to France, it was said, because "the fishery of Newfoundland is justly considered the basis of a good marine;" and because "the possession of these two places neces-

sarily secures to the party and their friends the island and fisheries.<sup>77</sup> Among the benefits to the United States would be the acquisition of "two States to the Union," and the securing of the fisheries jointly with France, "to the total exclusion of Great Britain."

An alliance with France secured, a plan to reduce Canada at least was accordingly matured and adopted by Congress in the course of the last-mentioned year. It was the prevalent opinion in the United States that the French ministry not only approved of this measure, but that one of their objects in forming an alliance with us was to regain a part or the whole of the possessions in America which they had lost in previous wars, and thus regain their former position and influence in the western hemisphere. But the fact is now well ascertained that they were averse to the design against Canada, and that, from the first, it was their settled policy to leave that colony and Nova Scotia dependencies of England. Washington dissented from Congress, and presented that body with a long letter on the subject. He thought the plan both impracticable and unwise. Among his reasons for the latter opinion was, that France would engross "the whole trade of Newfoundland whenever she pleased," and thus secure "the finest nursery of seamen in the world." The expedition was never undertaken.

The treaty of commerce between France and the United States concluded in 1778, and annulled by act of Congress in the year 1800, contained the following provisions :

"ART. 9. The subjects, inhabitants, merchants, commanders of ships, masters, and mariners of the states, provinces, and dominions of each party, respectively, shall abstain and forbear to fish in all places possessed, or which shall be possessed, by the other party. The Most Christian King's subjects shall not fish in the havens, bays, creeks, roads, coasts, or places which the said United States hold, or shall hereafter hold ; and in like manner the subjects, people, and inhabitants of the said United States shall not fish in the havens, bays, creeks, roads, coasts, or places which the Most Christian King possesses, or shall hereafter possess. And if any ship or vessel shall be found fishing contrary to the tenor of this treaty, the said ship or vessel, with its lading, proof being made thereof, shall be confiscated. It is, however, understood that the exclusion stipulated in the present article shall take place only so long and so far as the Most Christian King or the United States shall not in this respect have granted an exemption to some other nation.

"ART. 10. The United States, their citizens and inhabitants, shall never disturb the subjects of the Most Christian King in the enjoyment and exercise of the right of fishing on the Banks of Newfoundland, nor in the indefinite and exclusive right which belongs to them on that part of the coast of that island which is designated by the treaty of Utrecht, nor in the rights relative to all and each of the isles which belong to his Most Christian Majesty—the whole conformable to the true sense of the treaties of Utrecht and Paris."

Embarked in war with the greatest maritime power in the world, France had need of all her seamen ; and to secure for her ships-of-war her fishermen absent at Newfoundland, her treaty of alliance with the United States was kept secret for some weeks, to give time for their return. During hostilities, St. Pierre and Miquelon, if not almost abandoned by fishing-vessels, were the scene of no incidents to detain us.

At the peace in 1783, the whole subject of the French rights of fishing was examined and arranged. As will be seen, several important changes were made, and explanations exchanged, by the two contracting powers. It may be observed, further, that the *new* fishing-grounds acquired were thought less valuable than those which she relinquished, though the privileges obtained by France, considered together, were much greater than those provided in the treaty of 1763. The articles which relate to the subject in the treaty, and in the "declaration" and "counter declaration," or separate articles, are as follows :

"ART. 2. His Majesty the King of Great Britain shall preserve in full right the island of Newfoundland and the adjacent islands, in the same manner as the whole was ceded to him by the 13th article of the treaty of Utrecht, save the exceptions stipulated by the 5th article of the present treaty.

"ART. 3. His Most Christian Majesty, [of France,] in order to prevent quarrels, which have hitherto arisen between the two nations of England and France, renounces the right of fishing, which belongs to him by virtue of the said article of the treaty of Utrecht, from Cape Bonavista to Cape St. John, [Point Riche,] situated on the eastern coast of Newfoundland, in about fifty degrees of north latitude ; whereby the French fishery shall commence at the said Cape St. John, [Point Riche,] shall go round by the north, and, going down to the western coast of the island of Newfoundland, shall have for boundary the place called Cape Ray, situated in forty-seven degrees fifty minutes latitude.

"ART. 4. The French fishermen shall enjoy the fishery assigned them by the foregoing article, as they have a right to enjoy it by virtue of the treaty of Utrecht.

"ART. 5. His Britannic Majesty will cede, in full right, to his Most Christian Majesty the islands of St Pierre and Miquelon.

"ART. 6. With regard to the right of fishing in the Gulf of St. Lawrence, the French shall continue to enjoy it conformably to the 5th article of the treaty of Paris," [1763.]

In the "declaration" on the part of Great Britain, it is said that—

"In order that the fishermen of the two nations may not give cause for daily quarrels, his Britannic Majesty will take the most positive measures for preventing his subjects from interrupting, in any manner, by their competition, the fishery of the French, during the temporary exercise of it which is granted to them, upon the coasts of the island of Newfoundland ; and he will, for this purpose, cause the fixed settlements which shall be formed there to be removed.

"His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts, and fishing-vessels. The 13th article of the treaty of Utrecht, and the method of carrying on the fishery which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there. It shall not be deviated from by either party—the French fishermen building only their scaffolds, confining themselves to the repair of their fishing-vessels, and not wintering there ; the subjects of his Britannic Majesty, on their part, not molesting, in any manner, the French fishermen during their fishing, nor injuring their scaffolds during their absence. The King of Great Britain, in ceding the islands

of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations, and that the fishery between the said islands and that of Newfoundland shall be limited to the middle of the channel."

In the "counter declaration" on the part of France, it is said that—

"The King of Great Britain undoubtedly places too much confidence in the uprightness of his Majesty's intentions not to rely upon his constant attention to prevent the islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations. As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two sovereigns upon this matter, it is sufficiently ascertained by the 5th article of the treaty of peace signed this day, and by the declaration likewise delivered this day by his Britannic Majesty's ambassador extraordinary and plenipotentiary; and his Majesty declares that he is fully satisfied on this head. In regard to the fishery between the island of Newfoundland and those of St. Pierre and Miquelon, it is not to be carried on, by either party, but to the middle of the channel; and his Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen."

The fishery at St. Pierre and Miquelon, at the period of the French revolution, was in a prosperous condition; but the confusion and distresses of civil war soon produced a disastrous change, and the fishing-grounds were in a great degree abandoned for several years. In 1792, the number of men employed both at Newfoundland and Iceland was less than thirty-four hundred. The hostile relations with England which followed the domestic commotions caused additional misfortunes, until the peace of Amiens, in 1802.\*

In the year 1800, by a treaty between the United States and France, concluded at Paris, it was stipulated that "neither party will interfere with the fisheries of the other on its coasts, nor disturb the other in the exercise of its rights which it now holds, or may acquire, on the coast of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world." Napoleon, at this time, was "premier consul of the French republic."

The French cod-fishery at Newfoundland was hardly re-established at the peace of Amiens, when renewed hostilities with England occasioned fresh calamities. Until the downfall of Napoleon, in 1814, this branch of distant industry was pursued without vigor, and with severe losses.

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\* The fishing privileges which were continued to France were again the subject of complaint at the peace of Amiens. The Right Hon. William Windham, in a speech in Parliament, November 4, 1801, said that, by the terms of the proposed peace, "France gives nothing, and, excepting Trinidad and Ceylon, England gives everything;" and in the enumeration of cessions which "tended only to confirm more and more the deep despair in which he was plunged in contemplating the probable consequences of the present treaty," he mentioned, "in North America, St. Pierre and Miquelon, with a right to the fisheries in the fullest extent to which they were ever claimed."

At the peace, a deputation of English merchants and others connected with Newfoundland entreated their government to refuse to France continued rights of fishing allowed under the treaties of 1713, of 1763, and of 1783. But the British ministry, aside from general considerations, regarded the restoration of the Bourbons as an event of momentous consequence to Europe, and confirmed to France all her foreign possessions exactly as they stood at the commencement of the war. The Newfoundland colonists have never ceased to complain of the renewed competition which this policy required them to meet. They contend that, whatever was the opinion in 1783, the fishing-grounds along the shores from Cape Ray to Cape John, which are enjoyed by the French to the exclusion of all others, are, in the judgment of every person competent to decide, the very best at Newfoundland; and they further insist, by reason of the advantages possessed by France and the United States, that the English deep-sea fishery has been abandoned. These and similar statements are to be found in official papers and in private letters, and are never omitted by the colonists in their conversations on the subject of their fisheries.

It may not be unkind to reply that the French and American fishermen are *industrious*, and that there need be no other explanation of their success.

The insertion here of the thirteenth article of the treaty of Paris in 1814 is not necessary. As already intimated, the French were confirmed in the rights which they possessed previous to the war. The eleventh article of the treaty of Paris in the following year, at the general pacification in Europe, reiterates the confirmation. Reference, therefore, to the articles of the treaty of 1783, to the "declaration" and "counter declaration" recorded at length in the proper connexion, will afford a perfect knowledge of the present extent, limitations, and localities of the fishing-grounds of France in the American seas.

With peace came prosperity. In 1816, the French tonnage at Newfoundland was nearly thirty-one thousand; the amount in 1823, however, appears to have been reduced nearly one-half. It rose suddenly, and in a single year, to about thirty-seven thousand, and, increasing annually, except in 1825, was upwards of fifty thousand in 1829. In the succeeding ten years the increase was only five thousand.

The number of vessels employed in 1841 and two years later was about four hundred; and the number of seamen in 1847 was estimated at twelve thousand. These facts, on which I rely, afford proof that the Newfoundland fishery is now prosecuted with energy and success. To follow the statements of the English colonists which are to be met with in official documents, the number of men engaged at St. Pierre and Miquelon, and on various parts of the coast between Cape Ray and Cape John, should be computed at twenty-five thousand. There is the same authority for estimating the annual catch of fish at one million of quintals.

I regard the views of M. D. L. Rodet, of Paris, as far more accurate. He states that, "*without her colonies,*" the cod-fishery would "*become nearly extinct;*" that these colonies "*only consume annually eighty thousand quintals;*" that foreign nations "*scarcely take a fifth*" of the catch; and that "*it is by submitting to the exorbitant duties, which at*

any moment may be changed into prohibition, that the precarious and trifling market in Spain is retained." A very large proportion, then, of the produce of the cod-fishery is consumed in France; and it is a sufficient refutation of the estimate of the English colonists to say that the quantity remaining after deducting the exports, as computed by M. Rodet, is not wanted in that kingdom.

The number of vessels since the peace of 1815 has not exceeded four hundred, except in the single year of 1829; and, assuming that the statement in discussion is correct, these vessels employed an average of sixty men each, or double the number which, as all persons familiar with the business well know, is necessary on board as fishermen, or on shore as "shoresmen." The same fallacy exists as to the catch; for a million of quintals for four hundred vessels is twenty-five hundred quintals to each, or considerably more than double the mean quantity caught by the vessels of any flag in the world. To allow liberally for the catch of the "boat fishery," and to consider "boat fishermen" as included in the estimate, I cannot think that the figures of the English colonial documents are accurate by quite one-half. If further evidence of exaggeration be wanted, it may be found in the grave assertions of the same writers that our own vessels fishing in the waters of British America are manned with upwards of thirty-seven thousand men, and catch in a year one and a half millions of quintals of fish!

The statements thus refuted are of consequence, as will be seen in another part of this report.

Equally exaggerated are the averments that the French and American fisheries, "bolstered up by bounties and prohibitions," have "as completely swept" the English flag from the Grand Bank of Newfoundland "as if Lord Castlereagh had conceded the exclusive right" in 1814, or as if the "combined fleets of France and America had forced it" to retreat to "the in-shore or boat fishery;" and that the "French and Americans, having taken possession of the Grand Bank," have, by so doing, "extended lines of circumvallation and contravallation round the island, preventing the ingress or egress of fish to and from the shore, and, according to the opinions of those best qualified to judge, greatly injuring the in-shore fishery—the only fishery left to British subjects, and that only to a portion of the island."

Deferring a full answer to these complaints until the subject of colonial allegations relative to our own aggressions and violations of our treaty rights are considered in detail, the only answer necessary to be made here is, simply, that the "ingress" and "egress of fish to and from the shore" *has not entirely ceased, as yet*, since the export of codfish from the English Newfoundland fishery amounts to nearly one million of quintals annually! The lamentations of a people who, though "completely swept" from their own outer fishing-grounds, still show, by their own returns of the customs, that they have sold, between 1841 and 1849, both inclusive, *a mean quantity of nine hundred and sixty-seven thousand quintals* (to be exact in the statistics) annually, may well excite a smile.

That the charge against the French fishermen of trespassing upon the fishing-grounds reserved to British subjects is true, to a considerable degree, may be admitted. Her Majesty's ships-of-war have some-

times found them aggressors, not only at Newfoundland, but on the coast of Labrador. Troubles from this source occurred in 1842; and in the following year the British sloop-of-war *Electra*, in endeavoring to drive off a vessel fishing on the southwesterly shore of Newfoundland, unfortunately killed one man and wounded others on board of her. It appears that the *Electra* was on the station for the purpose of enforcing the treaty stipulations; that one of her boats gave chase to the French vessel, and, not being able to come up with her, fired across her bows for the purpose of bringing her to; that, not having accomplished this object, another shot was fired over her, which, proving as ineffectual as the first, was followed, by order of the officer in charge, by a shot aimed directly on board, and producing the results mentioned. The affair created much excitement at the moment. A French frigate arrived at the capital to demand explanations, and the governor of Newfoundland immediately sent a despatch to the ministry "at home," stating the facts of the case. The offence, in this instance, consisted merely in taking bait on the shore not within the limits prescribed for vessels of the French flag by the treaties of 1713 and of 1783. The officer in command of the *Electra's* boat is said, by the colonists, to have acted in accordance with the rules of the service; but a contrary opinion was expressed by the French.\*

The "Bultow" system of fishing is clearly in violation of treaty stipulations. Prior to the peace of 1815, there is good reason to believe that both French and English fished from the decks of their vessels, without coming to anchor, and without lines moored with several thousand baited hooks attached thereto, as at present. There is much difference of opinion as to the degree of injury to the shore, or English fishery, on this account; but since the question is one to be settled entirely by the "declaration" in 1783—namely, that "the method of

\* The French fishermen suffered much at the hands of the British officers who guarded the coasts in 1852. A colonial newspaper contained the following account:

"It appears that the *Charles*, under the command of James Tobin, esq., commissioner of fisheries, has been doing service at Belleisle, where, on the 29th ultimo, there were about one hundred French fishermen, with about thirty batteaux, who were just commencing their annual invasion of British rights. Mr. Tobin immediately ran down to H. M. brig *Sappho* to obtain help, as James Finlay had not then arrived with his crew. His messenger had to travel seven miles over land on the night of that day, and by half-past eleven of the same night returned with an intimation from Capt. Cochran that he would land the required force by daylight on the following day in Black Joe Cove, whither Mr. Tobin then proceeded with the *Charles*, and found that the Frenchmen had been already routed by the men of the *Sappho*, and were running in their batteaux under reefed foresail and mainsail—the wind blowing half a gale at the time. The *Charles* escorted them round the island of Belleisle, and then left them, without one fish, to make the best of their way in a pelting storm to Quirpon."

Near the close of the season, another colonial newspaper stated that—

"The *Vigilance* brig-of-war vessel, on the coast of Newfoundland, has damaged the French fisheries very much. Fifty vessels of the fleet in the straits of Belleisle will return home, having eighty thousand quintals short of last year's catch."

These proceedings, it would seem, were authorized by the ministry, under the general plan adopted in 1852 to prevent encroachments on the fishing-grounds. Admiral Seymour, in a letter to the governor of Newfoundland, remarks that—

"Her Majesty's government are so desirous that ample means should be given to check the numerous encroachments which have been represented to have taken place in the last years at Belleisle and the coast of Labrador, that I am further authorized to hire and employ some small schooners, for which I am to provide officers and men, for the purpose of carrying the object of her Majesty's government fully into effect on the coast of Labrador, under the direction of the captain of the ship or steamer there employed."

carrying on the fishery which has at all times been acknowledged shall be the plan upon which the fishery shall be carried on there," and that "it shall not be deviated from by either party,"—there need be no inquiry into any other matter. The "plan" of the "Bultow" had not "*at all times been acknowledged*" in 1783, and it is therefore an aggression.

The last complaint of the English colonists which I shall notice is, that "the exclusive right of fishing exercised by the French from Cape Ray to Cape John is a usurpation." The "declaration" just referred to was framed expressly that "the fishermen of the two nations may not give cause for daily quarrels;" and different fishing-grounds were assigned to each, to accomplish an object so desirable to both. Moreover, the British ministry engaged to remove "the fixed settlements" of their own people within the limits prescribed to the French, and actually issued orders for the purpose soon after the conclusion of the treaty. The intention was, I cannot doubt, that vessels of the two flags should never pursue the cod on the same coasts; and unless the words quoted convey *this* meaning, they mean nothing. The experience of more than a century had shown that, under any other arrangement, "daily quarrels" would be inevitable. I submit, with deference, that the interest of all parties imperatively requires that people of different origin, language, and religion, and of national prejudices almost invincible, should be kept apart.

The French government wisely protect their fisheries by bounties—wisely consider them of national importance.\* Without its aid, they

\*[TRANSLATION.]

The National Assembly of France has passed a law of the following tenor relative to the great maritime fisheries.—June 24th, 9th and 22d July, 1851.

CAP. I.—COD-FISHERY.

From the 1st January, 1852, to the 30th June, 1861, the bounties granted for the encouragement of the cod-fishery will be fixed as follows:

1st.—*Bounty on the outfit*—

Fifty francs per man of the crew employed at the fishery, either on the coast of Newfoundland, at St. Peter's and Miquelon, or on the Grand Bank, and possessing a drying-place.

Fifty francs per man of the crew employed in the Iceland fishery, without a drying-place.

Thirty francs per man of the crew employed at the fishery on the Grand Bank of Newfoundland, and without a drying-place.

Fifteen francs per man of the crew employed at the Dogger Bank fishery.

2d.—*Bounty on the produce of the fishery*—

Twenty francs per metric quintal of any codfish, the produce of the French fishery, to be shipped, either direct from the fishing settlements or from the ports of France, for the markets of the French colonies of America and India, or for the settlements on the west coast of Africa, and other transatlantic countries—provided, always, that the fish be landed at a port where there is a French consul.

Sixteen francs per metric quintal of dry codfish, the produce of the French fishery, shipped either direct from the fishing settlements or from the ports of France, and destined for the countries of Europe and the foreign states on the shores of the Mediterranean, Sardinia and Algeria being excepted.

Sixteen francs per metric quintal of dry codfish, the produce of the French fishery, that may be imported into the French colonies of America and India, and other transatlantic countries, when said fish are exported from the ports of France without having been there landed.

Twelve francs per metric quintal of dry codfish, the produce of the French fishery, shipped for Sardinia and Algeria, either direct from the fishing settlements or from the ports of France.

Twenty francs per metric quintal of the hard roe of codfish, the produce of the French fishery, brought into France by their fishing-vessels.

Note.—One kilogramme is equal to 2 lbs. 3¼ oz.; 220½ lbs. equal to 1 quintal metrique, (say metric quintal.)

admit that "the cod-fishery could not exist." This fishery, says M. Senac, "is a productive industry; and it furnishes more than a fifth part of the whole number of our seamen, and by far the best portion of them. There is no cheaper, better, or more useful school for the formation of seamen for the navy, and none is more capable of extension and development. The doubling of the consumption and exportation of the produce of the fisheries would furnish our fleets with twelve thousand more seamen."

We have seen that when, in 1778, France embarked in our revolutionary struggle, her fishermen, absent at Newfoundland, were recalled to enter her ships-of-war. The same reliance is placed upon them now. War was apprehended in 1841, and M. Thiers followed the example of the statesmen referred to; and M. Rodet affirmed that, "without the resources which were found in the sailors engaged in the fisheries, the expedition to Algiers could not have taken place."

These reasons are not only sufficient to justify, but to demand, national encouragement. But it may be urged, in addition, that the open or deep-sea cod-fishery differs from almost every other employment; that in war it is nearly or quite destroyed; that in peace it cannot be pursued for more than four or five months in a year; that often skill and industry are insufficient to insure good fares; and that, when success attends severe toil and exposure, the fishermen barely subsist. The effects of a "bad catch" are, indeed, sad and calamitous. The disasters of 1847 afford a recent and a forcible illustration. In that year the French cod-fishery proved a failure. The quantity of fish caught was scarcely a sixth part of that of former seasons; and the fishermen, discouraged, abandoned the business as early as the middle of August. The labor of the summer and the expenses of repairs and of outfits lost, the actual want of food and clothing until another year came round was alone prevented by the bounty allowed by the government.

The manner of fishing is now the only topic that need claim attention. It is to be observed that the principal fishing-grounds are three, and that on each there is a difference in the mode of operations and in the size of the vessels. First, the fishery on the *coasts* of Newfoundland, which has always been considered the most important, as being more certain and employing the greatest number of men. The vessels are of all sizes—from thirty to two hundred, and even three hundred tons. The latter size is, however, rare. When the vessel arrives on the coast, which is generally early in June, she is dismantled. Her boats, with two men and a boy in each, are sent out every morning, when the weather will permit, to fish until night. On the return in the evening, the fish taken are split, salted, and put in "*kenches*" or piles; remaining in piles a few days, they are "washed out" and dried until they are fit to ship. These processes are repeated from day to day until the fare is completed, or the season has passed away. Towards the close of September, fishing is suspended, and the vessels depart for France or the West Indies.

The Grand Bank fishery is pursued in vessels of between one and two hundred tons burden, with two strong *chaloupes*, or boats, to each. From sixteen to twenty men compose a crew. The vessels proceed first to St. Pierre, land the shore-fishermen and "curers," and thence

take position on the banks, anchoring in seventy or eighty fathoms of water. Everything in readiness the chaloupes are launched and sent out at night to place the "ground-lines," to which are attached some four or five thousand hooks. When not too boisterous, these lines are examined every day, and the fish attached to the hooks split, salted, and placed in the hold of the vessel. Meanwhile, the fish caught on board by the men not assigned to the boats are treated in the same way. The first fare is usually secured in June, and carried to St. Pierre to be dried. The second fare is cured at the same place; but the third—if fortunately there be another—is commonly carried to France "green."

This fishing is difficult and dangerous. It requires expert and daring men. It is prosecuted in an open, rough, and often a stormy sea, and frequently involves the loss of boats and their crews.

The third fishery, at St. Pierre and Miquelon, is similar, in some respects, to that between Cape Ray and Cape John, on the coast of Newfoundland. Boats, instead of vessels, are, however, employed in it. The boats of the two islands are between three and four hundred in number, and require two men to each. They go out in the morning and return at night. Thus, as in all shore-fisheries, the fishermen always sleep at their own homes. As this is the only business of the islands nearly all the men, women, and children are engaged in catching or curing. The season opens in April, and closes usually in October.

We have seen the importance attached by France to her immense American domains and with what pertinacity she maintained her pretensions to the monopoly of the fishing-grounds. It remains to speak more particularly than has yet been done of the two lone, bare, and rocky islands that remain to her as monuments of the vicissitudes of human condition and of national humiliation.

The situation of St. Pierre and Miquelon commands the entrance of the Gulf of St. Lawrence. The growth of wood is insufficient even for fuel. They produce no food, and the inhabitants are dependent on France and other countries for supplies. The population of St. Pierre in 1847 was 2,030, of which about one-quarter was "floating" or non-resident. The population of Miquelon at the same time was 625.

There are several Catholic churches and schools, priests, monks, and nuns. In 1848, a hospital, sufficiently commodious to receive upwards of one hundred sick persons, was erected. The dwellings are of wood. The government-house is of the same material, and plain and old-fashioned. The streets are narrow, short, and dirty. The official personages are a governor, a commissary or minister of marine, a harbor-master, and some inferior functionaries. The military, limited by treaty to fifty men, consist of about thirty *gens d'armes*. Upon the station is a single armed ship, though other armed vessels are occasional visitors. The present light-house was erected in 1845, at a cost of 80,000 francs, and, well built of brick, is a substantial edifice.

Such are the TWO ISLANDS—TWO LEAGUES IN EXTENT—which remain to the power that once possessed the whole country bordering on the Mississippi, the limitless regions penetrated by the St. Lawrence—Acadia, from Canseau, in Nova Scotia, to the Kennebeck river, in Maine; the island of Cape Breton; and the hundred other isles of the bays of the northern and eastern possessions.

*French cod-fishery.*

Years.	No. of vessels.	Tonnage.	Number of men.	Quintals of fish.	Value.
1504					
1527	12				
1577	150				
1578	150				
1615	100				
1721	400				
1744	564		27,500	1,441,500	
1745	100				
1768	259	24,420	9,722	200,000	\$861,723
1773	264	24,996	10,128		
1774			15,137		
1786			7,000	426,400	
1787			6,000	128,590	
1816		30,954	8,108		
1823	184	16,258	3,655		
1824	348	36,999	6,672		
1825	336	35,172	6,311		
1826	341	38,938	7,088		
1827	387	44,868	8,238		
1828	381	45,094	7,957		
1829	414	50,574	9,428		
1830	377	45,036	8,174		
1831	302	35,180	6,243	300,000	
1833			10,000		
1834			10,000		
1835				300,000	
1839		54,995	11,499		
1841	400		11,900		
1843	400				
1847			12,000	450,000	

## COD-FISHERY OF SPAIN.

Participating in the excitement which prevailed in Europe on the discovery in the American seas of varieties of fish not previously known or used in the fasts of the Roman church, Spain was an early competitor with France and England. Vessels of her flag were certainly at Newfoundland as soon as the year 1517. Sixty years later, the number of her vessels employed in the fishery there is estimated at one hundred. The number rapidly diminished. Sylvester Wyat, of Bristol, England, who made a voyage to the St. Lawrence and Newfoundland in 1593, found only eight Spanish ships in a fleet of upwards of eighty sail of French and English vessels. From the remarks of Smith—who became the father of Virginia—it would seem that in the early part of the seventeenth century, the Spanish fishery was pursued with greater vigor than at the time last mentioned. But the greater wealth to be acquired in the gold regions of South America soon lured the Spaniards from an avocation of so great toil, and of so uncertain rewards. No controversy between Spain and England as to their respective rights to the fishing grounds, ever arose.

Spain retired from our waters in peace, and at her own pleasure. Little is heard of her in connexion with our subject for quite a century, and until the peace of 1763. Her claim—resting on discovery—ever vague and uncertain at the north, had become almost as obsolete as that of the King of England to the title of King of France. Still, in the definitive treaty concluded at Paris, she formally renounced “all pretensions which she has heretofore formed, or might form, to Nova Scotia or Acadia, in all its parts, and guaranties the whole of it, and with all its dependencies,” and ceded and guarantied to England, “in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all other islands and coasts in the gulf and river of St. Lawrence; and, in general, everything that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty or otherwise.” With this treaty the history of the Spanish fishery in America terminates.\*

#### COD-FISHERY OF PORTUGAL.

An account of this fishery may be embraced in a single paragraph. If materials exist by which to ascertain its progress and final extent, I have not been able to find them.

Portuguese vessels were at Newfoundland as early as those of Spain; and in 1577, the number employed there is estimated at fifty. These two facts comprise the substance of my information upon the subject, except that Portugal, like Spain, soon abandoned all attention to the claims derived from the voyages of her navigators to the northern parts of our continent, and devoted her energies and resources to colonization in South America, and the acquisition of wealth in the mines of Brazil.†

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\* Spain relinquished her rights at the peace of 1763, with reluctance, though she had long ceased to exercise them. A letter of Sir Joseph Yorke is quoted in the correspondence of Horace Walpole, in which it is said: “By what I hear from Paris, my old acquaintance, Grimaldi, is the cause of the delay in signing the preliminaries, insisting upon points neither France nor England would ever consent to grant, such as the liberty of fishing at Newfoundland; a point we should not dare to yield, as Mr. Pitt told them, though they were masters of the Tower of London.”

† The rivers and coasts of Portugal abound in fish. But the fisheries are neglected by the government. The whole number of sailors and fishermen who belonged to the kingdom in 1826, was only 18,700. I find in an official document a statement which shows that during the twenty-four years ending in 1825, the quantity of dry codfish imported into Portugal was seven million five hundred and twenty thousand quintals, of the value of more than thirty-nine millions of dollars! As late as the year 1839, certainly, the government pursued the policy of levying a tax or duty on the produce of the domestic or coast fishery; a fact which enables us to account for the miserable condition of the kingdom, as regards its maritime strength and resources.

## PART II.

NEWFOUNDLAND—NOVA SCOTIA—CAPE BRETON—PRINCE EDWARD ISLAND—MAGDALENE ISLANDS—BAY OF CHALEURS—LABRADOR—NEW BRUNSWICK.

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ENGLISH COD-FISHERY—NEWFOUNDLAND.

Newfoundland is the oldest colony of England in America. It is said that in the public library of Venice there is a map, constructed by Andrea Bianco, in 1436, which authorizes the conjecture that it was known to fishermen before the voyage of Cabot, in 1497. The story, to state its substance in a word, is, that the island *Scorafixa*, or *Stoxafixa*, on the map, and the island of Newfoundland, are identical, because the codfish is called *stock-fish* in the northern languages.

The English resorted to Iceland\* for the cod, previous to the year

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\* The Icelanders, at the present time, derive their chief subsistence and profit from the sea. They live principally on the shores and harbors, where fish are plentiful. The fishing season commences in February, and closes in May. The fishermen wear a dress of leather, rubbed over with train-oil until it is nearly impervious to water. They fish with line and hooks, baited with shell-fish, or pieces of flesh. They have lately become acquainted with nets, and use them in the herring fishery. When they leave the shore they take off their hats, and offer up a petition for success, and recommend themselves to the Divine protection in a prayer or hymn. They then row to the fishing grounds, and continue there all day. In 1804 the total number of boats employed was twenty-one hundred and sixty-three, namely: 208, with eight and ten oars; 1,068, with four and six oars; and 887 of smaller size. Bessestaar is the seat of a good academy, with a collection (in 1826) of fifteen hundred volumes, which, says Malte Brun, "is no doubt the most northern library in the world." Iceland, he observes, "produces no salt; but the water of the surrounding sea is fully as saline as that of the Mediterranean. The salt which the Icelanders obtain from it gives a bluish tint to fish."

Reikiavik, according to another writer, was selected as the seat of government "for the convenience of its harbor, and for the gravel beach—a thing of rare occurrence in Iceland." The exports of fish from Reikiavik, in 1806, were much larger than from any other place.

The Dutch cod-fishery is of importance.

[Translation.]

STATE PAPER OF THE KINGDOM OF THE NETHERLANDS.

No. 13.—*Act of 6th March, 1818, for the encouragement of the Iceland cod-fishery.*

We, William, by the grace of God King of the Netherlands, Prince of Orange Nassau, Grand Duke of Luxembourg, &c.

Be it known to all those who shall see these presents, or hear them read, greeting:

Considering that the little, or Iceland, cod-fishery has been continually supported and encouraged by premiums out of the public treasury in behalf of those who carry on this branch of industry, so important to the prosperity of the country;

And that the reasons which, in former times, pleaded for the allowance of those premiums, have still, at the present time, their full force and weight:

We have therefore heard our council of state, and, with the advice of the States General, do hereby decree and direct:

ARTICLE I. There shall be paid out of the public treasury a premium of five hundred guilders for every voyage of each ship, which, for account of our subjects, is fitted out in this kingdom, and shall sail from one of its ports during the years 1818, 1819, and 1820, for Iceland to carry on the little fishery—that is, the cod-fishery—between the sixty fifth and sixty-seventh degrees of north latitude.

1415, but there is no account of their fishing at Newfoundland prior to 1517. Some writers suggest that the French commenced at the same time. But the fact, generally admitted, that ships from England, France, Spain, and Portugal, to the number of fifty, were employed in 1517, is alone sufficient to show that the fishing grounds had been visited for several years. Indeed, to consider that the French went to Newfoundland for the first time in 1504, and that in thirteen years, and in the infancy of distant and perilous voyages, their adventures had attracted the attention of three other nations to the extent just stated, is to allow an increase of flags and of vessels so rapid as to still require explanation, without a knowledge of the fishing enthusiasm of the period. Besides, some forty or fifty houses for the accommodation of fishermen were built at Newfoundland as early as 1522.

A letter is preserved in the Memoir of Sebastian Cabot, written by John Rut to Henry the Eighth, and dated at St. John, Newfoundland, August 3, 1527, which seemingly warrants the conclusion that the English fishery, at that time, was of little consequence, since he states that he found "eleven saile of Normans, and one Brittain, and two Portugall barks" in that harbor, but makes mention of no others, and proposes to sail along the coast to "meete" the only vessel of his own flag known by him to be in that region.

An effort to found a colony was made, however, in 1536, under the auspices and at the expense of Mr. Hore, a wealthy merchant of London. A company of one hundred and twenty persons was formed, of whom thirty were gentlemen of education and character. They arrived at Newfoundland, but accomplished nothing. Many perished of starvation. The survivors fed on the bodies of the dead, and finally reached England.

Twelve years later, we find that the fishery was considered of great national importance, and worthy of legislative encouragement. Thus, an act was passed by Parliament imposing severe penalties on persons eating flesh on fish-days. The punishment for the first offence was a fine of ten shillings, ten days' imprisonment, and abstinence from meat during the same time; while for the second, these inflictions were doubled. The sick and aged, to whom flesh was necessary, were exempted on obtaining licenses from the ecclesiastical authorities.\*

Another act, of 1548, and remarkable as the first of England which

ART. II. In cases where particular circumstances have occurred during the voyage, we reserve to ourselves the regulation of the premium in such a manner as those circumstances may deem to require.

We order and command that the present shall be inserted in the State paper, and that all ministerial departments and authorities, colleges and officers, are charged with the due execution of these presents.

Given in Gravenhague, (Hague,) the 6th March, in the year 1818, in the fifth of our reign.

WILLIAM.

By the King: A. R. Falk.

\* A license to eat meat on fish-days is too great a curiosity, in our time, to be omitted. The following is a copy of one, granted in the reign of James the First, of England:

"Whereas Mr. Richard Young, of Okebourne St. George, in the countye of Wiltes, Esquire, is a Gent. of good age, subject to many sicknesses, diverse infirmities, and in bodye of a very weak constitution, and hath with him in his house his mother, Mrs. Ann Young, widow, a Gent. of great age (above four score) very sicklye, feeble, and subject to diverse maladies, and having others in his house sicke, and have long bine, to whom *fish*, by reason of

relates to America, had special reference to Newfoundland, and to the abuses that existed there. Its preamble is quaint. "Forasmuch," it commences, "as within these few yeeres now last past there have bene levied, perceived, and taken by certain officers of the admiraltie, of such marchants and fishermen as have used and practised the adventures and journeys into Iceland, Newfoundland, Ireland, and other places commodious for fishing, and the getting of fish, in and upon the seas and otherwise, by wey of marchants in those partees, divers great exactions, as summes of money, doles or shares of fish, and such other like things, to the great discouragement and hindrance of the same marchants and fishermen, and to no little dammage of the whole commonwealth, and thereof also great complaints have bene made, and informations also yerely to the King's Majesties most honorable councill; for reformation whereof," &c., &c. From this period, and in consequence of the measures adopted, rewards to officers of the government were discontinued, and the Newfoundland fishery became entirely free to every inhabitant of the realm.

It is of interest to remark that the foreign trade of England was then limited to the Flemish towns, and to the fishing grounds. To extend commerce by still further encouragement to the branch of industry before us, a curious act of Parliament was passed in 1563, which provided "*that as well for the maintenance of shipping, the increase of fishermen and marines, and the repairing of port-towns, as for the sparing of the fresh victual of the realm, it shall not be lawful for any one to eat flesh on Wednesdays and Saturdays,\* unless under the forfeiture of £3 for each offence, excepting in cases of sickness and those of special licenses to be obtained.*" For these licenses peers were required to pay about six dollars, knights and their wives about three dollars, and other persons one dollar and a half; but neither peer nor commoner could eat beef on the two prohibited days. As will be remembered, this was a sort of transition period in religion; and, fearing that the act would be considered as *popish*, it was provided that "whoever shall, by preaching, teaching, writing, or open speech, notify that any eating of fish, or forbearing of flesh, mentioned in this statute, is of any necessity for the serving of the soul of

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theire age, sicknesses and diuerse infirmitie, is iudged by the skilful (as I am informed) to be very hurtfull to their bodies, and likelie to breede and bring diuerse diseases and sicknesses upon them: They therefore haue requeste me, theire minister, the promises considered, to give and grant them license, this time of Lent, to eate flesh, for the better avoidinge of sicknesses and diseases which, by their absteyning fro flesh, might growe upon them: Know ye, therefore, that I Adam Blythe, Mr. of Arts and of Okebourne aforesaid, Viccar, duelye considering this theire so lawfull request, and tendering the helth and wellfare of the said Mr. Richard Young and Mrs. Ann Young, his naturall and aged mother, have given and granted, and by these presents do give and grant to the said Mr. Richard Young and Mrs. Ann Young, and to floure persons more, leave, power and license, (so farr as in me lieth, and by lawe safely I may without danger, and no further) to dresse or cause to be dressed, for them to eate, flesh this time of Lent nowe following, prohibitinge *neuer the lesse, and by this grant forbidding them, all manner of shamble meates whatsoeuer.* In witness whereof, to this present license I have put to my hand and seale. Dated and given at my house in Okebourne aforesaid, february this xiiii<sup>th</sup>, 1618.

By me, ADAM BLYTHE, the Viccar *ibid.*"

\* Palgrave, in his History of the Anglo-Saxons, observes of the origin of the names of the days of the week in the Saxon mythology, that "Lastly came *Saeter*, from whom Saturday is named. He was represented as standing upon a fish, and he held a bucket in his hand, so that he appears to have been a water deity."—London ed., p. 53.

man, or that it is the service of God otherwise than as *other* politic laws are and be, then such persons shall be punished as spreaders of false news ought to be." Such were the means adopted to increase "shipping" in the infancy of English navigation.

These laws were speedily followed by others. In 1571, fishermen of the realm were permitted to export sea-fish free of the customs; while the same year, and by another act, foreign fishermen anchoring on the English coast, or interfering in waters where nets were used, were liable to seizure and confiscation.

Meantime the Newfoundland fishery was prosecuted with great vigor. The number of vessels employed in it, of various flags, is estimated at three hundred and fifty or four hundred. The ships of France and Spain, in 1577, were much more numerous than those of England, for the reason, as is stated, that the English merchants still sent a part of their vessels to Iceland. It appears, however, that the English ships were the best; that they gave protection to those of other nations, and exacted tribute or payment for the service. The whole commercial marine consisted of only 1,232 vessels in 1582, of which 217 were upwards of 80 tons. To assume that the fifty then visiting Newfoundland were of the latter class, is to state that nearly one quarter part of the navigation of England, suitable for distant voyages, was employed in fishing.

In 1583 Sir Humphrey Gilbert, under the first charter that passed the great seal of England for colonization in America, arrived at Newfoundland. He found thirty-six vessels in the harbor of St. John of different nations, and was refused entrance; but on hearing that he had a commission from Queen Elizabeth, they submitted.

He took possession of the island with great pomp and ceremony, and granted lands and privileges to fishermen in fee, on condition of the payment of quit-rent. It is important to remark that the right of England to Newfoundland and its fishing-grounds rests on the discovery of Cabot, in 1497, and on the possession of Gilbert at this time.

Sir Humphrey was accompanied by smiths, shipwrights, masons, carpenters, "mineral men," and refiners, and, to win the savages, toys, such as morris-dancers and hobby-horses, were provided in ample quantities. The crews of his vessels, and, indeed, some of the artisans, were desperate men. The seamen on board of his own ship, the *Swallow*, were, it is said, chiefly pirates. Poorly clad, and falling in with a French vessel returning from the fishing-ground, they determined to rob her to supply their wants. They not only executed their purpose, by stripping their victims of their clothing and of articles of food, but, by winding cords round their heads, produced such exquisite torture as to extort the surrender of their most hidden stores.

After a short tarry at Newfoundland, Sir Humphrey sailed for England. On the passage his vessel encountered a fearful gale, and he and all on board perished. He deserves honorable mention in our annals. He was the first great projector of an American colony, and a virtuous and enlightened man, and impoverished himself and injured his friends, and finally lost his life, in his endeavors to plant the Anglo Saxon race in the western hemisphere.

Assuming full title to the island and the fisheries, the English seem,

for the moment, to have attempted to exclude the vessels of other nations, or, at least, to have compelled an acknowledgment of subjection to them as vested with proprietary rights. We find that, in 1585, a fleet of ships under Sir Bernard Drake made prizes of several vessels laden with fish and furs, which he sent to England.

Sir Humphrey Gilbert's voyage, disastrous as it was to himself and to others, was still the direct means of exciting the attention of his countrymen to adventures, which, by virtue of his patent, could be made under the protection of the crown, as to a British possession. I incline to believe that the Newfoundland fishery had never yet become the favorite of the English merchants.

By the statute-book there were one hundred and fifty-three days in a year on which British subjects were required to abstain from flesh, and to eat fish, and the demand for the products of the sea was, of course, immense. But the Iceland fishery was still prosecuted; and, that her people might not be molested there, Queen Elizabeth condescended to ask the forbearance and protection of Christian IV of Denmark, who claimed the Iceland seas as his own.

The observance of the interdictions as to flesh on fish-days was deemed of great moment, and among the tracts of the time was one by John Erswick, who demonstrated the "benefits that grow to this realm," by reason thereof, in terms that show he was a devoted partisan of the "fishmongers."

The progress of the Newfoundland fishery during the ten years ending in 1593 was rapid beyond example, and Sir Walter Raleigh declared in the House of Commons that it was the stay and support of the west counties of England. Yet it was subject to interruptions. An example occurs in the case of Charles Leigh, a merchant of London, who, in 1597, made a voyage with two vessels, and who, while on the American coast, was assailed by the crews of French vessels, to the number of two hundred, who, landing pieces of ordnance, kept up a discharge of shot until a parley was held and the difficulty adjusted.

As the sixteenth century closes, we record the commencement of hostile relations between the fishermen and the red Indians of Newfoundland.

These Indians derived their food principally from the sea. The Europeans, in the course of their merciless warfare against them, destroyed their canoes, their nets, and their villages. The Indians endeavored to maintain their rights of fishing, and bravely contended with their opponents, until resistance was vain. The fish they required for consumption could not, in the very nature of things, have diminished the catch of their cruel rivals. Driven almost entirely from the sea, finally, and unjustly deprived of all means of support, they were compelled to plunder food to save themselves from starvation. Watched and waylaid by their foes, they were shot down whenever they came near any of the European fishing stations. In truth, whenever and wherever they were found, and whether resisting, or imploring for food, they were slain as men slay beasts of prey. Men, women, and children were slaughtered without discrimination; and even those who were too weak to raise the hand of supplication, were not spared. In

a word, the natives of Newfoundland were exterminated by deeds as disgraceful and as damning as any which appear in the dealings of the Spaniards with those of Cuba, or South America.

From the fragmentary accounts that have come down to us of the events connected with our subject, we may conclude that the habits of the fishermen who visited the American coasts were loose and immoral. They could hardly have been otherwise. It was not until late in the sixteenth century that bibles, or other printed books, were in common use anywhere, or that the manufacture of writing-paper and time-pieces was commenced in England; while gentlemen who could not write still helped the memory by notches made in sticks, and ate their food without forks. Chimneys in dwelling-houses were rare; and even after the accession of Elizabeth, the floor of the presence-chamber of the royal palace was covered with hay. That, in this state of society, the humble class of whom I speak were rude, ignorant, lawless, and wicked, cannot excite surprise.

Our attention is now to be directed to incidents of moment. It is estimated that two hundred English ships went annually to Newfoundland about the year 1600, and that they employed, as catchers on board and as curers on shore, quite ten thousand men and boys. The vessels commonly left England in March and returned in September; the fishermen passing their winters at home, idly spending their summer's earnings, or "share-money." The prosperous condition of the fishery was often spoken of in terms like the following: "To come," says Sir William Monson, (writing in 1610,) "to the particulars of augmentation of our trade, of our plantations, and our discoveries, because every man shall have his due therein, I will begin with Newfoundland, lying upon the main continent of America, which the King of Spain challenges as first discoverer; but as we acknowledge the King of Spain the first right of the west and southwest parts of America, so we, and all the world, must confess that we were the first who took possession, for the crown of England, of the north part thereof, and not above two years' difference betwixt the one and the other. And as the Spaniards have from that day and year held their possession in the west, so have we done the like in the north; and though there is no respect in comparison of the wealth betwixt the two countries, yet England may *boast that the discovery, from the year aforesaid to this very day, hath afforded the subject, annually, one hundred and twenty thousand pounds, and increased the number of many a good ship, and mariners, as our western parts can witness by their fishing in Newfoundland.*"

That in the manner of prosecuting the fishery, much time and money were lost, is obvious to practical men without explanation. To plant a colony, and thus afford inducements to the fishermen to live permanently near the fishing-grounds, was an object highly desirable to persons of broad and liberal views. The plan, postponed by the untimely end of Sir Humphrey Gilbert, and the attention bestowed upon colonization in the more genial region of Virginia, by Sir Walter Raleigh, his kinsman and associate, was now to be renewed.

In 1610, and the year following, two charters were granted for the purpose. The first, from the rank of several of the patentees, is deserving special mention. The merit of the enterprise belongs to Mr.

Guy, a merchant of Bristol who published several pamphlets, and induced a number of commercial men of that city, and several persons of influence at court, to join him. Among the latter class were the celebrated Lord Bacon,\* who was then solicitor general; Lord Northampton, keeper of the seals; and Sir Francis Tanfield, chief baron of the exchequer. The patent states, that "divers" of the king's "subjects were desirous to plant in the southern and eastern parts of Newfoundland, whither the subjects of the realm have for upwards of fifty years been used annually, in no small numbers, to resort to fish," &c. The patentees, nearly fifty in number, were designated as "The treasurer and company of adventurers and planters of the citie of London and Bristol, for the colony and plantation of Newfoundland." The limits of their territory were fixed between Capes St. Mary and Bonavista, comprising that part of the eastern and southern coasts which had been hitherto the chief seat of the fishery.

The privileges granted were as liberal as could be desired; the only reservation being, that *all* British subjects should be allowed to fish at will, and free of tax or restraint, on the coasts.

The conception was a grand one, and connects Lord Bacon with our annals; but no results, such as were anticipated, followed. Yet, I suppose that Whitbourne, of whom we shall have occasion to speak particularly, alludes to this colony when he says, "Divers worshipfull citizens of the city of Bristol have undertaken to plant a large circuit, and they have maintained a colony of his Majestie's subjects there any time these five yeares, who have buildd there faire houses, and done many other good services; who live there very pleasantly; and they are well pleased to entertaine, upon fit conditions, such as will be adventurers with them." Whitbourne also mentions by name in the same paper, which I conclude was written in 1621, the "Worshipfull John Slany, of London, merchant, who is one of the undertakers of the Newfoundland plantation, and is treasurer unto the patentees of that society, who have maintained a colony of his Majestie's subjects there above twelve years;" but I find no other account of Slany or his associates. It appears, too, that another company, having obtained a grant of land at Newfoundland, sent out a party who wintered there in 1613; but soon becoming weary of their attempts for settlement, they transferred their grant to other adventurers. Among the obstacles to colonization at this period, piracy is not to be overlooked. Whitbourne frequently suffered at the hands of freebooters, and in 1612 Peter Easton, a noted pirate, with ten well-appointed ships, made himself complete master of the seas, levied a general contribution on the vessels employed in fishing and impressed from those at Concepcion Bay one hundred men for his own fleet. Pirates continued to harass and plunder the fishermen for several years.

In 1613 we notice the birth of the first child of European parents. Two years later, Richard Whitbourne, already mentioned, who had made many voyages to Newfoundland, arrived at that island with a commission from the admiralty to empannel juries and correct abuses and disorders among the fishermen on the coast. He summoned a

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\*Francis Bacon, Baron of Verulam, one of the most remarkable of men, was born in London, in 1561. He was created Lord High Chancellor of England in 1619, and died in 1626.

court, and heard the complaints of one hundred and seventy masters of English vessels. The abuses seem to have been flagrant. The captains had been accustomed to leave their boats and salt on the coast, hoping to find them at the beginning of the next season, but in many cases not a vestige remained of either. The bait prepared for the next day's fishing was frequently stolen out of the nets; the forests were often wantonly set fire to; the large stones used in pressing the fish were sunk at the mouth of the harbors; and little or no regard was paid to the Sabbath. Whitbourne's courts and juries were the first, probably, under the authority of England, in the New World.

Many thousand persons were employed as catchers and curers, and the fishery was in a flourishing condition. Besides the vessels of foreign flags we found "then on that coast," says he, "of your Majesty's subjects, two hundred and fifty sail of ships, great and small."\* In the paper from which I have cited he speaks of a settlement of the "Worshipfull William Vaughan, of Tawacod, in the county of Carmarthen, doctor of the civil law," who had "undertaken to plant a circuit in the Newfoundland," and who "in two severall years had sent thither divers men and women;" and he adds, that "there are many other worthy persons, adventurers in the said plantations, whose names are not herein mentioned;" concluding with an appeal to his countrymen to sustain the colonies of which he had given an account, because of the "great increase of shipping and mariners, and the employment and enriching of many thousands of poore people which now live chargeable to the parishioners," and for other reasons.

Leaving here the Newfoundland fishery, for the present, we turn to adventures on the coast of New England. The Englishman who made the first *direct* voyage across the Atlantic was Bartholomew Gosnold, who explored our shores in 1602, and, catching codfish near the southern cape of Massachusetts, gave the name which it still bears. He was followed by the celebrated John Smith in 1614, who took "forty thousand" fish, which he dried, and "seven thousand" which he "corned," or pickled, in the waters of Maine, and purchased a large quantity of furs of the natives. The profits of his voyage were upwards of seven thousand dollars.

Four ships from London and four from Plymouth came in 1616. They obtained full fares, and sold their fish in Spain and the Canary Islands at high prices. The number increased rapidly. At the time the Pilgrims landed at Plymouth the island of Monhegan, in Maine, had become a noted fishing station. In 1622 no less than thirty-five ships from London and the west counties of England made profitable voyages to our shores. "Where in Newfoundland," says Smith, a common fisherman "shared six or seven pounds," in New England he "shared fourteen pounds." This was a great difference; and it is to be remembered that the profit of the merchant who furnished the

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\* Richard Mather, who came over to Massachusetts in 1635, kept a journal of the voyage. When on the Bank of Newfoundland, "on the end of it nearer to New England," he records seeing "mighty fishes rolling and tumbling in the waters, twice as long and big as an ox." He saw, too, "mighty whales spewing up water in the air, like the smoke of a chimney, and making the sea about them white and hoary, as is said in Job: of such incredible bigness that I will never wonder that the body of Jonas could be in the belly of a whale."

vessel and the outfit was increased in the same proportion. I may add that it is of interest to learn from this remark of Smith, and from others that occur in his pamphlets, that the practice of fitting out vessels "on shares"—to use a term well known among practical men, still so common—was introduced more than two centuries ago.

Abuses far greater than those which had required the correcting hand of Whitbourne at Newfoundland soon demanded attention. Sir Ferdinando Gorges and the quaint Hubbard both declare that the fishermen and others taught the Indians "drunkenness, wickedness, and lewdness;" that they "abused the Indian women openly," and were guilty of "other beastly demeanors," to the "overthrow of our trade and the dishonor of the government." To put an end to these disorders, and to accomplish other purposes, Sir Ferdinando Gorges's son Robert was commissioned, in 1623, to come to New England as lieutenant general over all the country known by that name. Francis West, bearing the commission of admiral of the seas, with power to restrain such ships as came either to fish or trade on the coast without license, arrived the same year. Neither were officers of the crown, but the agents of a private corporation.

King James had granted, three years previously, to forty noblemen, knights, and gentlemen, the vast domain embraced between the 40th and 48th degrees of north latitude, and extending from ocean to ocean. This company, known in popular language as the "Council of Plymouth," claimed not only the territory within their patent, but the seas. Assuming that the fishing-grounds from Acadia to the Delaware were no longer free to British subjects, they asserted exclusive property in and control over them, and were sustained in their pretensions by the King.

The controversy which followed the attempt of the council to maintain this monstrous claim was fierce and angry in the extreme. The limits of this report will allow but a brief account of it. It commenced in 1621, two years before the voyage of West, and was continued for several years.

Sir Ferdinando Gorges's narrative of the troubles of the council from this source and others is preserved in the Collections of the Massachusetts Historical Society, and contains many interesting statements. He had been an officer in Queen Elizabeth's navy, and intimately connected with Mason, who became the grantee of New Hampshire, and, with Sir Walter Raleigh, the father of American colonization, and was as determined as either of them to leave his name in our annals. He was an active, indeed the principal, member of the council, and after its dissolution, acquired Maine in his own individual right.

The council demanded that every fishing vessel should pay into their treasury a sum equal to about eighty-three cents the ton, which, the small size of the vessels of the period considered, amounted to a tribute probably of more than a hundred dollars from each English ship that should come upon our coast. They had made no settlements upon the land, and the tonnage money to be exacted of the fishermen constituted the only present source of revenue from their possessions.

The spirit of the English people was roused. The Dutch herring-fishery was regarded as the "right arm of Holland," and the imagina-

tions of Englishmen were filled with dreams of the fortunes which were certain to be secured from a kindred pursuit in regions where Dutch *busses* had not adventured; and the prodigal act of the King in granting to favorites of his court the seas which contained the treasures they coveted, caused the most indignant complaints. The House of Commons, obedient to the popular feeling, insisted upon the abrogation of the obnoxious monopoly, and that every Englishman should be allowed to fish at will, without molestation or tribute, within the limits of the council's patent. During the debate which arose, (a sketch of which may be found in Barcroft) the patentees were assailed with great boldness. "What," said Sir Edwin Sandys, "shall the English be debarred from the freedom of the fisheries—a privilege which the French and Dutch enjoy? It costs the kingdom nothing but labor; employs shipping; and furnishes the means of a lucrative commerce with Spain." "Nay," replied Calvert, "the fishermen hinder the plantations; they choke the harbors with their ballast, and waste the forests by improvident use. America is not annexed to the realm; you have, therefore, no right to interfere."

The friends of "*free fishing*" prevailed in the Commons; but Parliament was dissolved before a bill embracing and legalizing the fruits of the triumph could be carried through the forms of legislation. The council, giving no heed to the clamors of the people, and disregarding the course of the Commons, sent over West, as we have stated. To enforce the payment of the tribute, and to drive off and break up the voyages of those who refused, were the principal objects of his mission. He found the fishermen too numerous and too stubborn; and, accomplishing nothing, departed for Virginia, and thence returned to England. His proceedings and the unyielding disposition manifested by Gorges and other members of the council, caused a renewal of the clamor, and of the demand that the American fishing grounds should be declared free and open to all the subjects of the realm.

On the meeting of Parliament in 1624, the pretensions of the council were again assailed with eloquence and power. Sir Edward Coke,\* Speaker of the Commons, one of the most eminent of English lawyers, and now in his old age, indignantly demanded the revocation of the odious restriction. Sir Ferdinando Gorges had been summoned and was present. "Your patent,"—thus was Gorges addressed by Coke from the Speaker's chair—"Your patent contains many particulars contrary to the laws and privileges of the subject; it is a monopoly, and the ends of private gain are concealed under color of planting a colony." "Shall none," he said in debate, "shall none visit the sea-coast for fishing? This is to make a monopoly upon the seas, which wont to be free. If you alone are to pack and dry fish, you attempt a monopoly of the wind and sun."

The Commons prevailed a second time; but the bill to revoke the charter did not receive the royal assent. Still, the council were for-

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\*He was born in 1550; he became solicitor general in 1592, and attorney general soon after. His conduct in the latter capacity, during the trials of the Earl of Essex, and the celebrated Sir Walter Raleigh, has been severely and justly condemned. Coke, in 1613, was appointed chief justice of the Court of King's Bench. Towards the close of his life, he devoted himself to the cause of the subject, in opposition to the pretensions of the crown; he died in 1634.

ever entirely powerless. Though protected by their sovereign, public sentiment compelled submission; and abandoning their own plans, they continued to exist as a corporation, merely to make grants of lands to other companies, and to individual members of their own number.

James bequeathed the quarrel to his son. The ill-fated Charles had hardly ascended the throne before the Commons passed a bill for the maintenance and increase of shipping and navigation, and for the liberty of fishing on the coasts of Newfoundland, Virginia, and New England. This bill was lost in the House of Lords, but the spirit of the Commons was not repressed. In a strong representation of grievances, which they laid before Charles, they insisted that the restraint of the subject in the matter of fishing, with all the necessary incidents, was of national concern and required redress.

This State paper, and their refusal to grant the King a subsidy, caused the dissolution of Parliament.

It is from this dissolution that we date the disagreements between Charles and his people, which, in their termination, overturned a dynasty and carried the monarch to the block. In truth, I am led to conclude that the question of "free fishing" was the first in the series of disputes relative to the prerogatives of the crown on the one side, and the rights of the subject on the other.

The political consequences of the discussions so briefly considered, might well claim further attention; but leaving them here, the results to the fisheries next demand our notice. These, for the moment, were disastrous in the extreme, since I know of no other explanation to the fact, that during the five years embraced in the struggle the number of English fishing-vessels on the whole extent of our coast diminished much more than one-half, or from four hundred to one hundred and fifty; while it is certain that in the alarm which prevailed, the merchants who had purchased the island of Monhegan, and had provided there ample accommodations for the prosecution of their adventures, sold their property and retired from the business.

Singular to remark, too, that on the immediate coast of New England—and for ships owned or entirely controlled by English merchants—the right of "free fishing," so earnestly contended for, was of little real value. Accounts of such ships terminate almost at the very moment that the right was established, in the manner related.\* In another part of this report, we shall indeed find that single vessels continued

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\* Governor Bradford, in a letter to the "Council of New England," dated at Plymouth, June 15, 1627, complains that the English fishermen on the coast "began to leave fishing and to fall wholly to trading, to the great detriment of" the settlers there, and the "state of England." In the year following, complaint was made to the council against Thomas Morton, who "had been often admonished not to trade or truck with the Indians," and against "the fishing ships, who made it too ordinary a practice" to do the same thing, and over whom the people of Plymouth had no control.

In a communication to Sir Ferdinando Gorges, the same year, (1628,) it is said that Englishmen, under "pretence of fishing," sold the natives all manner of arms; that "from the greedy covetousness of the fishermen, and their evil example, the like had begun to grow amongst some, who pretend themselves to be planters, though indeed they intend nothing less but to take opportunity of the time, and provide themselves and begone, and leave others to quench the fire which they have kindled," &c., &c.

The evil seems to have been alarming, since it is further said, that unless the colonists were protected against these misdeeds, they must "quit the country." The assistance of Gorges, to bring Morton "to answer those whom it may concern," and "likewise that such fishermen may be called to account," is earnestly entreated.

to arrive at, and depart from, particular fishing stations; but these instances do not change the general truth, for most of them were connected with establishments occupied by persons who came to settle and remain in the country. We may conjecture that these merchants withdrew, because, once interrupted, they would not adventure again; or because they were satisfied that, in the long run, the Newfoundland fishery would prove the safest and most profitable; or because some of them became interested with their countrymen, who, meantime, had founded the colonies of Plymouth, New Hampshire, and Maine, who had set up fishing-stages at Cape Ann, and were about to undertake the colonization of Massachusetts on an extensive plan.

The disasters, at most, were limited and partial. The benefits were general, and of vast consequence. Had the council succeeded in their measures the whole course of affairs would have been arrested, and the settlement of the country postponed indefinitely. Before the dissolution of the corporation, eight patents of soil and fisheries were granted in Maine; and the long, expensive, and vexatious quarrels which arose there between rival patentees, and the claimants under them, prove conclusively that, had the seas and territory of all New England been lotted and parcelled out in the same way, our history, for an entire century, would have contained little else than accounts of strifes, commotions, and forcible possessions and ejections.

Several of the patents issued by the council previous to 1626 convey, either by implication or in express terms, to the patentees, the exclusive right of fishing within their domains; and in their eighth and last, to Aldworth and Elbridge, two merchants of Bristol, England, dated in 1631, and known in Maine as the "Pemaquid patent," this provision is retained. But grants to individuals to monopolize our seas disappear ever afterward.

In the charter to Calvert, of Maryland, the freedom of the fisheries is expressly stipulated. So, too, in the grant to Gorges, the great champion of monopoly, any subject could fish in Maine, and use the shores for purposes of curing and drying.

The patent to Sir Henry Roswell and others, of Massachusetts, defines with almost tedious particularity the rights to be enjoyed by all the inhabitants of the realm in any of the seas, arms of the sea, and salt-water rivers, as well as those of drying, keeping, and packing fish on the lands appurtenant.

In like manner the charter of Rhode Island, granted by Charles the Second, expresses the royal will and pleasure to be that "our loving subjects, and every one of them," shall "exercise the trade of fishing" where "they had been accustomed to fish." Even after the expulsion of the Stuarts, and in the second charter of Massachusetts, in the reign of William and Mary, when our fishing grounds had been open more than sixty years, the principles asserted by Coke in the House of Commons are as carefully recognised and repeated as he himself could have desired. In these, and in similar instruments, then, and not in the statistics of vessels and men at a particular time, we are to seek for the fruits of the victory obtained by the sturdy advocates of "free fishing, with all its incidents," in America.

We may now pause a moment to discuss a kindred topic, which

changes the scene from our seas to those of the mother country. I refer to the "ship-money," levied by Charles the First, and to Hampden, who won undying fame by resisting its payment. Both are more intimately connected with our general subject than seems to be commonly supposed.

First, it cannot but have been remarked that the acts of Parliament to "increase shipping," by encouragement to the different English fisheries, are numerous throughout the period embraced in our inquiries. The end desired was obtained; and I regard it as historically accurate to say that the earliest considerable demand for English ships of proper size and strength to perform long and perilous voyages was for explorations and fishing upon our coasts. At all events, it is certain that down to the time of Elizabeth the foreign trade of England was in the control of German merchants, and that there had been no employment for many or for large ships of the realm.\* British navigation increased with the growth of the fisheries. Without the fleets maintained at Iceland and Newfoundland there would have been neither ships nor seamen to execute the plans for the colonization of New England, and of other parts of the continent, during the reigns of James and Charles.

Yet, while the commercial marine gained strength, the royal navy continued small, and at the accession of James it consisted of but thirteen vessels.

Charles succeeded to a naval force far too weak to cope with the fleets of his enemies; and after his breach with the Commons, resorted to the fatal levies of "ship-money" to augment it, and for a distinct object, namely, that of breaking up the Dutch fisheries on the British coast. The dispute was of long standing. Complaints against the aggressions of the industrious Hollanders had been made to Elizabeth, and to her successor. It was said, indeed, in the time of the latter, that the Dutch not only engrossed the fisheries, but the entire maritime business of the country; and James compelled them to pay an annual tribute for the liberty of catching herring on the coasts of his kingdom. New disagreements arose, when they were warned off by royal proclamation. The Dutch were exasperated. Hugo Grotius appeared in their defence; and in his *Mare Liberum* contended for the freedom of the seas. Selden, in his *Mare Clausum*, is supposed by British writers to have refuted his arguments, and to have shown by records the first occupancy of the fishing grounds by the English, and their dominion over the four seas which surround the British isles, to the utter exclusion of both Dutch and French; as well as the fact that the Kings of England, even without the authority of Parliament, had levied large sums to maintain the sovereignty of these seas.

The Dutch, denying these conclusions, and insisting that the dominion claimed by the English extended no further than the friths, bays, and

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\* In 1485 (reign of Henry VIII) Sir William Cecil, a London merchant, stated that there were not above four merchant vessels, exceeding one hundred and twenty tons burden, belonging to that city; and that "there was not a port in Europe, having the occupying that London had, that was so slenderly provided with ships." Other writers assert that at the death of Queen Elizabeth (1603,) more than a century later, there were only four merchant ships in all England of more than four hundred tons.

shores, still continued their employment in the interdicted waters. The English required an acknowledgment of their title, and a tribute. Negotiations to adjust the difficulties between the two nations failed. Meantime, Charles, by his exactions of "ship-money," annually increased his navy.\* At last he was able to fit out a fleet of sixty sail, and the greatest ever equipped in England. This formidable armament, created for the special purpose of driving the Dutch herring fishers from the four "narrow seas," as they were called, was sent immediately to perform that service; and in the success of the enterprise, the Dutch consented to pay a sum equal to about one hundred and fifty thousand dollars.

Such, I think, are the conclusions to be derived fairly from the statements of Hume, and other writers of English history. Dr. Johnson, refusing to allow any influence to the religious antipathies that were awakened in the course of the controversy between the monarch and his people, sums up the case far more forcibly, and evidently considers that Charles owed his ruin to his zeal in maintaining the monopoly of the seas. In his "Introduction to the Political State of Great Britain," written in 1756, he says: "The Dutch, grown wealthy and strong, claimed the right of fishing in the British seas; this claim the King, who saw the increasing power of the States of Holland, resolved to contest. But, for this end it was necessary to build a fleet, and a fleet could not be built without expense: he was advised to levy ship-money, which gave occasion to the civil war, of which the events are too well known." Thus it appears that the exercise of the prerogative to exclude his *subjects* from the fishing grounds of his dominions in one hemisphere was among the *first*; and that the imposition of taxes, without authority of Parliament, to forcibly exclude a *foreign people* from those in the other, was among the *last* of the offences that sealed the fate of the unhappy Charles.

We return to the English fishery at Newfoundland. The first incident that invites our attention is the attempt of Sir George Calvert to found a colony. Whitbourne says that he undertook "to plant a large circuit," and that in 1621 he had already sent "a great number of men and women, with all necessary provisions for them," who were building houses, clearing land, and preparing "to make salt for the preserving of fish another year." His grant was for a considerable tract, embracing the coast from Cape St. Mary to the Bay of Bulls. He called his plantation "Avalon." His expenditures were very large for the time, amounting to nearly one hundred and twenty-five thousand dollars. Sir George resided in person at "Avalon" for some time, it is said, and endeavored to succeed where others had failed. But the difficulties he encountered were numerous. His rights became impaired by the determined course of the Commons in asserting the freedom of the fisheries; and the soil and climate did not meet his expectations.

More than all, the French menaced the destruction of his property,

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\* It was said by the merchants of England in 1627, that "within three years they had lost all their shipping; that the fishermen were taken almost in their very harbors, and that they would not attempt the building of new ships, because, as soon as they were ready, the King [Charles the First] seized them for his own use, against the will of the owners," &c.

and required the manning of ships, at his own expense, to protect his private interests, and the defenceless English fishermen on the coast. Relinquishing, finally, his plantation at Newfoundland, he turned his thoughts to more hospitable regions, and, as Lord Baltimore, became the father of Maryland.

Of all who sought our shores to acquire power and princely estates, to escape persecution, or to give a home and shelter to the weary and stricken, not one—whether Puritan, Episcopalian, or Quaker—was actuated by a spirit more liberal, or has left a better name, than George Calvert, the Catholic.\*

Remarking that Winthrop records in his journal (1647) the occurrence of a hurricane at Newfoundland, which wrecked many ships and boats, and destroyed quantities of fish, we come to the time of Charles the Second. That monarch, after the restoration, in 1660, issued a long proclamation for the strict observance of Lent, assigning, as one reason therefor, "the good it produces in the employment of fishermen." Still further to encourage this branch of industry, Parliament passed an act the same year remitting the duty on salt used in curing fish, and exempting the materials required in the fisheries from customs and excise. Three years later, the Newfoundland fishery was specially protected by an entire exemption from levies and duties; and the home and colonial fisheries were at the same time assisted by duties imposed on products of the sea, imported by foreigners or aliens.

Yet, the number of ships employed at Newfoundland declined annually. In 1670, the merchants sent out barely eighty. The decline was attributed to the boat fishery, carried on by the inhabitants there. Sir Josiah Child,† the leading authority of the day in matters of trade and commerce, sounded the note of alarm, anticipating that, if the resident fishermen continued to increase, they would, in the end, carry on the whole fishery, and that the nursery of British seamen would be destroyed. The only remedy he proposed was the annihilation of the boat fishery. Never was a more unjust expedient conceived. The labors, the expenditures, and sacrifices, of a large number of eminent and adventurous men, who had devoted life and fortune to the colonization of Newfoundland, were thus to be counted as worthless, and even injurious to the realm. But the views of Child were adopted by the Lords of Trade and Plantations,‡ who determined to break up

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\* George Calvert, Baron of Baltimore, and founder of Maryland, was born in England in 1582. He was appointed one of the principal secretaries of state in 1619; and, while holding office he acquired the southeastern peninsula of Newfoundland, which he erected into a province called Avalon. In 1624 he became a Catholic. After his abandonment of Newfoundland he made a visit to Virginia, but the colonists disliked his religion, and he relinquished his intention to settle among them. On his return to England, Charles the First gave him a patent of the country now Maryland. Lord Baltimore died in London in 1632, before his patent had passed the necessary forms; and a new one was issued to his son Cecil, who succeeded to his honors.

† Sir Josiah Child was a merchant. It is said that he acquired great wealth in the "management" of the East India Company's stock. When his daughter married the eldest son of the Duke of Beaufort, he gave her a portion of £50,000. Sir Josiah had fish-ponds in Epping forest, "many miles in circuit."

‡ The Board of Trade and Plantations was of no service to the American colonies, though created for the special purpose of attending to their interests. Mr. Burke, in a speech in the House of Commons, in 1780, thus spoke of it: "This board is a sort of temperate bed of

and depopulate the colony. Sir John Berry was accordingly sent over, with orders to drive out the fishermen, and burn their dwellings. The extent of his devastations under this more than barbarous decree may not be certainly known; but six years elapsed before the mandate of destruction was revoked, and its abrogation was accompanied with instructions to allow of no further emigrations from England to the doomed island. Complaints were made that emigration continued, and various plans were suggested to discourage and prevent it. Meantime, the relations between the resident fishermen and the masters and crews of the ships sent out by the English merchants were hostile to an extent which, at the present day, seems almost incredible. Previous to the edict just noticed, the former had petitioned the King for the establishment of some form of government, to protect them against the rapacity of their own countrymen—the latter. The merchants opposed the measure, as injurious to the fisheries, and prevailed. The petition of the residents was renewed from time to time, but never with success; and they continued to suffer wrongs and cruelties without redress.

The merchants convinced the ministry, or the Lords of Trade and Plantations, that the appointment of a governor, and the recognition of the full rights of the inhabitants of Newfoundland as British subjects, would produce the ruinous results anticipated by Child, and, strange as it may appear, no Englishman could lawfully have a home on that island for a long period.

The edict of 1670, to burn and destroy, had the effect, possibly, to increase the number of ships, since, four years afterward, two hundred and seventy, employing, on board and on shore, ten thousand eight hundred men, were engaged in the fishery. Yet the seas were not safe. Some of the fishing vessels mounted from ten to twenty guns, and carried from sixty to one hundred men, and others sailed under convoy, and were protected, while on the coast, by ships-of-war. The price of fish, to support this state of things, must have been enormous.

As the century closes we notice the mention of a report of the Lords of Trade and Plantations, in which they so far modify their former order, relative to emigration, as to intimate that, inasmuch as a thousand persons might be useful at Newfoundland, to construct boats and fishing-stages, that number would be suffered to live there, without fear, we may conclude, of official incendiaries and legal robbers. But the gracious privilege thus accorded still placed the resident fishermen at the tender mercies of the merchants and the masters of their vessels; for, by an act of Parliament in 1698, these masters, in the absence of all law, were authorized to administer justice, and to regulate the general concerns of the fisheries and of the colony, almost at pleasure.

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fluence—a sort of gently-ripening hot-house—where eight members of Parliament receive salaries of a thousand a year, for a certain given time, in order to mature, at a proper season, a claim to two thousand, granted for doing less, and on the credit of having toiled so long in that inferior laborious department. I have known that board, off and on, for a great number of years. Both of its pretended objects have been much the objects of my study, if I have a right to call any pursuits of mine by so respectable a name. I can assure the House—and I hope that they will not think that I risk my little credit lightly—that, without meaning to convey the least reflection upon any one of its members, past or present, it is a board which if not mischievous, is of no use at all."

Were the inmates of British prisons to be subjected now to the treatment received by the inhabitants at the hands of these masters, the whole civilized world would join in a shout of indignant condemnation. The first master who arrived at any particular harbor was its admiral for the season; the second was its vice-admiral, and the third its rear-admiral. Thus, at the outset, no attention whatever was paid to the qualifications—to the heads or the hearts—of these strange rulers. Accident—a long passage or a short one, a dull or a quick-sailing vessel—determined everything. The triumph of the English merchants over their fellow-subjects, in this lone and desolate isle, was as complete as that of the warrior who storms a city. In fine, the “admirals” selected the best fishing stations, displaced at will the resident fishermen who occupied them, drove the inhabitants from their own houses, took hush-money and presents of fish in adjusting cases brought before them for adjudication, and, in their general course, were as arbitrary and as corrupt as the leaders of banditti. There were exceptions, it may be admitted; but the accounts are uniform that, as a class, the “admirals” were both knaves and tyrants. Yet the law which authorized these iniquities bore the title of “An act to encourage the trade of Newfoundland.”

In 1701 we have a very particular and detailed return of the condition of the fishery, thus: There were 121 vessels, manned with 2,727 men, 993 boats, belonging to the vessels and to the resident fishermen, 544 fishing-stages on the shores, and 3,581 men, women, and children employed as curers; while the catch was 216,320 quintals of fish, yielding 3,798 hogsheads of oil.\*

In 1729 we record an improvement in the government of the island, since a captain of a ship-of-war displaced the “admirals,” and we find the number of inhabitants estimated at about 6,000. Referring to the accompanying table for the general statistics of the century; and remarking that the number of ships was doubled in the six years succeeding the close of the war with France, which immediately preceded our Revolution, we proceed to notice such events as our limited space will allow:

The first of these is the proclamation of the King, in 1763, in which it is stated that, “to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our privy council, to put all that coast, from the river St. John to Hudson’s straits, together with the islands of Anticosti and Madalene, and all other islands lying upon the said coast, under the care and inspection of our governor of Newfoundland,” while “the islands of St. John, Cape Breton, or Isle Royale, with the lesser islands adjacent thereto,” were annexed to “the government of Nova Scotia.”

The general affairs of Newfoundland were considered at about the same time. Though no plan was devised for the government of the colony, such as was due by England to herself and to humanity, the

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\* In 1727 an act of Parliament was passed which authorized the importation of salt into Pennsylvania, in British ships, (navigated according to the navigation acts of the realm.) and for the curing of fish, on the same conditions as were allowed in New England and Newfoundland.

resolution was still adopted to discontinue all further attempts to check the resident fishermen. The task had become, indeed, hopeless. The tonnage of the merchants' ships had fallen to less than eighteen thousand, and their catch to one hundred and thirty-six thousand quintals. The produce of the boat fishery, on the other hand, had risen to three hundred and ten thousand quintals. The boat-fishers, or inhabitants, had, therefore, overcome every obstacle, and were in the ascendancy.

I reserve a full answer to the many complaints against our countrymen who fish in the seas of British America, for another part of this report; that, however, which is made by the people of Newfoundland, may be disposed of here.

The charge is, that the British flag is no longer seen upon "the banks," and that the privileges enjoyed by the French and Americans, by treaty and otherwise, have caused the withdrawal of the English and colonial merchants from that branch of the fishery. This charge is to be found, in substance, in an offensive form, in newspapers, in official documents, and remonstrances to the home government. I submit, in all kindness, that it is not so. The truth is, that the resident fishermen—as Sir Josiah Child, a hundred and eighty years ago, anticipated they would do—have supplanted the merchants of England, with whom they so long contended; that the boat fishery has taken the place of the vessel fishery, in the common course of things. To catch fish by long, expensive, and perilous voyages, when they can be taken at the fishermen's own doors, where catchers and curers can sleep in their own beds, taste the sweets of a shore life, and enjoy the comforts of home, is to dispense with the steam-spindle and go back to the distaff. There is no truth in the complaint. The annual catch at Newfoundland, in whole numbers, is one million of quintals, and, on a mean of years, equal to that of any former period. This fact is conclusive. That the Americans disturb the industry of the colonists, is not possible. The restoration of the by-gone vessel fishery can be accomplished, not by driving these "foreigners" from "the banks," but by a *new edict to burn and destroy the dwellings of British subjects*.\*

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\* Lord Dundonald expressed his views with regard to the British fishery at Newfoundland in a communication published in the London Times, August, 1852, in the following terms. It will be seen that he attributes the suspension of the *vessel* fishery to the bounty system of France and the United States; and that he considers the employment of a naval force to prevent "aggressions," a mistaken policy.

To the Editor of the Times.

SIR: The leading article of the Times of the 3d inst., on the subject of the British North American fisheries, involves a maritime question of such vital importance to the permanence of our naval power, that I hope you will devote the corner of a column of your paper (perused and pondered over by civilians and statesmen) to convey, in as few words as possible, the real cause of the progressive decay, and now total abandonment, of that once important nursery for seamen, with which the duties of my late naval command required that I should make myself intimately acquainted.

The result of authentic information derived from official documents, most of which were obligingly furnished by the zealous and indefatigable governor then presiding in Newfoundland, (Sir G. LeMerebant,) proved that the British "bank" or deep-sea fishery formerly employed 400 sail of square-rigged vessels and 12,000 seamen, and that now not one of these follow their vocation in consequence of the ruinous effect of bounties awarded by the French and North American governments. The former pay their fishery 10*l.* for every quintal of fish debarked in the port of France, and 5*l.* additional on their exportation in French vessels to foreign States, once exclusively supplied by England—a transfer which cannot be viewed simply as a mercantile transaction, seeing that the substitution of a greater number of foreign

In 1771, the number of souls at Newfoundland was 3,449 English, and 3,348 Irish. In 1775, merchants "at home" were encouraged to continue their adventures, by an act of Parliament, which allowed a bounty of £40 to the first twenty-five ships, £20 to the next hundred, and £10 to the second hundred, that should make fares of fish before the middle of July, and proceed to "the banks" for a second lading.

Lord North's bill to prohibit the people of New England from fishing at Newfoundland, which was passed in the year last named, will be noticed particularly elsewhere.

During the discussion pending these measures—the one to "encourage," the other to "starve" subjects of the realm—Martineaux Shuldham, who had been governor of Newfoundland three years, was examined at the bar of the Commons. The material part of his testimony may be thus stated: that the catch of fish in 1774 was 739,877 quintals, and that 23,652 men were employed in the fishery, all of whom became sailors.

With regard to the fishermen of New England, he said that few of them ever entered the British navy; that he had heard great complaints of the outrages they committed on the coast; that they carried on an illicit trade with the French, meeting them on the sea and selling them not only provisions and lumber, but vessels also; and that, in the French war, few of them had served in his Majesty's ships-of-war.

At the peace of 1783, the English Newfoundland fishery—interrupted by hostilities—was resumed with spirit, and prosecuted with success; and three years after, the bounty act of 1775 was renewed for a specified term. The condition of the colonists remained, however, without material change. I find it stated that a gentleman formerly connected

transatlantic fishing vessels, having more numerous crews, constitutes a statistical difference amounting to 26,000 sailors against England, without including the United States—a fact that ought not, and, being known, cannot be looked on with indifference.

Transatlantic steam-packets receive national support, amounting to hundreds of thousands of pounds a year, without complaint being made even by the most zealous free-trade advocate, because such vessels may prove useful in war. How, then, can the policy of granting a premium, thus forced upon us, in order to preserve our nursery for seamen, be considered otherwise than the cheapest means of manning our ships-of-war? Such premium, for the deep-sea fishery vessels resorting to Europe, ought to be accompanied by immunity to our in-shore colonial fishermen from the tax on foot, (from which the parent State is happily free,) and by a release from other imposts, from which the French fisherman, under naval authority, is wholly exempt.

Brevity being essential to admittance into your columns, reference may be made for important details to "Morris's Fishery of Newfoundland," containing petitions and remonstrance of inhabitants, which assuredly have never been read by our colonial administration, though pressingly urged for consideration.

Vessels-of-war are obviously not required for the protection of the deep-sea fishery which has ceased to exist; nor are they necessary for the security of the undisturbed colonial punts which fish in-shore. The stationing more vessels-of-war to guard the fishery is therefore a mistake, originating in a want of knowledge of facts. Fish caught by the British subjects cannot be sold with profit either in continental Europe or in the United States. In 1849, the duty paid on British fish in the ports of the United States was \$163,000, while the premium awarded to their own fishermen was \$243,432.

Those who desire further insight into the circumstances of our western colonies, especially as regards the fisheries of Newfoundland, may consult a pamphlet published by Ridgway, containing a statistical map, which ought to be brought to the knowledge of those who possess the power to avert impending national mischiefs.

I am, sir, your often obliged and obedient servant,

DUNDONALD.

LONDON. August 4.

with Lord North's administration said, in the course of his testimony before a committee of the Commons, that "*the island of Newfoundland had been considered, in all former times, as a great English ship, moored near the Banks during the fishing season, for the convenience of English fishermen;*" that "*the governor was considered the ship's captain, and all those concerned in the fishing business as his crew, and subject to naval discipline.*"

This quaint witness spoke in 1793. The same year, another functionary, in his testimony before the same committee, declared that he would "*allow no woman to land on the island, and that means should be adopted to remove those*" already there. Thus do we conclude the eighteenth century; barely adding, that the influence of the merchants was yet sufficient to prevent grants of lands, and that the colonists raised a few garden vegetables for consumption only by violations of State papers and the statute-book.

For the twenty years preceding 1815, the fishery was prosperous beyond example. The profits to merchants engaged in it were sometimes fifty, sixty, eighty, and even one hundred thousand dollars in a single season. Persons who commenced the business entirely destitute of capital, shared in these enormous gains, and accumulated large fortunes in a short period. It would seem, however, that, as previously, the advantages to the permanent residents were inconsiderable, since the fishery was in the hands of English merchants, whose adventures were conducted by agents, and of those who, on amassing wealth, immediately departed from the island. A sudden and disastrous reverse occurred.

The quantity of fish exported in 1814 was about *one million two hundred thousand quintals, of the value of more than twelve millions of dollars.* The quantity shipped in 1815 was hardly less; but the peace produced a ruinous change in price. The decline from eight and nine dollars the quintal, to five, four, and even to less than three dollars, was rapid. Almost universal bankruptcy followed; for two or three years entire suspension of the fishery was the result apprehended. For awhile, the few merchants who escaped insolvency, utterly hopeless in the general dismay, were bent upon closing their affairs. The common fishermen, in the years of prosperity, had intrusted their savings to their employers, and the distress of this class would have been diminished could these have been recovered; but, losers by the failure of the merchants to an amount exceeding one million of dollars, and destitute alike of money and of employment, their condition was extremely sad, and excited deep sympathy. Thousands of persons depended solely upon the hook and line for subsistence, and emigration or starvation were considered the only alternatives.

The colonists, who rely upon the products of the sea for support, charge the most of their misfortunes to their French and American competitors. They did so in the case before us. Their complaints were groundless, and may be dismissed in perfect good nature. The people who distress them so continually, and whose appearance on their fishing grounds spreads so general consternation, were fellow-sufferers from the ruinous decline of prices of commodities at the general pacification of Europe, and were involved in similar bankruptcies.

Besides, at the period of commercial disasters at Newfoundland, the French and Americans had not recovered from the effects of war, and had not, to a very alarming extent, resumed their adventures upon the coasts or "the banks" of that island.

The competition between the colonists and the people just mentioned increased; but the English fishery gradually revived. The annual catch is now nearly a million of quintals. There have been seasons of fluctuations since the years referred to: depression is an incident in every human employment. Maritime pursuits are more uncertain than those of the soil or those of the work-shop. Of the fisheries, particularly, it is entirely true to say that they never have afforded, and never will afford, constant and continuous rewards; for, aside from the losses consequent upon overstocked and glutted markets, the most unwearied industry and the highest degree of skill are often insufficient to insure good fares. Our colonial neighbors should take these matters into the account, and while lamenting their calamities, remember that the American fishermen, whose condition they consider so much preferable to their own, are subject to the same reverses, and would gladly surrender many of the privileges they are supposed to enjoy, for the liberty of living near to, and of freely using, the inner or shore fishing-grounds, of which they are now deprived, and which are reserved exclusively for British subjects.

As a branch of industry, we need pursue our inquiries relative to the Newfoundland cod-fishery no further. The table of statistics, compiled from the best sources of information open to me, and which I think is substantially accurate, may be referred to as affording a general view of the subject for the last thirty years. The exports are to Portugal, Italy, Spain, Brazil, the British West Indies, the British continental possessions in America, to Great Britain, Ireland, and Scotland. In some of these markets the merchants of Newfoundland have no competitors. As much as they complain of us and of our policy, our ports are open to the importation of their staple commodity, on terms which are producing alarming changes in the property and prospects of those of our countrymen whose position on the coast of New England, and whose habits and general circumstances, leave them no choice of employments.

Newfoundland is connected with some of the most interesting events to be found in our annals. Cabot saw it before Columbus set foot on the American continent. There came the first men of the Saxon race, under the first English charter, to found an English colony. Visitors to, or residents upon its shores, were the noble Gilbert, and Raleigh, the father of colonization in this hemisphere; Mason and Calvert, the founders of two of the United States. Among those who lent aid and countenance to the enterprises to people it, in early time, were persons of rank and wealth—and Bacon, of world-wide fame. In its waters were the first trials by jury in America. The freedom of its fisheries was asserted by Coke, and other champions of English liberty, in tones to rouse the popular mind, and to put an end to chartered monopolists.

In some respects Newfoundland is "a great English ship moored near the Banks," even in the second half of the nineteenth century. Twenty years have not elapsed since the system, which was hardly a

modification of that devised by heathen Carthage and Rome, for the government of distant colonies, was abolished, or since captains in the royal navy, who came to the island in the spring and returned to England at the close of the fishing season, ceased to rule and to consider the inhabitants as "subject to naval discipline;" and persons are now alive who were the victims of the merchants "at home," who, armed with ordinances and instructions of the Lords of Trade and Plantations, insisted upon the entire control of the business, and of the domestic arrangements of the residents.

For the first time, in a history of more than three hundred years, a legislative body, similar to those of other British colonies, assembled in Newfoundland in 1833. The only material changes of previous dates were those which related to the administration of justice, and which allowed the people the forms and principles of jurisprudence, in place of the decrees and the decisions of the knavish and despotic "admirals" in command of fishing vessels, and the quarter-deck mandates of their successors.

A few miles back from the coast, Newfoundland is almost an unbroken wilderness. The inhabitants, as a body, are as ignorant of the interior of the island as are others. To them, and to all the world, the colony is known for its fisheries, and for these alone. To enumerate St. John, Ferryland, Fugo, and Burin, and the settlements on the bays of Concepcion, Trinity, Bonavista, Fortune, Bull's, Placentia, and St. Mary's, is to recall almost every place of note. There was no free port until 1828, and no bank until eight years later. From the discovery of Cabot to the arrival of a bishop of the church, was three hundred and forty-three years. The population in 1806—about two and a quarter centuries after the attempt of colonization by Gilbert—was less than twenty-six thousand. It was less than seventy-four thousand in 1836; and but ninety-six thousand six hundred and six in 1845.

It remains to speak of the fishing grounds; of the manner of catching and curing, and of the habits of the persons who are employed in the fishery. As the vessel or "bank" fishery has been abandoned by the English, an account of it is reserved for the third part of this report. The boats used for the shore fishery require from two to four men each. The number of boats in 1838, was 6,159; and in 1845, 9,989. The fishing is performed within the harbors, and early in the season, near the land. The men stand while at their toil, and each is able to tend more than one line. At times the fish fasten to the hooks so rapidly, that the fishermen display great activity. A boat is often filled in two or three hours. On the shores are "stages," or buildings erected on posts, and projecting into the sea, to allow boats to come to them as to wharves or piers. The fish are carried to these "stages," where, in the hands of the "cut-throat," the "header," the "splitter," and the "salter," as four classes of the "shoresmen" are called, they are prepared for the "dryer." When sufficiently salted, they are washed, and transported on "hand-barrows" to the "flakes," where they are spread and dried. Once cured, they are piled in warehouses to await sale or orders for shipment. The "salter" and the "dryer" should be careful and expert men; the one to distribute the salt with a skilful hand—the other, that damps and rains do not injure the fish while exposed in the

air. Three qualities are usually sorted for exportation, and a fourth, consisting principally of broken and discolored fish, is retained for consumption. Women and children are sometimes employed in the boats, and very frequently assist the curers on shore. During the fishing season there are no idlers of either sex.

The labors of the fishermen and shoresmen are almost incessant. The time devoted to sleep, under circumstances that often occur, is insufficient for the demands of nature; while long abstinence from food is not uncommon.

The fishermen formerly lived in the rudest of structures; but they now occupy comfortable dwellings. Their food is coarse, and their manners rough. Intoxicating drinks were once as common among them as tea or water. Of late years there has been a sensible change for the better; and a large class are moral and temperate. Their habits of life are irregular, from the necessities of their position; but in hospitality and acts of kindness they are not excelled by men of the higher walks of society. They are to be judged in mercy, for their opportunities to improve are few, and their temptations to err are many.

*English cod-fishery—Newfoundland.*

Year.	No. of vessels.	Tonnage.	Number of men.	Number of boats.	Quintals of fish exported.	Value.
1577	50					
1603	200		10,000			
1615	250					
1622	400					
1626	150	15,000	5,000			
1670	80					
1674	270		10,800			
1701	121	7,991	2,727			
1716	161	9,193	2,119		196,952	
1724					111,000	
1732					210,000	
1750	283	33,512	4,103			
1763	177	17,263	2,531		493,654	
1769	354					
1770	363					
1771	369					
1772	306					
1774	254		23,652		759,877	
1785	292				591,276	
1786	280					
1787	306					
1788	389					
1789	304					
1790	259	31,644			684,421	
1791	245	34,166				
1792	276					
1798		15,838	1,268			
1799	336	33,503	2,410		453,337	
1800					382,000	
1805					526,380	
1814					1,200,000	\$12,000,000
1815					1,180,661	
1820					899,729	

*English codfishery, Newfoundland—Continued.*

Year.	No. of vessels.	Tonnage.	Number of men.	Number of boats.	Quintals of fish exported.	Value.
1825 .....					973,464	.....
1830 .....					760,177	.....
1832 .....					619,177	.....
1833 .....					633,536	.....
1834 .....					674,988	.....
1835 .....					712,588	.....
1838 .....				6,159	724,515	\$2,420,000
1840 .....					915,795	2,850,000
1841 .....					1,009,725	3,025,000
1842 .....					1,007,980	2,805,000
1843 .....					936,202	2,660,000
1844 .....					852,162	2,410,000
1845 .....					1,000,333	2,980,000
1847 .....					837,973	2,450,000
1848 .....					920,366	2,455,000
1849 .....				9,989	1,175,167	2,940,000

*English herring fishery, Newfoundland.*

Year.	Barrels pickled exported.	Value.
1838 .....	15,276	\$53,615
1839 .....	20,806	69,200
1840 .....	14,686	45,180
1841 .....	9,965	31,805
1842 .....	13,839	35,595
1843 .....	9,649	22,850
1844 .....	13,410	33,325
1845 .....	20,903	56,170
1847 .....	9,907	25,555

## THE NEWFOUNDLAND SEAL FISHERY, SO CALLED.

This business is of recent origin. The first account of it is in 1795, but it was not prosecuted to any extent until the general peace, in 1814.

Seals frequent the coasts of Newfoundland in the spring. They go upon the ice in the polar seas to bring forth their young, and are swept along by the currents to milder regions, where, still upon the ice, hundreds of thousands of them are annually killed. During the passage from the remote north, they apparently live without much food, but yet are quite fat when seen by those who adventure in pursuit of them.

The vessels engaged in catching seals are from fifty to two hundred tons, and carry from fifteen to forty men each. They leave Newfoundland in March, and proceed to sea until they meet the ice, and on falling in with it, are forced into it as far as possible, by implements which are

arranged for the purpose. Fast imbedded in the vast and seemingly limitless fields of ice, the crews disperse in every direction in search of seals, which are very inactive, and are generally easily caught. They are killed with fire-arms and with clubs, and often while asleep. Occasionally the large ones resist. The moans of the young during the slaughter are piteous.

The flesh of seals is unfit for food, and they are only valuable for their fat and skins. The common method is, to strip off the skins and fat together, and to carry these parts to the vessels, leaving the remainder upon the ice; but when the weather or other circumstances will not permit this, the carcass is transported whole, and the valuable parts are stripped off subsequently. Seal-catching closes towards the end of April. The most fortunate vessels make two voyages in a season. After the arrival of the vessels in port, the fat is separated from the skins, cut into pieces and put into vats, where, by the warmth of the sun, the oil oozes out. The skins are spread and salted in piles, and when properly cured, are packed in bundles of convenient size.

In the whole circle of human employments, few or none are more exciting and perilous than the catching of seals. A storm of sleet and snow in the night is terrible, and the stoutest hearts quail. While the vessels are absent, the greatest anxiety prevails in the ports of departure, and the most distressing rumors prevail: at times, a full month elapses before the arrival of a single vessel, and every imaginable cause is assigned by alarmed families and friends for the delay of tidings from the sealing-ground. Northeast gales drive the ice towards the shore, and frequently produce fearful disasters to both life and property. In 1843 the loss of vessels was very considerable, and several entire crews perished.\* Some vessels were wrecked in 1849.

The year 1827 was uncommonly prosperous. Forty-one vessels

\* A similar disaster occurred in the spring of 1852. The first account of it was as follows:

"The steamer *Osprey*, from St. John, Newfoundland, April 23d, has arrived at Halifax, with accounts of the wreck of between fifty and sixty vessels in the ice, in the gale of April 20th. The Newfoundland papers state that the loss of life has been considerable, but how great is not known. A list of eighteen vessels lost, with full cargoes of skins, is given, one of which had five of her crew drowned, and another two. In many cases, as the vessels drifted towards the ice, the crews deserted them and escaped to the shore. In some cases the abandoned vessels have been taken into port.

"Hundreds of the crews of the wrecked vessels are said to be on Richard Island, Bonavista bay, in a state of destitution and starvation. The Assembly of Newfoundland has requested the governor to appropriate £300 for their relief, and four or five vessels would sail to them as soon as the wind would permit. A vessel had arrived at St. John, which reported that upwards of one thousand shipwrecked sealers had reached Greenford, but the number is probably exaggerated.

"The disaster is said to be nearly equal to that at Prince Edward Island last year."

A Newfoundland paper of later date says: "Since our last several sealers have arrived, and, for the most part, with good trips. On Saturday arrived the *Coquette*, Captain Joseph Houlahan, who was sent round by the government to the relief of the shipwrecked men at Greenspond. We learn that Captain Houlahan's mission was quite a providential one, the poor cast-away fellows being in extreme destitution when he arrived. It is therefore consoling to reflect that, in all probability, many a life has been saved by this measure of the government. Capt. Houlahan landed a hundred men at Catalinn, and brought about two hundred and fifty on here. We understand that the *Harbinger*, which was also sent round to Greenspond with the *Coquette*, had proceeded in her search further to the northward. All reports agree that, but for the heavy weather, which has caused such destruction among the vessels, this spring's catch of seals would be one of the largest ever known. Even as it is, we understand the average catch at this time is equal to that of last year."

laden with seals arrived at St. John in a single week. They caught 69,814 of the objects of their search. One of these vessels took upwards of 3,000 in six days, and another, still more successful, about 3,500 in the same time. The intense excitement which attended the slaughter of so large numbers, in so short a space, can be readily imagined.

Reference to the table of statistics will afford information as to the general state of this branch of industry since the year 1830. It will be seen that the return of vessels fitted out, is from the port St. John alone. The number from Concepcion, Trinity, and Bonavista bays, and from other parts of the island, is known to be considerable, and in 1845 to have exceeded that of the capital, but I have been unable to procure accurate accounts for any other year.

*Statistics of the Newfoundland seal fishery.\**

Year.	Employed.			Exports.	
	Vessels.	Tonnage.	Men.	Seal-skins.	Tuns of oil.
1795.....				4,900	.....
1815.....				141,374	8,225
1820.....				221,334	8,224
1825.....				221,510	7,806
1829.....				280,613	.....
1830.....	92	6,198	1,985	559,342	12,371
1831.....	118	8,046	2,578	.....	.....
1832.....	153	11,462	3,294	442,683	10,010
1833.....	106	8,665	2,964	501,436	.....
1834.....	125	11,020	2,910	360,155	9,030
1835.....	120	11,167	2,912	557,494	11,780
1836.....	126	11,425	2,855	381,041	.....
1837.....	121	10,648	2,940	252,910	.....
1838.....	110	9,300	2,826	375,361	.....
1839.....	76	6,447	2,029	437,501	.....
1840.....	75	6,190	2,058	631,385	.....
1841.....	72	5,965	2,078	417,115	.....
1842.....	74	6,035	2,054	344,683	.....
1843.....	106	9,625	3,177	651,370	.....
1844.....	121	11,088	3,775	685,530	.....
1845.....	128	11,972	3,938	352,202	.....
1846.....				.....	.....
1847.....	324	30,819	9,885	436,831	.....
1848.....	163	16,444	5,497	521,004	.....
1849.....	278	26,123	9,388	306,072	.....
1850.....				†400,000	.....

\* The vessels were from the port of St. John, except in 1847, 1848, and 1849.

† Estimated from the several accounts of the catch of that year.

FISHERIES OF NOVA SCOTIA.

The original grantee of that half fabulous, never defined country, Acadia, was Pierre de Gast Sieure de Monts, a protestant, and a gentleman of the bed-chamber of Henry the Fourth of France. In 1603,

his royal master, by letters patent, gave him the territory between the 40th and 46th degrees of latitude, and in the following year De Monts came in person to explore and take possession of his domains. Sixteen years before the landing of the pilgrims at Plymouth, he wintered upon an island in the river St. Croix, which, since the adjustment of the boundary line between the United States and New Brunswick, has been considered within the limits of Maine. This island is claimed by the heirs of the late General John Brewer, of Robbinston. Relics of De Monts' sojourn upon it continue to be found.

Annapolis—the Port Royal of the French—was founded before his return, and is the oldest settlement in Nova Scotia. The “lieutenant general of Acadia, and the circumjacent country,” accomplished but little. His patent allowed him to “carefully search after and to distinguish all sorts of mines of gold and silver,” and gave him the monopoly of the trade in furs. He seems to have confined his attention to measures to secure the latter; yet fish were caught, cured, and carried to France. A permanent fishery was established at Canseau. Acadia soon passed from De Monts into Catholic hands, while the English grant to Sir William Alexander, in 1621, embraced a large part of it. As the events connected with our subject at this time appear in the account of the French fisheries, there is nothing to demand our attention until after Nova Scotia was permanently annexed to the British crown, by the treaty of Utrecht, in 1713.

Down to the period of our Revolution, Nova Scotia was hardly known except for its fisheries. The resident English population was so small in 1719, that Phillips, the military governor, was compelled to select the council required by his instructions from his garrison. Thirty-six years later, the whole number of inhabitants was estimated at only 5,000. In 1760, the township of Liverpool was settled by persons from Massachusetts, who designed to prosecute the salmon fishery, and who, successful in their labors, caught a thousand barrels in a season. They were followed in 1763 by about one hundred and sixty families from Cape Cod, who selected the spot called Barrington, transported thither their stock and fishing vessels, and founded one of the most considerable fishing towns at present in the colony. The whole value of the imports at this period was less than five thousand dollars. In truth, the House of Assembly asserted in 1775, that the amount of money in Nova Scotia was £1,200, (or \$4,800) of which one-fifth was in the hands of farmers. Such was the general condition.

The settlement of Halifax, the capital, requires a more particular notice. Thomas Coram, a famous projector of the time, whose name occurs often in the history of Maine, engaged in a scheme to commence a town on the site of this city as early as the year 1718, and his petition for a grant of land received a favorable report from the Lords of Trade and Plantations; but the agents of Massachusetts opposed his plans, because they interfered with the freedom of the fisheries, and he was compelled to abandon his purpose.\*

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\* It is said, in Burke's *Commoners of England*, that Major William Markham, (of the family of Markham of Becca Hall,) who was born in 1686, built the first house in Halifax, Nova Scotia.

At the restoration of Cape Breton, in 1748, the founding of a capital for Nova Scotia was undertaken as a government measure. "As a substitute" for Louisbourg restored to France, said Mr. Hartley in the House of Commons, "you settled Halifax for a *place d'armes*, leaving the limits of the province as a matter of contest with France, which could not fail to prove, as it did, the cause of another war. Had you kept Louisbourg, instead of settling Halifax, the Americans\* could not say, at least, that there would not have been that pretext for imputing the late war to their account." The new city was named in honor of the Earl of Halifax, the president of the Lords of Trade and Plantations.† "The site," says Haliburton, "about mid-way between Cape Canseau and Cape Sable, was preferred to several others, where the soil was better, for the sake of establishing in its neighborhood an extensive cod-fishery, and fortifying one of the best harbors in America." Thus, Halifax was designed as a fishing capital, and "as a substitute for Louisbourg." Liberal grants of land were made to officers and men who were dismissed from the land and naval service at the close of the war, and Edward Cornwallis was appointed military governor. Horatio Gates, then an officer in the British army, and subsequently the victor at Saratoga, was among the first who landed at Halifax, in 1749.

The project involved the government in serious difficulties, and the expenditure of enormous sums of money.

The amount first appropriated was £40,000. In a few years the cost to the nation was nearly two millions of dollars! The fisheries were neglected, and the colonists, unable to support themselves, petitioned Parliament for additional relief, even after so large an amount of money had been disbursed for their benefit.

Omitting details, we may state that five millions of dollars of public money were expended finally in the colonization of Nova Scotia, according to the plan devised by the Board of Trade and Plantations.

A letter is preserved in the Collections of the Massachusetts Historical Society, from a resident of Halifax to the Rev. Dr. Stiles, which may afford a partial explanation to this state of things. It is dated in 1760. "We have," says the writer, "*upwards of one hundred licensed houses, and perhaps as many more which retail spirituous liquors without license; so that the business of one half the town is to sell rum, and of the other half to drink it. You may, from this single circumstance, judge of our morals, and naturally infer that we are not enthusiasts in religion.*" Again: "Between this and Cape Sable are many fine harbors, commodiously situated for the cod-fishery; and the rivers furnish great abundance of salmon." \* \* \* \* "The fleets and armies which have been here during the war have enriched this town, but have given a mortal blow to industry:" and, he adds, "we have but few people of genius among us; and not one discovers a thirst after knowledge, either useful or speculative."

Halifax became a place of note in the war of the Revolution, and as

\* This speech was in 1775.

† Horace Walpole wrote to Sir Horace Mann, in 1749: "Half our thoughts are taken up—that is, Lord Halifax's are—with colonizing Nova Scotia; my friend, Colonel Cornwallis, is going thither commander-in-chief. The Methodists will scarce follow him, as they did Oglethorpe" to Georgia.

the great naval station of the British government. At the peace of 1783, Nova Scotia became the home of many thousands of American loyalists, who, under the policy adopted by the winners in the strife, were compelled to abandon their native land. Many of them were persons of elevated moral qualities, of high positions in society, and of great spirit and enterprise; several were natives of Massachusetts, and graduates of Harvard University. Others had held prominent rank in New York and New Jersey. From this period, we may date a change in the morals of the colony, and note a partial attention to the fisheries.

Omitting the few fragmentary accounts that are to be found scattered through the records which I have examined, we come at once to consider this branch of industry as it exists in our own time. And, singular to remark, attention to the fisheries is still partial. No American visits Nova Scotia without being amazed at the apathy which prevails among the people, and without "calculating" the advantages which they enjoy, but will not improve. Almost every sheet of water swarms with cod, pollock, salmon, mackerel, herring, and alewives; while the shores abound in rocks and other places suitable for drying, and in the materials required for "flakes and stages." The coasts are everywhere indented with harbors, rivers, coves, and bays, which have a ready communication with the waters of the interior; scarcely any part of which—such is the curious freak of nature—is more than thirty miles distant from navigation. The proximity of the fishing grounds to the land, and to the homes of the fishermen,—the use that can be made of seines and nets in the mackerel fishery,—the saving of capital in building, equipping, and manning vessels,—the ease and safety which attend every operation, combine to render Nova Scotia the most valuable part of British America, and probably of the world, for catching, curing, and shipping the productions of the sea.

Yet the colonists look on and complain of us. They will neither fish themselves nor allow us to do so. In the words of a late official report on the "Fisheries of Nova Scotia," "From seven to eight hundred [American] vessels are said annually to pass through the Gut of Canso, which usually return home with large cargoes taken at our very doors. *There is always a great deal said about their encroachments, and we are apt to blame them that our fisheries are not more productive than they are, and, instead of engaging all our energies to compete with them, we are employing a host of revenue cutters, &c., to drive them from our shores.* Everybody must see that the Americans are placed under many disadvantages for prosecuting the fisheries in British waters, and that *if proper enterprise were employed, our advantageous position would enable us not only to compete with them successfully, but also to drive them from our shores by underselling them in their own markets.* But we find that they almost entirely monopolize our deep-sea fishery, while *we look idly on and grumble at their success.*" This covers the whole ground; and coming, as it does, from the pen of a colonial official, is conclusive.

Judge Haliburton, in his efforts to rouse his fellow-colonists from their lethargy, adopting as his motto, that

"The cheerful sage, when solemn dietates f.ill,  
Conceals the moral counsel in a tale,"

utters similar sentiments. His renowned hero, "Sam Slick," the Yankee clockmaker, in the course of his "sayings," thus speaks of the people of Nova Scotia, and of their advantages: "They do nothing in these parts," says Sam, "but eat, drink, smoke, sleep, ride about, lounge at taverns. \* \* \* They are a most idle set of folks, I tell you. \* \* \* They are in the midst of fisheries, squire; all sorts of fisheries, too. River fisheries of shad, salmon, gasperause and herring; shore fishery of mackerel and cod; bank fishery, and Labradore fishery. Oh dear! it beats all; and they don't do nothin with 'em, but leave 'em to us. \* \* \* I never seed nor heerd tell of a country that had so many natural privileges as this. Why, there are twice as many harbors and water-powers as *we* have all the way from Eastport to New Orleans. They have all they can ax, and more than they desarve. \* \* \* You've heerd tell of a man who couldn't see London for the houses; I tell you, if *we* had this country you couldn't see the harbors for the shipping."

The cod-fishery of the shores differs so little from the shore fisheries at Newfoundland, St. Pierre, and Miquelon, already spoken of, that we shall not here give an account of it. The vessel fishery, both on the coasts of Nova Scotia and at Labradore,\* is also so nearly like our own, that a description of it may be omitted to avoid repetition.

The herring fishery will detain us but a moment. The export of smoked-herring has declined very much. Towards the close of the last century the quantity shipped was from 50,000 to 60,000 boxes annually. In some years, too, previous to 1819, the export was even more, and from 80,000 to 100,000 boxes. At present the average is less than half the quantity of either period. The natural advantages possessed by the colonists of the shores of "Annapolis basin" are unequalled in the whole world. Digby and Clements should be the

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\* A Halifax paper, in the spring of 1852, indulged in the following course of remark: "We learn that no less than twenty-five vessels cleared at this port for the Labrador fishery on Saturday last. We have been much gratified with the improved appearance of the schooners comprising our fishing fleet this season. The class of Nova Scotiamen at present engaged in the fisheries would do credit to any country in the world, our enterprising and energetic neighbors, the Americans, not excepted. Where all are deserving of praise, it would appear almost invidious to particularize; but we must not omit to chronicle a very superior craft which we observe receiving her supply of salt alongside the brig 'Wellington,' at Oxley's wharf, called the 'Ocean Wave.' This fine vessel was recently launched at Lunenburg by a Mr. Young, and was built expressly for the fishing business. She appears to have been most carefully constructed, and her outfit is after the most approved fashion. There is a reasonable probability of this most important branch of provincial industry proving eminently successful during the present season; and we can only hope that the desideratum may be realized to its fullest extent. Our fishing friends cannot be too careful in curing their catch. The markets for their valuable products are extending on every hand. It is essential that the character of this, our staple article of export, should be established beyond the shadow of a doubt. Due attention to this matter will repay our fishermen a hundred fold for any extra time, labor, or attention bestowed on the making of their fish. Let all interested look to this all-important matter, and a rich harvest may be reaped in the future. It is satisfactory to know that the parties who have this season fitted out for the fisheries are, many of them, both forehanded and intelligent qualifications indispensable in the successful prosecution of this valuable branch of industry."

In August, 1852, it was again said that, "We are enabled to record the gratifying intelligence, that of twenty-seven vessels fitted out from ports in Lunenburg county for the Labrador, twenty-six have returned well fished—one vessel bringing home the handsome fare of 1,100 quintals. This almost unprecedented success is perhaps, in a great measure, attributable to the vigilance of the revenue cutters stationed on the coast by the Canadian government or the protection of the fisheries."

seat of the most extensive herring fishery in America. This fish, well smoked and of approved color, is a great luxury for the forenoon lunch and for the tea-table; and the time *has* been when a herring-box branded "Digby," or with the name of a well-known curer there, passed as current in our markets, without examination, as coin received at the mint. This is high but deserved praise. The whole quantity smoked in 1850 was but 2,000 boxes. The scenery in the vicinity of the "basin" is truly beautiful; and the "basin" itself is one of the safest shelters for boats and vessels required for the fishery that is to be found in America.

The mackerel fishery is in favor, and, compared with the cod and herring fisheries, receives commendable attention. The present state of this branch of industry is to be attributed to the recent change in our tariff of duties imposed on foreign-caught fish, and to the facilities afforded by our warehouse system. This change, it hardly need be said applies to dried and smoked fish as well as to pickled; and, were the causes just assigned the true ones, it might be concluded by those who are not acquainted with the colonial character, that increased exertions would be witnessed on *all* the fishing grounds. Explanation is easy. *The mackerel fishery is the least laborious and the most profitable.*

I know something of the energy and skill of our fishermen, and appreciate them highly; but I feel quite certain that under a system of *ad valorem* duties their competitors in Nova Scotia and elsewhere in British America will, ere long, supplant them in our own markets. As has been already remarked, the colonists may take every kind of fish, in any desirable quantities, at their very homes, and without the expense of large vessels or extensive outfits; while the pursuit in the more distant haunts of cod and mackerel is attended with less cost than from the ports of Massachusetts and Maine—for the reason that the labor, timber, iron, cordage, and canvass, necessary for the construction and equipment of vessels, and the salt, hooks and lines, for their outfits, are much cheaper. These advantages will be acknowledged at once, and unless the observation of many years has led me astray, they are too great to allow of the present reduced scale of impost.

Severely as the late change of policy with regard to the admission of foreign fish has been felt by all branches of our fisheries, the mackerel catchers have suffered the most. They still pursue the employment in the hope of the restoration of specific duties, and because their local position and other circumstances have not, as yet, allowed them to adopt any other. As was said by Fisher Ames, soon after the organization of the present national government, when appealing for protection to our fishermen, "they are too poor to stay—too poor to remove."

It is even so. During certain months of the year our vessels seek the mackerel in the waters of Nova Scotia and other British possessions; but as our treaty with Great Britain requires them to keep three miles from the land, the fishery in the narrow straits, by the means of nets and seines, is in colonial hands exclusively. The quantities of fish which the colonists sometimes take in nets and seines are immense. It is not long since forty thousand barrels were caught in three harbors of Nova Scotia in a single season. *This quantity is more than one-tenth of the whole obtained by all the vessels of Massachusetts in the most prosperous year.* Yet these

three harbors can be entered in sailing a distance of twelve miles. The owners of American vessels often lose the use of their property, and the expenses of outfits besides. The proprietors of estates in the colonies where mackerel seines are used, receive, on the other hand, hundreds of barrels of the fish caught in the waters appurtenant thereto for the rent of these waters, and the privilege of dressing, salting, and packing on the shores. To secure two, four, six, and even eight hundred barrels at a time, it is only necessary to set a seine, to tend it, and, at the proper moment, to draw it to the shore. Competition without protection, when such rewards as these await the colonial fishermen and land owners, who expend nothing whatever for vessels, and whose whole outlay involves little beyond the cost and wear of seines and the loss of time for short periods in a season, is, I think, impossible. The lot of those of our countrymen who live by the use of the hook and line is hard enough at best. The battles which they have fought, and which, in the course of events, they may be required to fight, ought to prevent their utter ruin. The topic will be resumed elsewhere.

Macgregor, in his "Progress of America," published in 1847, thus speaks of occurrences at Crow Harbor and Fox Island, two of the favorite resorts of mackerel in Nova Scotia. "These places," he remarks, "while the fishing season lasts, are generally the scenes of the most lawless disorder and licentiousness, occasioned by the violence of the fishermen contending for the best places to haul the seines ashore; the pillaging of the fish; the selling and drinking of rum; the smuggling of goods by the Americans; and often from the mere spirit of spoliation and mischief. A ship-of-war has been occasionally sent round from Halifax to preserve some sort of order among the multitudes of men, boats, and schooners that resort to these harbors," &c., &c.

by all the vessels of the harbor in the most perfect order. Let these  
 in a single season. The quantity is now about one-third of the quantity  
 since forty thousand tons were caught in these harbors and Crow Harbor  
 colonies sometimes take in a hundred seines and hauls. A hundred  
 and is in colonial hands exclusively. The quantity of fish which  
 from the land, the fish in the narrow waters by means of seines  
 but as our treaty with Great Britain requires that no more than  
 tons of fish in the harbor and other parts of the province.

*Statistics of the Nova Scotia cod, mackerel, and herring fisheries—mackerel exported included with pickled fish exported until 1845.*

Years	Employed.			Exports.					Value.
	No. vessels and shallops.	No. of boats.	No. of men.	Quintals of dry fish.	Barrels of pickled fish.	Boxes of smoked fish.	Barrels of mackerel.	Barrels of oil.	
1788	.....	.....	.....	.....	.....	*50,000	.....	.....	.....
1805, 1806, 1807	.....	.....	.....	81,191	43,299	10,410	.....	.....	.....
1815, 1816, 1817	.....	.....	.....	152,698	40,420	65,675	.....	.....	.....
1818	.....	.....	.....	.....	.....	*80,000	.....	.....	.....
1828	.....	.....	.....	174,017	42,220	.....	.....	.....	.....
1832	.....	640	.....	160,640	37,154	8,641	.....	2,840	\$509,820
1833	.....	.....	.....	.....	.....	.....	.....	.....	.....
1836	.....	.....	.....	262,245	47,517	.....	.....	.....	.....
1837	.....	.....	.....	427,140	64,803	.....	.....	.....	745,232
1838	.....	.....	.....	434,309	94,855	.....	.....	.....	727,844
1840	.....	.....	.....	327,026	73,788	.....	.....	.....	.....
1843	.....	3,400	10,000	.....	.....	27,755	.....	9,544	.....
1844	.....	.....	.....	.....	.....	.....	.....	.....	.....
1845	.....	.....	.....	302,520	54,190	25,522	.....	.....	.....
1846	.....	.....	.....	274,549	52,718	19,271	.....	.....	.....
1847	.....	.....	.....	314,951	35,064	19,529	.....	.....	.....
1848	.....	.....	.....	271,475	32,514	34,157	.....	7,090	.....
1849	.....	.....	.....	241,411	55,570	16,980	.....	.....	.....
1-50	.....	.....	.....	†191,802	47,786	13,234	.....	.....	.....
1-51	.....	5,161	10,394	195,434	163,795	15,409	.....	.....	941,896

\* Estimated.

† From Halifax.

The number of nets and seines in 1851, by the official return, from which the statistics of that year are derived, was 30,154. The population of Nova Scotia in 1851 was 256,117.

## FISHERIES OF THE ISLAND OF CAPE BRETON.

The extraordinary value placed upon this island by the French, and by the people of New England, as well as the expenditures and exertions of both—the one to fortify and retain possession of it, the other to capture it—have been considered in the first part of this report. We may here, without repeating anything there stated, give a view of the whole subject by an extract from the “proposals” of Robert Auchmuty, of Boston, to the British ministry while in London, in 1744, the year previous to the expedition against Louisbourg under Pepperell.

Auchmuty, it will be remembered, was a distinguished lawyer and judge of the vice admiralty court for Massachusetts and New Hampshire. The communication in question is headed “The Importance of Cape Breton to the British Nation,” and commences with the following remarkable declaration: “This island, situated between Newfoundland and Nova Scotia, the English exchanged with the French for Placentia in the treaty of Utrecht; and during the late peace between the two nations the French, by the advantage of the place, carried on an unbounded fishery, annually employing at least a thousand sail, from two hundred to four hundred tons, and twenty thousand men. In the year 1730, there was a computation made of twenty-two hundred thousand quintals of fish at Marsilles, only for a market; and communibus annis\* they cure above five millions of quintals. How dangerous a nursery of seamen this island, therefore, has been, and ever will be, while in their possession, is too obvious to a British constitution; and it is as demonstrable the recovery of a place of this consequence will entirely break up their fishery, and destroy this formidable seminary of seamen; for if they are happily removed from this advantageous shelter, no protection is left for them on the fishing ground nearer than old France.” Such are the exaggerated statements and conclusions of one of the most intelligent men of New England of the last century. He, of course, did but embody and repeat to the ministry the opinions expressed in Boston before his departure for England, and his declarations are accordingly to be considered as those common at the time. The number of quintals of fish caught and of vessels employed at Cape Breton in 1744, which I have placed in the table of statistics, though much less than Auchmuty’s computations, and though authorized by authentic documents, and particularly by an official report of a special agent of Governor Shirley, I consider too large.

That, however, the French fishery was extensive at this island, cannot be doubted. But whatever allowance should be made in the estimates and figures of exasperated rivals, enough remains certain to show that there has been a great decline in this branch of industry since Cape Breton became a possession of the British crown.

Louisbourg, the once famous fortress, is now a heap of ruins. Even the materials of which it was built have been carried away, to a very considerable extent, to be used in the erection of structures hundreds of miles distant. It is almost desolate. Those who visit it—with the aid of the imagination—hesitate to believe that armies and fleets once

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\* One year with another.

fought with desperate valor to retain and to win it; that the deep silence which prevails was ever broken by crowds of busy people; that ships laden with rich cargoes ever anchored in waters which even fishermen of our day seldom enter, except for shelter; that around them were lofty and, as was thought, impregnable walls, and nunneries, palaces, terraces, and gardens.

The English history of Cape Breton, as connected with our subject, is brief.

Separated from Nova Scotia by a narrow strait only, it was annexed to that colony, soon after its final cession, at the peace of 1763; but in 1784 was created a province, and allowed corresponding rights until 1820, when it was re-annexed to the government of Nova Scotia. The population in 1839 was about 35,000, and in 1848 nearly 50,000.

Great as were the expectations of the conquerors, its fisheries have never been of account since the conquest. The statistics indicate no increase, but, on the contrary, a considerable decline. The exports, at the present time, are less than in 1828. In fact, Cape Breton is the poorest part of British America.

As late as 1840, a gentleman officially connected with its fisheries gave a most lamentable description of the poverty of those who depended upon them for subsistence. Having stated that, while in possession of the French, the exports were of the immense value of £927,577 sterling, that 564 ships and 27,000 men were employed, and that the whole produce now was only 80,000 quintals, and 50 tuns of oil, he proceeds as follows: "The fisherman is supplied at such extremely high prices, that, after his season's work is over, what he has caught frequently does not amount to the cost of his outfits: thus he returns to his family with a poor prospect of providing for their winter's supply." "I have seen families," he continues, "covered with scurvy, applying for medicine, and although they obtained it, were informed by the doctor that it was fresh and wholesome provision they wanted most; at which time one of the parties admitted that his stock was reduced to some herrings and a few potatoes." "In like manner," he adds, "when the militia muster took place, I knew of some who came seven miles, and who, without money to purchase food, returned home fasting."

Had the cases related by this functionary been such as exist in every community, they would not have been thus mentioned. It is not to be presumed, however, that while so great destitution is prevalent, it is *general* among the fishermen of Cape Breton. Yet tales of their wretchedness and poverty are common. Masters of our fishing vessels, who visit the coast, have told me repeatedly that in the spring they were beset by persons who offered to barter away almost their last article of value, and even begged for food. To make every allowance, we may still fairly conclude that those who earn their bread in fishing boats and shallops, as a body, enjoy few comforts, and often suffer for the absolute necessaries of life.

The seas of Cape Breton, neglected, shunned even, as if a curse rested upon them, and as if the spirits of the slain of a by-gone generation hovered over them, are as rich as they ever were; and as safe, too, for the employment of capital, skill, and labor, as when the successful

adventures of the Catholic French roused all Puritan New England in a crusade to possess them. Were these seas *ours*, we should soon prove the truth of this remark. Could the descendants of those who first won Louisbourg for its present nominal owners, settle amid its ruins, the few fishers' huts that serve to mark its site would disappear, and a thrifty, well-built town take their place. The harbor is one of the best on the eastern coast, and the situation such as to render access to the fishing grounds in the waters of the St. Lawrence easy. In a word, distant, lone, and dreary as is the ancient fishing capital of France, enterprise and industry are alone wanting to restore it, in some measure at least, to importance and prosperity.

*Statistics of the fisheries of the Island of Cape Breton.*

Years.	PRODUCED.					EMPLOYED.		EXPORTS.				
	Dried fish.	Pickled fish.	Seal-skins.	Oils, all kinds.	Value.	Boats and shallops.	Vessels.	Dried fish.	Pickled fish.	Seal-skins.	Value of oils.	Total value of exports.
	Quintals	Barrels	No.	Tuns.	Dollars.	No.	No.	Quintals.	Barrels.	No.	Dollars.	Dollars.
1744.....	1,441,500						564					
1828.....						690		41,320	18,140			
1845.....								15,577	8,006	830		93,635
1847*.....	56,312	32,919	12,100	415	302,616	1,341	184					
1848*.....	39,336	36,907	2,200	543	282,772		175					
1849.....								12,680	16,117		8,856	106,801

\* Of these, 17,200 barrels mackerel in 1847, and 14,650 barrels in 1848.

## FISHERIES OF PRINCE EDWARD ISLAND.

Prince Edward Island is in the Gulf of St. Lawrence, and is one hundred and seventeen miles long.

Cabot, in 1497, after losing sight of Newfoundland, and on the 24th of June, saw other land, to which, in honor of the day, he gave the name of St. John. The discovery was assumed to be this island, and it bore the name of St. John for a long period. The French, claiming that Verrazani was the first discoverer, granted it—in 1663—to the Sieur Doublett, a captain in the navy, to be held by him in vassalage of the royal company of Miscou. The Sieur's associates were two companies of fishing adventurers from St. Maloes and elsewhere in France, whose settlements upon the island were confined to places on the coast suited to their pursuits.

The French from Nova Scotia and Cape Breton emigrated thither until the government, to prevent the depopulation of Louisbourg, prohibited fishing except in certain harbors.

In 1758 the isle St. John surrendered to the British; and at the peace of 1763, was permanently annexed to the crown of Great Britain. The population was about 6,000. There were several thousand "black cattle" owned by the inhabitants at this time; and the cultivation of the soil was so extensive that it was called the "granary of Canada." Among the proprietors of land in 1775 was General Charles Lee, who owned a tract of ten thousand acres, on which he had expended about five thousand dollars. As he had been an officer in the British army, and had served in America, it may be presumed that this estate was a grant from the crown.\*

At the peace of 1783, the isle St. John became the home of several of the "tories" or loyalists of the Revolution, and, the following year, was formed into a colony and called Prince Edward Island. The population in 1806 was less than 10,000; in 1841 it was upwards of 47,000.

The north and south coasts are much indented with bays and coves, and the waters teem with fish. But as the soil is generally good, and owned by persons of skill and property, the fisheries are much neglected. Various attempts have been made to induce greater attention to maritime pursuits.

In 1842, it is believed that a company was formed in England, with a capital of several hundred thousand dollars, to promote this object. The plan of this association was, as is said, to purchase land for a town, erect buildings, and send over two thousand persons. Of its actual operations and success I have no knowledge. In 1844 the governor of the colony, "in a speech from the throne," recommended the organization of a company for the prosecution of the fisheries.

Mackerel are at times abundant. A single example will suffice: In 1848 an American schooner was dismasted, and put into Georgetown to repair. Having refitted, she went to sea, and returned to port with

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\* General Charles Lee was a colonel in the British army, and served in America in the French war. He lost the favor of the ministry by his course in the revolutionary controversy, and entered the service of Congress. His dislike of Washington was the cause of his ruin. He died at Philadelphia in 1782.

eighty barrels of fat mackerel, after being absent only one week. The fish were taken, however, in two days, the weather interfering with operations during the remaining part of the time.

The exports of Prince Edward Island are not large, and often merely nominal; the catch of the various kinds of fish hardly exceeding the demand for domestic consumption.\*

During the season for fishing our vessels frequent the coasts in fleets; and as many as six or seven hundred have been seen in the vicinity of the island in a single year.

Captain Fair, of the royal navy, in command of her Majesty's ship the *Champion*, who was upon the station in 1839, passed the number here stated, and bears honorable testimony to their good conduct.

The feelings of the inhabitants towards our countrymen may be ascertained from the following resolution, which is understood to have passed the House of Assembly unanimously during the session of 1852:

*Resolved*, That a committee be appointed to prepare an address to her Majesty the Queen, praying that she will cause to be removed the restrictions of the treaty of 1818, prohibiting American citizens from fishing within certain prescribed limits on the shores of the island; provided the American government admit articles the growth or production of this island into the United States duty free, in accordance with the act 12 Vic., cap. 3, including fish; also, vessels built on this island to American registry; and that the legislative council be requested to join in the said address."

#### FISHERIES OF THE MAGDALENE ISLANDS.

The Magdalene Islands fisheries are of consequence. These islands, seven in number, are in the Gulf of St. Lawrence, and about forty miles northwesterly of Cape Breton. They originally belonged to the French, and were first granted, I suppose, in 1663, to the Sieur Doublet and his associates, as a fishing station, under the feudal tenure, as a fief of the royal company of Miscon. After they became possessions of the British crown they were granted to Richard Gridley, of Massachusetts, who served under Pepperell at the siege of Louisbourg, who, in 1775, laid out the works on Bunker's Hill, and who was retained by Washington as chief of the engineer department of the continental army.†

The Magdalene islands are thinly inhabited, at the present time, by fishermen, many of whom are the lineal descendants of the Acadians, who made the first permanent settlement in North America, under De Mouts, the original French grantee of Acadia, or Nova Scotia. The

\* The value of the products of the sea exported in 1851, was only \$38,776; while of the single agricultural article of potatoes, the value was \$47,568.

† Whether Colonel Gridley retained the ownership of these islands until the Revolution, and lost them in consequence of the part he took in that event, is unknown to me. But the Magdalenes were a second time granted by the British crown. The last grantee was the late Admiral Sir Isaac Coffin, who, at his decease, is understood to have bequeathed them to Captain John Townsend Coffin, of the royal navy, to be held by him and his heirs male, in strict entail. Captain Coffin leased these islands for the term of his life, it is believed, in the spring of 1852, to Benjamin Wier, of Halifax, and John Fontana, a resident at the Magdalenes.

fishermen of Acadian descent retain to this day the dress, the customs, language, and religion of their ancestors.

The herring fishery at these islands at times is very extensive. The catch, in some seasons, has been from eighty thousand to one hundred thousand barrels; and as many as one hundred and fifty vessels from the United States have been seen there at once. The quality of the fish is, however, poor, and the curing and packing carelessly performed. I have seen whole cargoes that, unfit for human food, were entirely worthless, except as dressing for grass lands.

Large seines are used in the fishery, and hundreds of barrels are often taken at a single haul. The inhabitants welcome the arrival of our fishermen, and treat them kindly. No serious difficulties have ever occurred, and in no part of British America, probably, have the relations of the people of the two nations been more intimate or more harmonious.\*

By a singular arrangement, these islands are included in the government of Canada. As communication with the capital of that colony is interrupted by ice and inclement weather nearly half of the year, and is generally free with Nova Scotia, annexation to the latter is much to be desired.

*Statistics of the year 1848.—Exports.*

Quintals of dried fish.	Barrels of pickled fish.	Boxes of smoked fish.	Number of seal-skins.	Gallons seal and cod oil.	Value.
34,448	17,574	6,115	21,308	114,403	\$223,796

FISHERIES OF THE BAY OF CHALEURS.

The Bay of Chaleurs was explored by Jacques Cartier, in 1534. He gave the name it bears—the “Bay of Heat.” On its shores are some of the oldest settlements in North America.

As at the Magdalene islands, many of the fishermen here are Acadian French, a people whose story possesses a melancholy interest, and whose sufferings at an eventful period of their history have been commemorated by the poet Longfellow, in “Evangeline.” They continue to live in villages distinct from the English settlers, and within sound of the chapel bell. The most devout and decided Catholics, they seldom intermarry with protestants. After the services of Sunday, they as-

\* Perhaps the year 1852 forms an exception. There was a difficulty of some sort in the spring, but the exact facts have not been ascertained. The Halifax Sun, in giving an account of the trouble, says: “The Americans, not satisfied with infringing the provisions of the treaty by casting their nets side by side with the British residents and subjects within the limits prescribed, per force of numbers and audacity took possession of the fish in the nets of their competitors. The indignant residents rallied in strong force; an American vessel and crew were captured in way of reprisal, and taken into harbor. The Americans during the night following gathered in their strength, and triumphantly ‘cut the vessel out,’ leaving the skipper, however, in durance under lock and key.”

semble for social enjoyment and amusement. Few of them are corrupt and vicious, but most are superstitious and ignorant. The women, like those of the ancient fishing-town, Dieppe, in France, from which their ancestors came, wear calico caps or handkerchiefs tied over the head, short petticoats of woollen stuff striped with red, white, and blue, and plaited in large folds at the waist, and blue stockings; while on Sunday, over a neat and clean attire, they throw upon the shoulders a small blue cloak, reaching about half way down the body, and fastened at the breast with a brass brooch. The men appear in short round jackets, with straight collars and metal buttons set close together, blue or scarlet waistcoats and blue trowsers, and sometimes the *bonnet rouge*, but generally round hats. Individuals, however, of both sexes, dress differently. The women, or "fish-wives"—as at the fishing ports of Normandy, Piccardy, and Brittany, in France—work very hard, performing the whole labor of curing the fish, in addition to the ordinary duties of cooking, spinning and weaving, and the care of the children.

The cod-fishing establishments in this bay are ancient and extensive. Of those of modern times, that of Messrs. Robin & Co., founded in 1768, is the largest, best ordered, and most prosperous. They have a number of finished buildings, which are conveniently arranged, and kept in excellent repair. They export about 30,000 quintals of cod annually, besides a quantity of pickled fish and oil. Their vessels come from the Isle of Jersey in the spring, are dismantled on arrival, and lie moored until the close of the fishing season; the masters and crews either fishing in boats, or collecting the fish caught by residents, who obtain their supplies and outfits of the firm. In the autumn the vessels are equipped, and depart for Europe with full cargoes. It is said that the first head of the firm, the late Charles Robin, among other rules for the management of the business, directed in his will that no female should reside at, or be employed at any of the fishing establishments of the concern; and that, in accordance therewith, the gentlemen and clerks of the present firm of Robin & Co. leave their families in Jersey while sojourning in the Bay of Chaleurs.

The fishery is carried on almost entirely in boats, two persons in each, who return home every night and land the day's catch. At the close of the season the resident fishermen settle with the merchants with whom they deal, carrying to their storehouses all the fish not previously collected by their agents.

The whale fishery is pursued to some extent in the Bay of Chaleurs and the adjacent seas. "The whales caught within the Gulf of St. Lawrence," says Macgregor, "are those called 'hump-backs,' which yield, on an average, about three tuns of oil. Some have been taken seventy feet long, which produced eight tons. The mode of taking them is somewhat different from that followed by the Greenland fishers, and the Gaspè fishermen first acquired an acquaintance with it from the people of Nantucket. An active man, accustomed to boats and schooners, may become fully acquainted with everything connected with this fishery in one season. The vessels best adapted for the purpose are schooners of from seventy to eighty tons burden, manned with a crew of eight men, including the master. Each schooner requires two boats, about twenty feet long, built narrow and sharp, and with *pink*

sterns; and two hundred and twenty fathoms of line are necessary in each boat, with spare harpoons and lances. The men row towards the whale, and when they are very near, use paddles, which make less noise than oars.

“Whales are sometimes taken fifteen minutes after they are struck with the harpoon. The Gaspè fishermen never go in quest of them until some of the small ones, which enter the bay about the beginning of June, appear; these swim too fast to be easily harpooned, and are not, besides, worth the trouble. The large whales are taken off the entrance of Gaspè bay, on each side of the island of Anticosti, and up the river St. Lawrence as far as Bique.”

In Gaspè basin—I ascertain from another source—the whale fishery is one of the chief means of support. Yet the number of inhabitants is small. Four or five schooners of the size mentioned by Macgregor are employed, and probably two hundred men. The produce is about 20,000 gallons annually. The basin is safe, commodious, and easy of access. The whales are taken at and near its entrance in the spring, and around the island of Anticosti and on the north shore of the St. Lawrence in the summer.

The fisheries of Canada, other than those of the Magdalene islands, Bay of Chaleurs, and Gulf of St. Lawrence generally, are too inconsiderable to require attention. While Canada was a possession of France, the seas were neglected. Twenty years after the conquest the exports of fish were small. From Canada *proper* there has been no increase, as will be seen.

*Exports from Canada, (proper.)*

Years.	Quintals dried fish.	Tierces salmon.	smoked salmon.	Tuns oil.	Value.
1783.....	941	.....	304	505	.....
1784.....	2,145	.....	221	100	.....
1785.....	5,346	.....	.....	438	.....
1786.....	885	1,100	253	185	.....
1849.....	.....	.....	.....	.....	\$23,220

*Exports from Quebec, Gaspè, and New Carlisle, presumed to be of the produce of the Bay of Chaleurs fisheries.*

Years.	Quintals dried fish.	Bbls. pickled fish.	No. seal-skins.	Gallons fish oil.	Value.
1832.....	55,924	2,962	4,675	27,681	\$160,262
1838.....	45,116	1,618	.....	9,513	177,067
1843.....	61,448	858	.....	28,890	192,898
1848.....	87,137	3,667	6,548	34,292	359,209

The coast of Labrador was partially explored by Jacques Cartier in 1534. He was beset with ice, and encountered many difficulties. Little was known of the country for a long period after the voyage of the French navigator. It has been said, however, that our cod-fishery was extensive in this region, not only previous to the Revolution, but in the early part of the last century. The statement I consider entirely erroneous. As I have examined the scattered and fragmentary accounts of Labrador, there is no proof whatever that its fishing grounds were occupied by our countrymen until after we became an independent people.

In 1761 Sir Francis Bernard, who was then governor of Massachusetts, wrote a brief "Account of the coast of Labrador," which—found among some of his papers—is preserved in the Collections of the Massachusetts Historical Society. After some general remarks upon the country, and the ignorance that existed relative to the natives, he proceeds to say that, "What follows shall be a plain narration of facts, as I received them from several persons who have been on the Esquimaux coast, with now and then a digression, which I hope may be pertinent." These persons appear to have been Captain Henry Atkins, of Boston, who made a voyage to Davis's straits in the ship *Whale* in 1729, and who visited the coast a second time in 1758, and a Captain Prebble, who was sent by Atkins in 1753. The Baronet describes the course of affairs between Atkins and the Indians in 1729, and adds that he "is the more particular in this account from the captain's own mouth, as he thinks it plainly indicates that the natives on this coast and islands had never any trade or commerce with any civilized people from Europe or America; of course not with the French from Canada, or the Hudson's Bay factories." This is conclusive, especially if it be remembered that the object of Sir Francis was to collect information "for the advantage of future navigators." His memory was remarkable, and he himself said that he could repeat the whole of *Shakspeare*. Of course, this paper embraced everything that had been communicated to him.

As late as 1761, then, it is not probable that fishermen of *any* flag had visited the waters of Labrador. An account of the origin of our own fishery there will be found in the proper place.

The English whale and seal fisheries were the first, and employed upwards of one hundred vessel, at times, prior to the year 1775. The earliest adventures were near 1763; as at that time the Labrador country was politically separated from Canada, and annexed to the government of Newfoundland by royal proclamation, to the end that the "open and free fishery of our subjects may be extended." The pursuit of the cod and salmon followed. Meantime the Moravians, whose principal settlement is at Nain, who have ever led a quiet and simple life, and who now annually ship furs, oils, and other productions of that region to England, in payment for the manufactured commodities which they require, had founded a colony.

The islands are so numerous and so near each other as to resemble, and often to be mistaken for, the main land. Back from the coast, the

country is still unknown. Labrador still forms a part of the colony of Newfoundland. The natives bear the general name of Esquimeauxs. The resident inhabitants of European origin are English, Irish, Jersey-men, and Canadians, who are employed either on their own account, or as the servants of others, as furriers, seal-catchers, and cod and salmon fishers.

The fishing establishments of the English and Jersey merchants are extensive and well conducted. They are engaged in the cod and salmon fisheries, and in the taking of seals. In the year 1831, the value of their shipments to Europe was upwards of \$200,000. The number of these commercial houses is from ten to twelve, who manage their business at Newfoundland, either by the temporary presence of junior partners or clerks, or by resident agents.

The people of Newfoundland, averring that the French and Americans have driven them from their own "bank fishery," resort to Labrador. They employ two or three hundred vessels. A part make two voyages in a season. The first fare is commonly cured on the coast; but the second is carried home without drying. Some of the merchants of Newfoundland ship both cod and salmon directly to correspondents in Europe; while others order their captains to return to the island and unlade their fish and oil at their own warehouses.

The Canadian fisheries are small. They send eight or ten vessels to the coast, with eighty or one hundred men. They fish for cod and salmon. They carry a part of what they catch to Quebec, and send a part to Europe.

The colonists of Nova Scotia and New Brunswick adventure at Labrador to a considerable extent; but they do not pursue the business as regularly and with as much system as do those of Newfoundland. Sometimes they send more than one hundred vessels in a year; at others the number is much less. They engage principally in the cod fishery, making a single fare and curing their fish at home.

The Labrador fisheries have "increased more than six-fold," says Macgregor, "principally in consequence of our fishermen [the English] being driven from the grounds now occupied by the French" since the year 1814; and he estimates that about twenty thousand British subjects are at present required during the fishing season in the catching, curing, and transporting the various products of these remote seas.

### Statistics.

Year.	No. of vessels.	No. of men.	Quintals dry fish produced.	Fierces salmon produced.	Number of seals caught.	Tuns oils produced.	Value.
1829.	608	9,110	678,000			1,682	
1831.	700	11,200	720,000	2,430	16,000	2,200	\$1,450,000

## FISHERIES OF NEW BRUNSWICK.

There were French fishing establishments in that part of Acadia now known as New Brunswick, as early as 1638. The English succeeded to these at the treaty of Utrecht, in 1713; but they do not seem to have formed many others until after the cession of Canada, in 1763.\* Among the first, I suppose, was that of Lieut. Walker, of the royal navy, in the Bay of Chaleurs, which was extensive, controlling the fur and fish trade of that region for several years. There were similar settlements on the river St. John; but from the estimates of Mr. Grant, made in 1764, at the request of the Rev. Dr. Stiles, the whole population of British origin could not have exceeded one thousand.

At the peace of 1763, several thousand "tories," or loyalists, compelled to abandon their native land, settled in New Brunswick, and transferred thither the jurisprudence, the social and political institutions, of "the old thirteen;" and, the year following, were allowed to organize a separate colonial government. Like those who went to that part of Acadia still called Nova Scotia, many of the loyalists were gentlemen of education, eminent private virtue, and distinguished consideration. Some obtained offices of honor and emolument; others adopted agricultural pursuits; and another class, fixing their abodes on islands and the shores of the main land, resolved to earn their support on the sea. Of the latter description, several, though compelled to toil and exposure in open fishing boats, had been persons of note and property. But, ruined by the confiscation laws of the whigs, or by the general disasters of a civil war, they resorted to the hook and line to relieve the pressure of immediate want, indulging the hope of "better times," and more congenial avocations. Few, however, abandoned the employment, and their children, trained to it from early youth, and acquiring fishermen's habits, succeeded to boats, fishing-gear, and smoke-houses, as their only inheritance, and continue it at the present day. I have often met with common boat fishermen of this lineage, whose earnings were hardly sufficient to procure the absolute necessaries of life.

The fisheries of New Brunswick are prosecuted with neither skill nor vigor. The *apparent* exports, small as are the statistics, do not indicate their real condition; since it is certain, that of the products of the sea shipped to other countries, a part is first imported from Nova Scotia, and form a proportion of the exports of that colony.† The number of vessels sent to Labrador and other distant fishing grounds is never large, and often almost nominal. The cod-fishery in the Gulf of St. Lawrence and the Bay of Chaleurs is not as extensive as might be reasonably expected from the long experience of the inhabitants there, and the general safety and productiveness of the harbors and indentations of the coast.

\* The French built two forts on the river St. John prior to the peace of Utrecht, (1713,) which they repaired in 1754, although the country had been ceded to England quite half a century.

† The imports into St. John from Nova Scotia for three months only (July 10 to October 10, 1852) of the present year, were 7,861 quintals of dried fish, 860 barrels of mackerel, 2,423 barrels of herring, and other pickled fish.

The same remarks need slight qualification when applied to the Bay of Fundy, and its principal branch, the Bay of Passamaquoddy. Cameron's, Doggett's, Drake's, Woodward's, Money, and Whale coves; Dark harbor, Long's eddy, Grand harbor, and Long, Duck, Nantucket, and Kent's islands, which are all in the group of islands known as "Grand Menan," afford excellent facilities for catching and curing cod, pollock, and herring, in large quantities. In the waters that surround Campo Bello, Deer, and Indian islands, as well as in those that wash Bean's, Adams's, Parker's, Minister's, Hardwood, and Fish islands, and along the coast between L'Etite Passage and Point Lepreau, embracing Mace's and Back bays, Bliss's island, Seely's cove, Crow, Beaver, and Deadman's harbors, the advantages for fishing are very good. Every place here mentioned is within a few hours' sail of the frontier ports of Maine, and many of them are within cannon-shot distance of the shores of the United States. The fishermen of both countries meet on the same fishing grounds; borrow and lend "bait;" ask after each other's "woman"\* at home; narrate the wonderful cures of the last-discovered remedy for the "reunatis;" complain of the "scacity" of fish, and the low price of "ile;" discourse about "flat-hooped flour;" and generally conduct towards one another as friends and brethren, owing allegiance to one government. Indeed, the observation of quite twenty-five years authorizes me to say that the colonists always agree far better with the Americans than with each other. Our countrymen are not often considered interlopers when they leave the fishing grounds nearest home and visit those of Grand Menan; but the fishermen of Campo Bello, and the other islands on the British side of the Passamaquoddy, are sometimes roughly accosted and "twitted" when *they* venture to take the same liberty. Frequent attempts have been made to disturb the friendly relations which have generally existed between the people of the two flags, but without success. The efforts of officious individuals, and of functionaries of the colonial government, have been alike disregarded. The captains of the British ships-of-war on the station, gentlemen in their feelings, have steadily refused to stoop to wage a petty warfare against the American boats that cross the imaginary boundary line in the waters of the Passamaquoddy, though, of course, they have *always* obeyed their instructions. Yet, in the spirit of Nelson, who looked at the signal he meant to disobey with his blind eye, they have never been able to *see* a "Yankee," or to distinguish one from a subject of her Majesty. Some of them—as I remember the stories of by-gone years—admitting the necessity of driving off the aggressors, have asked, "How are we to know them—are they *marked*?" Others, sending their barges into the fleet of boats, have directed that "All who *say* they are Americans must be told to go to their own side of the line;" but, strangely enough, the unbroken silence of the fishermen to whom the question was propounded afforded proof that all were "Bluenoses." Still others, satisfying themselves, by peering through glasses from their quarter-deck, that *all* the boats in sight *must* belong to the islands in New Brunswick, have thought the sending of barges to inquire a needless ceremony. One, in 1840—the captain of the Ringdove—in his official

report, recommended that "every British boat should have a license;" otherwise, said he, "it is impossible to discriminate them from Americans."

Those who seek to put an end to this state of things, whatever their motives, do not take into the account that the instant they shall accomplish their object, border strifes will follow of necessity. Before renewing their efforts, they may be kindly asked to consider that harmony and good-fellowship between the inhabitants of frontier settlements are indispensable, and far better securities against the marauder's torch and bludgeon than armed ships or bodies of troops.

The produce of the boat-fishery of the Bay of Fundy, and of the Passamaquoddy, is not only small in value, but generally inferior in quality. An increase of this fishery, under present circumstances, is not desirable. The fishermen dress and cure the cod, pollock, hake, and haddock—the kinds usually dried—in a slovenly manner.

These fish, besides being rough and dirty on the "split face," frequently "slime," and thus are unfit for use. They also smoke, pickle, and pack the herring without skill and care, and decay is the consequence. There is no excuse whatever for such a course of conduct, and every offender should be held to punishment. The gentlemen of New Brunswick who complain of the decline of their fisheries, and who seek to encourage them by private "associations," and by government "bounties," should endeavor, first of all, to devise a plan to improve the reputation of the fish of this part of that colony among dealers and consumers.

I find it stated in an official document\* that in 1850, at the different fishing-stations mentioned as within these bays, there were employed 62 vessels of 1,268 tons, 344 open boats, 55 weirs, and 1,337 men, in catching and curing the several kinds of fish just referred to; and that the value of the products of the various branches of the fishery was £33,080† currency, or \$132,320.

These facts show that the fishermen received a miserable pittance for their toil; since, *without allowing for the use and depreciation of the capital invested in the vessels, boats, weirs, nets, and other fishing-gear, they earned for the year less than one hundred dollars each.* We may lament that men who pursue their avocation both day and night, mid rains and gales, are so poorly rewarded. We may lament, too, that the people of Grand Menan, falling short of those of Campo Bello, West Isles, and the parishes on the coast of the main land, earn even less than the average. But, what then? The fault is their own; entirely so. They may, if they will, produce as sweet and as well-cured pollock and cod as do their brethren of Barrington, and as good colored and flavored

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\* "Report upon the fisheries of the Bay of Fundy, by M. H. Perley, esq., her Majesty's emigration officer at Saint John, N. B.; laid before the House of Assembly by command of his excellency the lieutenant governor, and ordered to be printed, 15th March, 1851." To this minute, carefully-prepared, and valuable State paper, I am much indebted for statistics and other information. Mr. Perley's endeavors to improve the condition and develop the resources of New Brunswick, are entitled to the highest commendation of his fellow-colonists.

† No statistics for Grand Menan are given. Mr. P. says a dealer estimates the value in 1849 as £12,000, which, in accordance with Mr. P.'s suggestion of being too high, I assume to have been £11,000.

smoked herring as do those of Digby, and obtain prices to correspond with the quality.

The general poverty among them is not to be attributed entirely or principally, as they aver, to the occasional loss of boats and nets, nor to glutted markets and bad seasons, nor to the interlopers who visit their fishing grounds, but to their own want of industry, thrift, cleanliness, and honesty. The few "who work it right," acquire property, and enjoy the entire confidence of the dealers, command credit for supplies, and high prices for their commodities when offered for sale.

It remains to speak of the fisheries of the Bay of Chaleurs, and of the Gulf of St. Lawrence. The county of Restigouche borders on Canada, and the counties of Gloucester, Northumberland, and Kent, are favorably situated for adventures in these waters. The fishing grounds are safe, and generally close to the shores; and those near Caraquet, in Gloucester, are much frequented by boats from Gaspé, and owned by residents of Canada. Since 1835, the catch of both cod and herring by the fishermen of Restigouche and Northumberland has fallen off more than half, and in Kent has nearly become extinct. But the inhabitants of the port of Caraquet, availing themselves of the advantages of their position, have actually produced a large proportion of the dried cod exported from the colony for some years. These four counties are more remote from the capital of New Brunswick, and from the markets of the United States, than the county of Charlotte, which embraces Grand Menan, and the other islands in the Bay of Fundy, (where the fish are so badly cured,) and the attention of the people is divided between several branches of industry; but fishing, as an occasional and irregular employment merely, has commonly proved a source of profit, or at least has afforded a fair reward for the labor and capital devoted to it. The fish shipped at Caraquet are in much better repute than those caught in the Bay of Fundy, and the remark is true of the produce of the Bay of Chaleurs and St. Lawrence fisheries generally. It may be presumed that *there* the herring does not "become rotten before salting;" that, when sold as the "gibbed" article, it is not packed without taking out the entrails; and that the cod *is* washed after being split, and *not* "salted and put in 'kinch' in all its blood and dirt."

This brief notice of the fisheries of New Brunswick would be incomplete without a description of the boat-fisherman of the Bay of Fundy, whose professional faults I have so severely rebuked. Bred to the use of boats from his earliest youth, he displays astonishing skill in their management, and great boldness in his adventures. He will cross, in the stormiest weather, from island to island, and go from passage to passage, through frightful whirls of tides, which suddenly meet and part with a loud roar;\* and he will dive headlong, as it were, upon rocks and bars, merely to show how easily he can shun them, or how readily and certainly he can "go about" and "stand off on the other tack."†

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\* The ordinary rise and fall of the tide is twenty-two feet. The rapidity with which it rushes by the points of land, and through the narrow straits between the islands, creates dangerous cross-tides, eddies, and whirlpools.

† In returning from a cruise to the coast, says the author of "Eothen," "You see often enough a fisherman's humble boat far away from all shores, with an ugly black sky above, and an angry sea beneath; you watch the grisly old man at the helm, carrying his craft with

He is neither a landsman nor a seaman, a soldier nor a marine; but you would think by his talk that he could appear to advantage in either of these characters. He is neither a merchant nor a mechanic, and yet he can buy and sell, mend and make, as expertly as either. In the healing art he is wise above all others, and fancies that he possesses a sovereign specific for every ailment which all the world beside considers as incurable. He holds nautical instruments in high derision: for the state of the moon and the weather predictions of the almanac, the peculiar sound of the sea when it "moans," and the particular size or shape of a "cat's paw" or "glin" in the sky, lead him to far surer results. He will undertake nothing of consequence upon a Friday, and can prove by a hundred incidents how infallible are the signs and omens which he believes in. He thinks to die in his bed. True it is, that he has been overset; that his boat, loaded with fish to the "gunnel," has sunk under him, and that a vessel has run over him; but he is still alive, and "was not born to be drowned." His "fish stories" are without end. In politics, he goes for the largest liberty. He has never heard of easements and prescriptive rights; but he occupies at will both beach and upland, without any claim to either, and will browbeat the actual proprietor who has the temerity to remind him of their relative positions. Against speculators he wages perpetual war: why should he not? since it is they who put up the price of his favorite "flat-hooped, fine middlings flour," and put down the price of fish and "ile!"

And who shall do justice to his dress and to his professional gear? The garments which cover his upper and nether man he calls his *ile sute*. The queer-shaped thing worn upon his crown is a *sou'-wester*; or, if the humor takes him, a *north-easter*. He wears neither mittens nor gloves, but has a substitute which he has named *nippers*.

When he talks about *brush*, he means to speak of the matted and tangled mass which grows upon his head; or the long, red hair under his chin, which serves the purpose of a neckcloth; or of that in front of his ears, which renders him impervious to the dun of his merchant. His boots are *stampers*. Lest he should lose the movables about his person, he has them fastened to his pockets by *lannairds*. One of his knives is a *cut-throat*, and another is a *splitter*. His apron, of leather or canvass, is a *barvel*. The compartment of his boat into which he throws his fish as he catches them, is a *kid*. The state of the moon favorable for "driving herring," he calls *darks*. The bent-up iron hook which he uses to carry his burning torch on the herring-ground, is a *dragon*. The small net with an iron bow and wooden handle, is a *dip-net*, because it is with that that he dips out of the water the fish which his light attracts to the surface. His *set-net* is differently *hung*, and much larger; it has leads on its lower edge to sink it with in the water, and corks upon its upper edge, at regular intervals, to buoy it up

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strange skill through the turmoil of waters, and the boy, supple-limbed, yet weather-worn already, and with steady eyes that look through the blast, you see him—understanding commandments from the jerk of his father's white eye-brow—now belaying, and now letting go—now scrunching himself down into mere ballast, or baling out death with a pipkin. Stale enough is the sight; and yet when I see it I always stare anew, and with a kind of Titanic exultation, because that a poor boat, with the brain of a man and the hands of a boy on board, can match herself so bravely against black heaven and ocean," &c.

and preserve it nearly in a perpendicular direction, so that the herrings may strike it and become entangled in its meshes.

Nor ends his dialect here. Chebacco-boats and small schooners are known to him as *pinkies*, *pogies*, and *jiggers*. He knows but little about the hours of the day and night; everything with him is reckoned by the *tide*. Thus, if you ask him what time he was married, he will answer, "On the young flood last night;" and he will tell you that he saw a certain man this morning about "low-water slack;" or, as he case may be, "just at half-flood," "as the tide turned," or "two hours to low water." If he speaks of the length of line required on the different fishing-grounds, he will compute by "*shots*;" and by a *shot* he means thirty fathoms. If he have fish to sell, and is questioned as to their size, he will reply that they are "*two-quintal*" fish, by which he means that fifty will weigh one hundred and twelve pounds.

He is kind and hospitable in his way; and the visitor who is treated to *fresh smother*, *duff*, and *jo-floggers*,\* may regard himself as a decided favorite. He believes in witches and in dreams. The famous pirate Kyd buried gold and treasures in Money Cove,† Grand Menan, he is sure; and he has dug for it many a time. His "woman" is the "best;" the harbor *he* lives in is "the safest;" and *his* boat is "the fastest and will carry sail the longest." When determined upon going home, whether he is upon the land or the sea, he says, "Well, I'll up *killock* and be off."

The man I have described is no countryman of ours, and was to be seen playing the soldier on the easterly side of the St. Croix during the recent very wordy but bloodless war on the Aroostook, which was terminated by the treaty of Washington. But *some* of his qualities of character, and forms of speech, are common to most of the class to which he belongs; and the nets, knives, and other gear, are in general use.

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\* Potpie of sea-birds, pudding, and pancakes—the fisherman's three P.'s

† So called from the popular belief that Captain Kyd buried two hogsheds of treasure there.

*Statistics of the fisheries of the Bay of Fundy for the year 1850.*

Places.	Vessels.	Boats.	Weirs.	Men.	Cod and pollock.	Cod and haddock.	Oil.	Herring, smoked.	Herrings, pickled.	Mackerel caught.	Value, New Brunswick currency.	Value in dollars.
	No.	No.	No.	No.	Quintals.	Barrels.	Barrels.	Boxes.	Barrels.	Barrels.		
Grand Menan and the islands adjacent.....	24	94	27	394	10,500	250	180	35,000	6,500	.....	£11,000	\$44,000
Campo Bello.....	11	50	21	232	7,090	150	120	40,000	5,100	480	9,825	39,300
West isles and parishes of St. George and Penfield.....	27	200	7	691	24,550	800	450	5,000	3,500	.....	12,254	49,016
	62	344	55	1,337	42,140	1,200	750	80,000	15,100	480	33,079	132,316

*Statistics of the fisheries of New Brunswick—value of produce exported.*

Years.	Cod.	Salmon.	Herring.	Mackerel.	Alwives.	Oil.	Total.	Total dollars.
1832.....	£28,231	£2,488	£1,032	£212	£290	£1,058	£33,291	\$133,164
1833.....	27,536	733	318	91	335	2,290	31,283	125,132
1834.....	46,337	2,337	489	383	.....	1,560	51,105	204,660



SALMON FISHERY OF BRITISH AMERICA.<sup>1</sup>

The salmon, shad, and alewife fisheries are not embraced in the plan of this report; but a brief account may be given of the former, as the most important of these, and of the rivers generally.

*Canada.*—This fishery, at the present time, is very small. In 1786, however, the export was considerable. In parts of the country where, in former years, the catch was large, a few barrels of pickled salmon only were shipped in 1848. In the Gulf of St. Lawrence there were once extensive establishments for the prosecution of this business; but some have been broken up, and others have become unprofitable. Streams that half a century ago afforded sufficient for domestic consumption, and thousands of barrels for export, now yield only hundreds of barrels, and the quantity is rapidly diminishing.

*Nova Scotia.*—The loyalists, who went to this colony at the peace of 1783, depended very much upon this fishery, and carried it on to advantage. The quantity of salmon exported for some years was sufficient to purchase many articles of comfort, and to save them at times from the miseries of pressing want. The salmon has entirely disappeared in some parts of the colony, and has ceased to be plentiful in all of its rivers and streams. The export of salmon caught in the colony is not large. The whole produce of the fishery in 1851 appears to have been but 1,669 barrels.

*Newfoundland.*—The fishery is still worthy of attention, as reference to the accompanying statistics will show. The export in 1843 was even larger than in 1814.

*Labrador.*—Captain Henry Atkins, of Boston, who made a voyage to Davis's Straits in the ship *Whale* in 1729, and who visited the coast a second time in 1758, found salmon very abundant. In "Salmon river" both he and his men caught many while wading, and with their hands. They took all they had salt to cure, and one that measured four feet ten inches in length. Atkins's account, after his return, seems to have induced no attention to the fishery on the part of his townsmen. In 1831 the exports amounted to 2,430 tierces of the pickled fish, of the value of \$35,650.

*New Brunswick.*—The loyalists and other early settlers found the salmon in almost every river and stream in the colony.

At present it is never seen in some, is becoming scarce in most, and is of importance as an article of export in the St. John alone.

The catch at Salmon Falls, in the St. Croix, thirty years ago was two hundred in a day, on the average, for three months in a year. A person standing on a "jam of logs" caught there at one time one hundred and eighteen with a dip-net; and a boy fifteen years old took about five hundred in a season. But such has been the decline, that it is said only two hundred were taken during the entire year of 1850 by all who engaged in the business on the river. It is stated that the dams erected across the river have produced this change in the fishery, and facts appear to sustain the position. The few salmon that now appear in the Oromocto, the Nashwaak, the Maduxnakeag, and the Mispech, as well as in Emerson's and Gardner's creeks, in Great Salmon river, and Goose creek, is attributed to the same cause. In two or three of

the streams of minor size, where no obstructions exist, and where the water is not muddy, the pursuit is still attended with some success and profit.

In some other places the fishery, but for the wanton and lawless destruction of the fish, without reference to its condition or the season of the year, might be carried on advantageously.

To the people of the city of St. John the annual catch of salmon is a source of gain. The fisheries of the harbor, by a provision in the city charter, belong to the citizens, or "freemen." The fishing grounds or stations are lotted out, and sold at auction every year for the benefit of those who are entitled to them under the charter. The practical fishermen are the purchasers. The lots are of unequal value, and some merely nominal. The number of salmon taken at St. John in 1850 was estimated at 32,000, which sold, whether large or small, at the contract price of one dollar each—except a small part for city consumption—to be packed in ice and sent to Boston. Drift-nets and weirs are used in the fishery, though the former are prohibited by law. Fishermen deprecate the use of torch and spear; but both are sometimes seen in the hands of lumberers and gentlemen sportsmen. The salmon is found on the St. John, two hundred miles from the sea, and on several of its tributaries nearer to the ocean. On the Nerepis, one of its branches, on which no mill-dams have been erected, there is a fishery of note—from 1,500 to 2,000 being taken annually.

It will be seen that the exportation of *cured* salmon from New Brunswick ceased entirely in 1848—the whole catch, not required for consumption, having been packed in ice, and shipped fresh.

*Statistics of the salmon fishery.*

EXPORTS, CANADA.

Year	Pickled.			Smoked.
	Tierces.	Barrels.	Kits.	No.
1783 .....				304
1784 .....				221
1786 .....	1,100			253
1832 .....	348	193	47	
1838 .....	249	111		
1843 .....	263	120		
1848 .....	70	28		

## Statistics of salmon fishery—Continued.

## EXPORTS, NEWFOUNDLAND.

Year.	Pickled.	
	Tierces.	Value.
1814 .....	2,000	\$48,000
1838 .....	4,408	66,550
1839 .....	2,922	58,460
1840 .....	3,396	64,695
1841 .....	3,642	61,510
1842 .....	4,715	68,390
1843 .....	4,058	61,080
1844 .....	3,753	59,725
1845 .....	3,545	63,970
1847 .....	4,917	48,910
1848 .....	3,822	.....
1849 .....	5,911	.....
1850* .....	1,950	.....

\* From St. John alone.

## EXPORTS, LABRADOR.

Year.	Pickled.	
	Tierces.	Value.
1831 .....	2,430	\$35,650

## CAPE BRETON, PRODUCE.

Year.	Barrels.
1847 .....	335
1848 .....	295

## Statistics of salmon fishery—Continued.

## EXPORTS, NEW BRUNSWICK.

Year.	Pickled.		Smoked.	Fresh.
	Barrels.	Kits.	No.	No.
1819 .....	362			
1822 .....		2,271		
1827 .....	504	2,692	2,655	
1828 .....	295	1,725	2,531	
1829 .....	489	2,721	5,795	
1830 .....	1,776	2,635	5,350	
1831 .....	1,199	2,597	4,812	
1832 .....	692	2,947	4,897	
1833 .....	652	2,151	3,708	
1834 .....	160	1,965	4,596	
1835 .....	88	5,278	9,476	
1836 .....	30	4,650	6,964	
1837 .....	1,843	1,120	6,073	
1838 .....	930	8,261		
1839 .....	1,400	5,600	10,201	
1840 .....	1,804	2,276	1,059	
1841 .....	1,825	2,653	4,853	
1842 .....	2,879	1,232	1,858	
1843 .....	2,155	855	900	
1844 .....	2,479	6,419	406	
1845 .....	2,621	1,261	80	
1846 .....	1,311	1,529	20	
1847 .....	2,426	170	2,243	
1848 .....	2,175		5,460	
1849 .....				
1850 .....				*32,000

\* A proportion of the annual catch has been exported fresh for some years, but the quantity can only be conjectured.

## IMPORTS AND EXPORTS, NOVA SCOTIA.

Year.	Imports.		Exports.	
	Barrels.	Tierces.	Barrels.	Tierces.
1785 .....			2,850	
1845 .....	4,251		8,053	
1846 .....	4,745		6,118	
1847 .....	3,716	208	5,586	533
1848 .....	3,219	82	2,011	49
1849 .....			5,055	
1850 .....			*6,412	340

\* From Halifax alone.



## PART III.

## UNITED STATES.

## PLYMOUTH COLONY.

*From 1620 until the union with Massachusetts by the charter of William and Mary, 1692.*

After long and patient inquiry, I am convinced that the *whole* truth as to the motives which induced the Pilgrims to remove from Holland to America has not been told by our historians.

The sweet poetess asks, "What sought they thus afar?" and herself replies, not "the wealth of seas," but "a faith's pure shrine." She has expressed the sentiments of all. But is it so certain that they "sought" not both? Of the men of their time, were they *alone* exempt from the influence of the fishing mania which prevailed throughout maritime Europe? Weary, stricken, homeless exiles, could they have lived unmoved by the spirit around them, when the Dutch fisheries\* were at the highest point of prosperity, and when every one's thoughts in their own country were turned to the planting of fishing colonies at Newfoundland and on the shores of New England? Our continent was discovered in 1497, by Cabot; and from the moment that the chronicler of his voyage made known to the people of England that our waters teemed with fish—that here "were great seals, and those which we commonly call salmons; and also soles above a yard in length, but especially there is a great abundance of that kinde which the sauages call *baccalos* or codfish"—down to the year 1620, as we have seen in the first and second parts of this report, the intercourse of the French and English with the northerly seas of America was constant; and of all this were not the Puritans as well informed as others? Were they ignorant of what transpired in the New World in the ten years immediately preceding their flight from England, and during the ten years of

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\* It is said, by writers of authority, that in the year 1560 the Dutch employed one thousand vessels in their herring fishery; that the number in 1610 was fifteen hundred; and that, at the time the Pilgrims embarked for America, it was quite two thousand. These estimates are extravagant enough, surely. What shall be thought of Sir Walter Raleigh, who set the value of this fishery annually at £10,000,000, (or nearly fifty millions of dollars;) or of De Witt, who said that every fifth person in Holland earned his subsistence by it? Yet such statements were believed at the time, and their truth is contended for now.

Nor was this the only fishing excitement of the Pilgrims' day. In 1612, the Dutch sent whale-ships to the Greenland seas, but the British considered them interlopers, and compelled them to retire. The year after, French, Dutch, and Spanish ships at Spitzbergen were forbidden to fish, by the same "lords of the seas." British whalers, as is stated, went armed at this period. In 1613, the British Russia Company received a monopoly of the whale fishery, and the year following a company in Holland obtained the same exclusive right. In 1618, the controversy between the British and Dutch, on the subject of the fisheries, terminated in a general war.

their residence in Holland? While among the Dutch they were neglected, if not unkindly treated, and became poor and unhappy. Many places to which to emigrate were mentioned, and the advantages and disadvantages of each were amply discussed. As soon as the decision of the little flock was made, some were dissatisfied and withdrew. The question arises, why did they decide to come to America?

I have no space to argue a question which involves so many inquiries, but cannot forbear to state, in a few words, some of the principal incidents which attended their coming to their "wilderness home." Omitting to notice the accounts of Amidas and Barlow, who explored the southern coast of the United States in 1584, under the auspices of Sir Walter Raleigh, and what is said of Sir Richard Grenville's expedition to the same region the year following, as well as the various other enterprises which, in several particulars, are pertinent to the subject, we come at once to the voyage of Gosnold, in the year 1602. He was the first Englishman who sailed directly across the ocean, and the first who attempted to make a settlement within the limits of New England. The story of his adventures was written by two of his associates, Archer and Brereton, and published in London\* immediately after his return. Of Brereton little seems to be known; but Gosnold and Archer were subsequently prominent among the early settlers of Virginia, and between the latter and the celebrated Smith there was a long and a desperate quarrel. From Brereton's narrative, as well as from the tracts appended thereto, it appears that Raleigh was the patron, perhaps the original mover, of the enterprise. As containing the earliest information of Massachusetts printed in England, these papers are of great value. The attention of merchants, of fishermen, and of those interested in colonization, hitherto, and for nearly a century, directed exclusively to Newfoundland, was now to be diverted, in some measure, to New England. The results will appear as we progress.

Arrived on our coast, Gosnold anchored near land which he called "Shoal Hope;" but, catching a "great store of codfish," he changed the name to Cape Cod.† While there, says Archer, "we saw sculls of herring, mackerel, and other small fish, in great abundance." Brereton, whose account is more exact and definite, remarks with much earnestness upon most matters connected with our inquiries. "Surely, I am persuaded," he observes, "that, in the months of March, April, and May, *there is upon this coast better fishing, and in as great plenty, as in Newfoundland*; for the sculls of mackerel, herrings, cod, and other fish, that we daily saw as we went and came from the shore, were wonderful; and, besides, the places where we took these cods (and might in a few days have laden our ship) were but seven fathoms water, and within less than a league of the shore, when in Newfoundland they fish in forty or fifty fathoms water, and far off."

To pass the observations which were recorded as they continued their explorations, we find in the tracts appended to Brereton the pre-

\* Republished in Collections of Massachusetts Historical Society, vol. 8th of 3d series.

† Prince Charles changed the name to "Cape James," in honor of his father; but Gosnold's appellation has been preserved to the present time.

diction that, "*forasmuch as merchants are diligent inquisitors after gains, they will soon remove their trade from Newfoundland*" to New England, where there is a better climate, greater security against the depredations of pirates, and less expense for outfits, shorter voyages, and safer harbors. The writer, anticipating that a colony would soon be founded, predicted further, that the ships of *all* the nations that "have been accustomed to repair unto the Newfoundland for the commodity of fish and oils alone, will henceforth forsake" that island, "when once we have planted people in these parts; by whose industry shall be provided, for all commerce," the products of the sea, "and many commodities besides, of good importance and value." Eighteen years elapsed; the Pilgrims anchored off the same "Shoal Hope," and settled this very country.

Pring followed Gosnold, and explored the waters of Maine, in 1603. He saw and named the Fox islands, in Penobscot bay, and found good mooring and fishing. Like Gosnold, he considered the fish which he took there superior to those of Newfoundland. He made a second voyage three years later; and Gorges remarks that his discovery of the eastern part of New England was perfect, and his account of it accurate.

Waymouth, under the patronage of several English noblemen, and other persons of rank, came in 1605. "A True Relation" of his adventures was written by James Rosier, "a gentleman employed in the voyage," and printed in London in the same year. He agrees with those who had preceded him in every essential particular. As they departed for England, they caught very large fish; and he says that those on board of the ship, who were familiar with the business, "would warrant, (by the help of God,) in a short voyage, *with a few good fishers, to make a more profitable return from hence than from Newfoundland; the fish being so much greater, better fed, and abundance with train,*" &c.\*

Two years after Waymouth's return, Lord John Popham, chief justice of England, George Popham, his brother, Sir Ferdinando Gorges, Sir John Gilbert, his brother Raleigh Gilbert, (who were nephews of Sir Walter Raleigh, and, I suppose, sons of Sir Humphrey Gilbert, the original patentee of Newfoundland,) with other gentlemen of consideration, determined to plant a colony in Maine, and near the fishing grounds which, in the judgment of Pring and Rosier, promised so great rewards to adventurers. George Popham was appointed the president, and Raleigh Gilbert admiral of the expedition. The original design was to settle in the immediate vicinity of the island of Monhegan, in Penobscot bay; but, abandoning this plan, a small island was selected at the mouth of the Kennebec, where Popham and his associates landed and commenced a settlement. Soon removing, however, to the main land, they built a fort, and erected a storehouse and dwellings. The death of the two Pophams and of Sir John Gilbert, the return of Raleigh Gilbert to England, the loss of the storehouse by fire, and other disappointments, discouraged the colonists, and put an end to the enterprise.

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\* With larger *livers*—of course affording more oil.

The next voyage that claims our attention is that of Smith,\* (so often mentioned as the father of Virginia,) who came to Maine in 1614, caught forty-seven thousand fish within twenty leagues of Mohegan, and explored the coast from Penobscot to Cape Cod. The result of his observations was published in London, in 1616. This work, "writ with his oune hand," was of greater pretensions than the tracts of the associates of Gosnold and Weymouth. He devotes whole pages to the subject of fishing, and argues, as the previous voyagers had done, that the seas of New England were far preferable to those of Newfoundland; and he labors the point, and repeats it even to tediousness. He institutes comparisons between the fishing grounds of the two regions; and all the details respecting the necessary wood, iron, pitch, tar, nets, leads, salt, hooks and lines, and articles of provision, are given with great minuteness. Smith perceives, indeed, that he must excuse himself to his readers, and thus apologises: "But because I speak so much of fishing, if any one take me for such a devout fisher, as I dream of naught else, they mistake me."

In reading the accounts of Archer, Brereton, Rosier, and Smith, the thought has often occurred to me that, for some reason or other, the writers owed Newfoundland a sort of spite, and were determined to write that island *down*, and to write their favorite country *up*. Smith, I think, especially strives to accomplish this end. He was a man who left his mark everywhere. He had roved over Europe, and had fought on the side of Austria against the Turks; and he was now fresh from Jamestown, and the preservation of his life by the beautiful Pocahontas still excited the public mind. His romantic adventures, his chivalrous character, and his energy of purpose, gave him commanding influence. He had set his heart on founding a colony in "North Virginia," (as New England was called until his voyage in 1614,) and seems to have thought that he could best accomplish his design by dwelling upon the superior advantages of its coasts for fishing. "If Newfoundland," he reasons, "doth yearly freight near eight hundred sail of ships with a *silly, lean, skinny, poor-john, and cor-fish,*" and those who adventure there "can gain, though they draw meat, drink, and clothes," and all the necessary gear and outfits, from "second, third, fourth, or fifth hand, and from so many parts of the world, ere they come together to be used in this voyage;" and if "Holland, Portugale, Spaniard, French, or other, do much better than they," why doubt of success in going to New England, "where there is victual to feed us, wood of all sorts to build boats, ships, or barques, the fish at our doors, pitch, tar, masts, and yards?" "Of *all the four parts of the world that I have yet seen,*" he observes, "*not inhabited, I should rather live here than anywhere.*"

His publications on the subject of New England were numerous. The third, or fourth, was printed in 1620, and treated of the "successe of twenty-six ships" employed in fishing there "within these six yeares;" and the last, published in 1631, (the year of his death,) gave an ac-

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\*Captain John Smith was born in Lincolnshire, England, in 1579. He was an adventurer in almost every part of the world. His several works on American colonization are of great value. For his services and sufferings in the New World he received no recompense. He died in London, in 1631.

count of "the yearely proceedings of this country in fishing and planting," from 1614 to 1630.

What conclusions may we fairly draw from these facts? In the second part of this report we have seen that at the very time the Pilgrims embarked, a company chartered by James claimed the sole ownership of the American seas, and that a great excitement existed in England in consequence of this monopoly; and we have here seen that accounts of Gosnold's voyage had been printed eighteen, and of Weymouth's fifteen years. Is it possible to escape the conviction that our fathers knew and acted upon a knowledge of all these things? That they were in possession of Smith's map, and some of his books, we have his own express declaration; while in his last work, published eleven years after their settlement at Plymouth, he speaks of their "*thinking to finde*" matters "*better than he had advised them;*" and he evidently plumes himself upon the idea that he had been an efficient instrument in directing their emigration to the land he had praised so much, and had striven so hard to people. In the chapter headed "New England's yearly trials—The planting new Plinouth—Suprisals prevented—Their wonderful industry and fishing," he discourses about the English ships that had made "exceeding good voyages" on the coast; and adds, seemingly, as the results produced by their success, that "at last, upon these *inducements*, some well-disposed Brounists,\* as they are termed, with some gentlemen and merchants of Layden and Amsterdam, to save charges, would try their oune conclusions, though with great losse and much miserie, till time had taught them to see their oune error; for such humorists will never beleeeve well, till they bee beaten with their oune rod." In the next chapters he refers to their prosperous condition, (1624,) and says: "Since they have made a salt worke, wherewith they preserve all the fish they take, and have fraughted this yeare a ship of an hundred and four score tun, living so well, they desire nothing but more company; and whatever they take, returne commodoties to the value." The declarations of this distinguished pioneer of civilization in this hemisphere are entitled to respect, and in almost any other case would be considered as conclusive.

But there is other evidence. Weston, an English merchant engaged in the fisheries, who soon after the settlement of Plymouth attempted to found a rival colony at Weymouth, and who came in person to New England to correct the irregularities of his fishermen, had much influence in directing the affairs of the Pilgrims, and in selecting the place to which they should remove from Holland. He made them an advance in money, engaged to provide vessels for their voyage, and advised them to come to that part of America with which he kept up an intercourse, "as for other reasons, *so chiefly for the hope of present profit to be made by fishing.*" And, besides, we know that they entered into a sort of copartnership indenture with merchants, who, like Weston, made them advances, and agreed to allow these merchants a share of the fruits of their industry. This indenture provides in terms for the prosecution of the fisheries and the employment of fishermen; and the

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\* One of the names of the Puritans.

*Speedwell*—that crazy, leaky bark—was bought for the purpose of complying with this stipulation.\*

Still further. And to settle the question, we may refer to "A brief Narrative of the true grounds and causes of the first planting of New England," by Edward Winslow, one of the most distinguished of their number, and who succeeded Bradford as their governor. No original copy of this tract is supposed to be in America; but a few years since the Rev. Mr. Ellis, of Charlestown, found one in a printed volume in the British museum, copied it for the Rev. Dr. Young, who has placed it in the "Chronicles of the Pilgrims."

Winslow, in this narrative, speaks of an interview between King James and the agents of the Puritans who went over to England from Leyden in 1618 to solicit his consent to their going to America. The monarch asked them, "What profit might arise?" He was answered in a single word—"Fishing." Whereupon James replied: "So God have my soul, 'tis an honest trade; 'twas the Apostle's own calling."†

Can anything be more conclusive?

Having arrived in the country which they had sacrificed so much to reach, (though north of the place of their destination on leaving Holland,) what did the Pilgrims do?

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\* The partners of the Pilgrims in England were numerous. They made a conditional sale of their interest in the property at Plymouth in October, 1626, which was completed in 1627. The contract was between Isaac Allerton, agent of the Plymouth settlers, and forty-two persons, who style themselves "adventurers to New Plymouth, in New England, in America." Governor Bradford, in commenting upon the terms of the bargain, says that "we were bound thereby to forfeit thirty shillings a week for every week that we failed of due payment" at the times specified. The purchase money was £1,800 sterling, in instalments of £200 annually, "on the feast day of St. Michael."

† The "Mysteries, Moralities, Farces, and Sotties" of the Roman church could not have been unknown to King James. Some account of them is preserved in the "Curiosities of Literature."

"It appears," says D'Israeli, "that the Pilgrims introduced these devout spectacles. Those who returned from the Holy Land, or other consecrated places, composed canticles of their travels, and amused their religious fancies by interweaving scenes, of which Christ, the Apostles, and other objects of devotion, served as the themes." He remarks further, that "these spectacles served as the amusement and the instruction of the people. So attractive were these gross exhibitions in the dark ages, that they formed one of the principal ornaments of the reception which was given to princes when they entered towns. When the mysteries were performed at a more improved period, the actors were distinguished characters, and frequently consisted of ecclesiastics of the neighboring villages, who incorporated themselves under the title of *Confreres de la Passion*."

John Bouchet informs us that he saw one of these mysteries performed at Poitiers in great triumph and splendor, and that most of the ladies and gentlemen of the neighboring countries were present. It was called "The Nativity, Passion, and Resurrection of Christ." Another of the mysteries had for its subject the election of an apostle to supply the place of the traitor Judas. In this, Anne and Caiaphas are introduced, conversing about St. Peter and St. John:

"*Anne*. I remember them once very honest people. They have often brought their fish to my house to sell."

"*Caiaphas*. Is this true?"

"*Anne*. By God it is true: my servants remember them very well. To live more at their ease they left off the business; or perhaps they were in want of customers. Since that time they have followed Jesus, that wicked heretic, who has taught them magic: the fellow understands necromancy, and is the greatest magician alive, as far as Rome itself."

According to Lord Woodhouselee, (late professor of civil history, and Greek and Hebrew antiquities, in the University of Edinburgh,) these mysteries were the first dramatic representations known in Europe. They were acted, he says, in his Universal History, by the monks in their churches. They originated in the 12th century, and continued to be performed in England even to the 16th century. In the reign of Henry the 8th, the Bishop of London prohibited the performance of any plays or interludes in churches or chapels.

The records of their sojourn at Cape Cod—the “Shoal Hope” of Gosnold—show that they were not only anxious to settle on the coast, but on such particular parts of it as would afford them the surest rewards for searching the seas.\*

Nothing in our history is more certain than this; but I have not room to go into the evidence. Their good pastor, Robinson, who was the soul of the undertaking, never joined them; but his sons did; and as one of them settled at Cape Ann, and another fixed his abode at Scituate, we may conclude that they designed to follow the “honest trade” of fishing. We may close the discussion with the sentiment that our fisheries should be dear to the American people because of the hallowed names connected with their origin, and should be thought worthy of national protection for this reason alone.

True to their indenture with the English merchants, we are now to find that the Pilgrims embarked at once in the fisheries.

Singular to observe, early in the spring after their arrival an Indian, to their “no small amazement,” came boldly in among them, and said: “Welcome, Englishmen,” in their own language. His name was Samoset. He was followed in a few days by another, who was called Squanto, or Tisquantum. Both had been acquainted with the English who had fished on the coast, and could even tell the names of the masters and fishermen of the ships. The latter, indeed, had been carried to England by a vessel that fished at Monhegan, and had lived with a London merchant two years. Squanto served them faithfully till the end of his life. He instructed them in the manner of taking fish, of planting corn, and of manuring the ground with alewives; and acted as their guide in their journeys.

In the spring of 1622, the settlers were in a famishing condition. Fortunately a boat from one of Weston’s fishing vessels (the Sparrow) came into the harbor, and gave information that thirty English ships were then engaged in making fares at Monhegan. Edward Winslow departed immediately for that island to procure a supply of provisions. The fishermen had no food to spare, and refused to sell, but freely gave sufficient to relieve the pressing wants of their Plymouth brethren; regretting, says Winslow, that their store was small, and that they could not express their love by a more liberal contribution. He returned with all convenient speed. “I found,” he remarks, “the state of the colony much weaker than when I left it; for till now we were never without some bread, the want whereof much abated the strength and flesh of some, and swelled others.” To answer the charge of negligence in suffering extreme destitution in a country represented to abound with fish and fowl, he adds: “*For though our bay and creeks were full of bass and other fish, yet, for want of fit and strong seines and other netting, they, for the most part, brake through, and carried all away before them. And though the sea were full of cod, yet we had neither tack-*

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\* After the Pilgrims had held a solemn consultation respecting their final settlement, a part of them were disposed to select a place which they called Cold Harbor, (between Truro and Wellfleet, Cape Cod;) because, among other things, “it seemed to offer some advantages both for whale and cod-fishery.” Others “insisted that they should proceed about twenty leagues further, to a place called Agawan, (now Ipswich,) a harbor which was known to fishermen who had been on the coast.”

*ling nor halsers for our shallops.* And, indeed, had we not been in a place where divers sort of shell-fish are, that may be taken with the hand, we must have perished, unless God had raised some unknown or extraordinary means for our preservation." These are interesting facts, and afford us accurate knowledge of what was passing on the fishing grounds of Maine, as well as allow us to chronicle an instance of praiseworthy humanity on the part of the fishermen, and explain the causes of the distress for food which prevailed at Plymouth.

While thus destitute, the Charity and the Swan, two other of Weston's ships, entered the harbor, with some fifty or sixty men, who, relates Winslow, "were received into our town with whatsoever courtesy our mean condition would afford."

The calamities of the Pilgrims were not at an end. In 1623, without relief from abroad, they were reduced to a single boat; "and that," writes the quaint Hubbard, "none of the best." Yet "*it was the principal support of their lives,*" for "it helped them to improve the net wherewith they took a multitude of bass, which was their livelihood all that year." "Few countries," he continues, "have this advantage. Sometimes fifteen hundred of them have been stopped in a creek, and taken in a tide. But when these failed, they used to repair to the clam banks, digging on the shores of the sea for these fish." Neal's account is similar. It is certain that they possessed but one boat, and one net. Such were their resources to prevent absolute starvation; and as they spread a part of the fish they caught upon their corn lands as manure, they were compelled to watch these fields at night, during seed time, to preserve them from the depredations of wolves.

The only people near them were Weston's fishermen at Weymouth. But in the course of the year, the colony there was abandoned. Some perished of hunger; one exhausted his little strength in crawling to a clam bank, and died upon it. Of the survivors, a part subsisted by stealing from the Indians, and others endeavored to reach Monhegan, thence to embark for England. Weston, hearing of these disasters, and anxious to ascertain the condition of his affairs, came over in one of his own fishing vessels, disguised as a blacksmith. He was shipwrecked, stripped by the Indians, and barely escaped with his life. Strange are the vicissitudes of human condition: he, the English merchant, who, in the day of his prosperity, had been the adviser and patron of the weary and stricken Pilgrims, now presented himself before them at Plymouth, in garments borrowed to cover his nakedness, a broken and ruined man!

The period of extreme need soon passed away. In 1624 they sent a ship to England laden with fish, cured with salt of their own manufacture, and the year following despatched two others with fish and furs; but one, when near the English coast, was captured by the Turks. In 1626 they opened a trade with the fishing vessels at Monhegan, and commenced voyages to different parts of Maine to procure fish and furs; and two years later, we find them selling both corn and the products of the sea to the Dutch on Hudson's river. Meantime, the irregular and licentious course of the English fishermen upon the coast had been stated in terms of earnest complaint by Governor Bradford, in a letter to the council that claimed the country and its fishing

grounds. Meantime, too, West, commissioned by this council to levy a tax upon vessels that were found fishing or trading within the limits of their domains, had appeared at Plymouth to execute his duties; but unable either to collect tribute money, or to obtain a recognition of the rights of his principals, he had departed the seas, insulted and discomfited.

The Pilgrims may have built their first vessel in 1641. Their circumstances considered, this was an affair of greater moment than the construction of a first-class packet-ship at the present time. This barque was of but forty or fifty tons, and the cost was estimated at only £200; yet there were thirteen owners and a building-committee of four. The name has not been preserved. The same year, Mr. John Jenny was allowed certain privileges at Clarke's island, to make salt, which he was to sell to the inhabitants at two shillings the bushel; and "the herring wear was let for three years to three persons, who are to deliver the shares of herrings, and to receive one shilling and sixpence the thousand for their trouble." Still further to promote the manufacture of salt, the use of thirty acres of land, at the island, was granted, in 1642, "to the five partners, for twenty-one years;" and about the same time, leave was given to William Paddy and John Hewes to erect fishing-stages at a place which yet retains the name of "Stage Point."

Previous to 1650 the people of Hull were allowed to seine fish at Cape Cod; but some irregularities having occurred, the Plymouth court passed an order of interdiction, and limited the fishery there to persons belonging to the towns of Plymouth, Duxbury, and Nauset, under restrictions intended to insure an "orderly course in the management of it."

Subject to continual annoyance and interruption by the fishermen of Massachusetts, the court, in 1668, directed that a communication should be sent to the government of that colony "to request them to take some effectual care for the restraint of this abuse, as much as may be." The property at Plymouth was "rated" the same year. All persons "engaged about fishing" were "valued at twenty pounds estate." This was high; inasmuch as Edward Gray, whose stock in trade was the most valuable, was rated only "six score pounds."

In 1670, a valuation was made of the "fish-boats," and four were estimated at twenty-five pounds each. Though called boats—and I suppose without decks—many, probably, were of several tons burden, and could be safely employed at a distance from shore. The fisheries, at this period, were considered as well established, and were steadily and profitably pursued.

Fifty years had now elapsed since the settlement of Plymouth. The country, back from the sea, was yet a wilderness. A generation, born in the colony, had attained manhood. Religious worship was maintained in all the towns, but there were no public schools. Few of the Mayflower Pilgrims were then alive; and the number of educated persons was small. A proposition had been made, as appears by the proceedings of the court, to provide schoolmasters "to train up children to reading and writing;" but without results. The profits of the mackerel, bass, and herring fisheries at Cape Cod, were now granted to found a

FREE SCHOOL; and in 1671, under John Morton as teacher, and Thomas Hinckley as steward of the fund, such a school was opened in the colony. This is a most interesting incident: the Cape which afforded the first shelter to the fathers, supported the first public seminary for the education of the children!

Morton, who was a nephew of the secretary of the colony, proposed merely to teach the youth of *one* town "to read, write, and to cast accounts." But a grammar-school was soon established in Plymouth; and several were actually in operation in other places as early as the year 1680.

The fisheries, I conclude, were considered public property, and were generally leased to individuals for the benefit of the colony, or of particular towns. The subject of "rents" and of "profits" is continually referred to in the records, and orders to grant leases to petitioners, or to protect lessees in the enjoyment of the privileges stipulated in the covenants with them, are of frequent occurrence. An ordinance of the latter description of extreme severity was passed in 1678—the court directing that all fishing vessels not belonging to the colony should be seized for public use by warrant from the governor, or one of his assistants, and that the lessees of the colony fisheries should be entitled to damages, to be paid them out of the proceeds of the vessels seized and confiscated. The people of Massachusetts were alone exempted from the penalties of this extreme measure.

Randolph, the first collector of the customs of Boston, gave a general account of the different New England colonies at this period, and said of "New Plymouth" that the people were principally "farmers, graziers, and fishermen;" that there were "very few merchants, they being supplied with all foreign commodities from Boston;" and that "they have no ships of burden, but only small ketches and barks, to trade along the coast, and take fish."

The colony of Plymouth was united with Massachusetts by the charter of William and Mary in 1692, and a separate notice of its fisheries accordingly ceases at that date.

John Alden, the last of the Pilgrim band, died only five years previously. He lived in America sixty-seven years; and in every administration during the whole time he participated in public affairs.

To regard his connexion with our subject as merely official, his relations commenced with the first, and terminated only with the last, of the incidents that I have here recorded. But we know, besides, that his private interest in the "wealth of seas" and in general trade was often extensive.

Sufficient has now been said to show the general course of affairs among our fathers, and to connect the branch of industry under notice with some of the most hallowed names in our annals. Mark Antony,\*

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\* The Romans, like the Egyptians, carried the art of rearing fish to great perfection; and almost every rich citizen had a fish-pond. At some of their feasts a thousand of the choicest fishes were set upon their tables; and at a supper given to Vitellius by his brother, there was double that number provided for the guests. It was a custom, at one time, to carry the dolphin to their eating-rooms alive, in order to glut their eyes with the changes of its color when dying. They were, perhaps, the most sensual and luxurious people who have ever lived. Their gormandizing habits may be seen from the circumstance of Julius Cæsar's having taken

who was a keen fisher, was told by Cleopatra to "leave fishing to us petty princes of Pharos and Canopus." Leave it, is the sentiment of too many of our countrymen, to "the ignorant, the superstitious, and the improvident;" and a single remark more may not, therefore, be ill-timed.

Bradford and Winslow, both of whom were governors, with Alden, Standish, Brewster, Allerton, and Howland, as associates, were not only lessees of fisheries, but of the whole commerce of the colony for a term of years.

These were all Mayflower Pilgrims, and all signers of the compact at Cape Cod, before the landing, in which the great principle that the "majority shall govern" is recognised. Of Allerton, indeed, we may speak as of a regular dealer in fish and furs, since we find that he owned vessels, conducted a fishery at Marblehead, made voyages to different parts of Maine, established a trading-house far within territory claimed as Acadia, and in Connecticut received products of the sea for sale on a share of the profits. In fine, he was one of the most active and enterprising men of his day, and, though devoted to trade, was employed in arranging the most difficult concerns of the colony both at home and in England. To cross the ocean two centuries ago was a matter of vast moment, but Allerton visited the country of his birth no less than five times in the brief space of four years.

Such, in conclusion, were some of the men who devoted time and talents to a business fit only for "the ignorant, the superstitious, and the improvident."

a vomit before supping with Cicero, the better to make an enormous meal. When one of the Stoics saw the works of Lucullus on the seacoast—the immense cellars and vaults, fish-ponds and reservoirs, which he had constructed—he called him "Xerxes in a gown." And Cato, the censor, in complaining of his countrymen, said, "It was a hard matter to save Rome from ruin, when a fish was sold for more than an ox." The Roman emperor Elagabalus, according to Gibbon, "would never eat sea-fish except at a great distance from the sea. He then would distribute vast quantities of the rarest sorts, brought at an immense expense, to the peasants of the inland country." Marc Antony is said to have given the house of a Roman citizen to a cook who prepared for him a good supper.

Some of the most eminent warriors and statesmen were extravagantly fond of fishing. Antony was one of these. The remark quoted in the text is to be found in Plutarch, who relates the following story: "He was fishing one day with Cleopatra, and had ill success; which, in the presence of his mistress, he looked upon as a disgrace. He therefore ordered one of his assistants to dive, and put on his hook such as had been taken before. This scheme he put in practice three or four times, and Cleopatra perceived it. She affected, however, to be surprised at his success, expressing her wonder to the people about her; and, the day following, invited them to see fresh proofs of it. When the day following came, the vessel was crowded with people; and as soon as Antony had let down his line, she ordered one of her divers immediately to put a salt-fish on his hook. When Antony found he had caught his fish, he drew up his line; and this, as may be supposed, occasioned no small mirth among the spectators. 'Go, General,' said Cleopatra, 'leave fishing to us petty princes of Pharos and Canopus: your game is cities, kingdoms, and provinces.'"

Travellers in modern times find the ruins of Roman fish-ponds. At Agrigentum is seen an artificial lake, about a quarter of a league in circumference, dug out of solid rock by the Carthagenian captives, and to which water was conveyed from the hills. It was thirty feet deep; and great quantities of fish were kept in it for the public feasts. The fish-ponds of Nero were numerous; and the Coliseum is said to have been erected on the site of one of them. Fishing nets, some of them quite entire, have been found in great numbers in Herculaneum, as well as in Pompeii.

## MAINE,

*From 1607 to the Revolutionary Controversy.*

We have elsewhere seen that, as the French claimed the entire country between the Kennebec and the St. Croix, the ancient limits of Maine embraced hardly more than one-third of its present territory. As, too, mention has been made of the most distinguished English voyagers who followed Gosnold to explore the coast, the first incident to demand our attention is the mission established by the Fathers Baird and Masse, in 1609, at a place which they called St. Saviour, on the island of Mount Desert. They were Jesuits, and were soon joined by Father Du Thet, of the same order. In 1613, Sir Samuel Argal, who was subsequently governor of Virginia, while on a fishing voyage to the waters in the vicinity, was wrecked at Penobscot, and was informed by the natives of the founding of this mission; and on his return to Virginia, measures were immediately adopted to destroy it. Eleven fishing vessels, provided with soldiers and cannon, under the command of Argal, were speedily despatched to accomplish this purpose. The French had a ship and a barque in the harbor with guns on board, and had commenced a small fort; but, surprised at the appearance of the English, with no cannon mounted on shore, and with most of their men absent in their various employments, they were easily subdued. Resistance was, however, made from one of the vessels, and Du Thet was killed while levelling a ship's gun, and several who assisted by his side were wounded. Argal, soon master of the settlement, broke up the cross and other emblems of French possession, destroyed everything connected with the mission, and, after performing a similar exploit further east, returned to Virginia. This, it is of interest to remark, was the beginning of the contests, wars, and bloodshed between the English and the French, which, with occasional intervals, continued for a century and a half, and which terminated only when the flag of England waved upon every American sea between Mexico and Labrador.

Sir Samuel Argal's character is variously represented. That he was a bold and a bad man seems probable. The year before he came to Mount Desert he carried off the celebrated Indian princess, Pocahontas, and actually held her as his prisoner, when Rolfe wooed and won her. The Earl of Warwick was his partner in trade, and, as is said, was defrauded by him.

Omitting several minor events, we come at once to consider Maine as an English colony.

The first inhabitants were neither Puritans nor refugees from persecution. Sir Ferdinando Gorges, the original proprietor, or lord palatine, was an Episcopalian, and a stout royalist or adherent of the Stuarts, and those whom he sent over to settle his domain were of the same religious and political sentiments. He was a devoted friend to the colonization of America, and deserves our gratitude, even though we are sometimes compelled to condemn his plans, and the grasping spirit which he evinced as a member of the Plymouth Council. It may be

admitted that his purposes were entirely personal, and that he aimed solely to acquire wealth; but still, whatever were his motives, the voyage of Challon, in 1606; the enterprise of the Pophams and the Gilberts to the Kennebec, the following year, in which he had an interest: the voyages for fishing and trade of Richard Vines, his agent, steadily pursued for years in a ship purchased with his own money; the adventure of Dermer to the island of Monhegan, undertaken under his auspices, in 1619; the aid he afforded to Sir William Alexander, in 1621, to procure the patent of Nova Scotia; the grant obtained by John Mason and himself of the country between the Merrimack and the Kennebec rivers, in 1622; and the subsequent grant, in his own individual right, of the territory between the Piscataqua and the Kennebec, which, in honor of Queen Henrietta,\* he called MAINE—were all beneficial to New England, and hastened its settlement. Yet, for himself and his heirs, Gorges really accomplished nothing.† Two centuries ago one hundred thousand dollars was a large sum; but he expended that amount of money in his various enterprises in America, which was entirely lost, if we except the twelve hundred and fifty pounds sterling received by the representative of his family, in 1677, from Massachusetts, in the purchase, and in full payment for a quitclaim deed of Maine.

The immediate objects of Gorges were to establish fisheries, to erect saw-mills, and to open a communication with the Indians. Fishing and lumbering, indeed, continued to be the great branches of industry for more than a century after his death. As late as the year 1734, there were no more than nine thousand persons of European origin between the Piscataqua and the St. Croix, and thence to the dividing and disputed "highlands," where royalty last contended for the soil of Maine. In truth, not a grant was made east of the Penobscot previous to 1762; and Machias, though the oldest town between that river and the frontier, was not alienated prior to 1770, and had no corporate existence until Massachusetts became an independent State. The general condition of Maine, in fine, as the revolutionary controversy came to a crisis, may be summed up thus: the whole number of inhabitants was about equal to the present population of the cities of Portland and Bangor; the supreme court held one term at Falmouth, (now Portland,) and one at York, annually; there were ten representatives to the general court, none of whom lived east of Brunswick or the Androscoggin river; the number of clergymen was thirty-four; the six councillors or barristers at law were William Cushing, James Sullivan, David Sewall, Theophilus Bradbury, Caleb Emery, and David Wyer, all of whom were whigs, except the last; of incorporated towns, there were twenty-five; the only custom-house was at Falmouth; the patronage of the crown was confined to the officers of the revenue, to a corps of civil functionaries by no means numerous, to a surveyor of the king's forests, and his deputies.

\* She was a French princess, and her estate in France was called "the province of Maine."

† Sir Ferdinando Gorges died before June, of the year 1647. He suffered much for his devotion to the Stuarts. Maine, of which he became sole proprietor, was neglected by his son John, to whom it descended; and was sold by his son Ferdinando, in 1677, to Massachusetts, for the sum £1,250. The first Ferdinando was the author of tracts on American colonization.

I propose now to take a rapid view of the events connected with the sea. It may be assumed that the island of Monhegan—already so frequently mentioned in this report—was the seat of the first fishery in Maine; and that the first *resident* fishermen were those who fixed their abodes on the coast of the main land between the Kennebec and Damariscotta, in 1626. The same class of men had habitations at Cape Porpoise as early as 1630; and there were fishermen's cabins and hunters' camps, very possibly, near the site of the city of Portland, before the close of the same year.\*

In 1631, Aldsworth and Eldridge, two merchants of Bristol, England, obtained a grant known as the "Pemaquid patent," which gave them the exclusive right to fish in their own waters.

The patent embraced several thousand acres of land on the main, the Damariscove islands, and all other islands within nine leagues of the shore; and thus, whether designedly or otherwise, included Monhegan. The whole territory, though now almost in the centre of the seacoast of Maine, was east of Gorges' eastern boundary, and therefore within the French claim. It would seem that a fishery was established at Richman's, or Richmond's Isle, near Portland, previous to 1631; since, in that year Prince records, in his annals, that Governor Winthrop was informed of the murder there of Walter Bagnall and another person, by "Squidecasset," an Indian sachem; which isle, says Prince, was part of a tract of land granted to Mr. Trelane,† a merchant of Plymouth, England, who had "settled a place for fishing, built a ship, and improved many servants for fishing and planting." The annalist should have added, that the grant was to Goodyear, as well as to Trelawney. Both were Episcopalians; and in 1632, they appointed John Winter to superintend their fishery. Richmond's island soon became an important and noted place; several ships were furnished with cargoes of fish annually, and Winter often employed as many as sixty men. Josselyn was at the island in 1638, and relates that he went on board the Fellowship, a ship of one hundred and seventy tons, and that among the friends who came to bid him farewell was a Captain Thomas Wannerton, who drank to him "a pint of kill-devil, *alias* rhum, at a draught." Winter, says this quaint chronicler, was "a grave and discreet man." The whole population of Maine, at this time, did not exceed one thousand persons, of whom quite half were fishermen, who lived at the places named above, on the river St. George, and elsewhere on the coast west of the mouth of the Penobscot.

In 1645 there was an action commenced in the courts against Winter, by John Trelawney, of Piscataqua, on an account for services in the fishery at Richmond's island, in which Trelawney appears to have recovered judgment.

Winter died the same year, leaving a daughter, who married Robert Jordan, an Episcopal clergyman. Jordan administered upon Winter's estate, and became involved in suits and difficulties in closing his

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\*The first house in Portland was built by George Cleeves, in 1632, at a place called *Machigonne* by the Indians, and Cleeves' Neck, or Munjoy's Neck, by the English. Cleeves became a distinguished magistrate in that part of Maine, and died very aged.

† The name should be Trelawney.

affairs. "The report of the commissioners for the plantation at Richmond's island," made in 1648, is worthy of notice, as containing curious facts to show the prices and transactions of the time. The commissioners were appointed at the instance of Jordan, who claimed that a balance was due the estate of his father-in-law. It is said in the report, that, in the six years preceding his decease, Winter had sent his principal in England, "in several ships, in fish, merchantable and refuse, 3,056½ quintals," and of "core-fish, 38½ quintals;" of "train-oil, 11 hogsheads;" and other commodities of the sea; which, "according to the prices here, cannot amount to less than £2,292." The inventory of the property belonging to the fishery, shows three boats in use, with their moorings and appurtenances, £28; two old boats out of use, valued at £2; the fishing stage, with a quantity of old casks, £10 6s.; six dozen hooks, at 16 shillings; five dozen of lines, at £7; one seine and two old nets, £4 10s.; about ninety hogsheads of salt, £65 10s.; and that there was due the concern by a Mr. Hill, the sum of £84 15s. 9d. for one hundred and thirty-three quintals of fish sold but not paid for.

The fishermen who frequented the waters of Maine having often destroyed timber and wasted the forests on the shores, and having acquired the habit of carelessly packing and curing their fish, the county court were directed to appoint proper officers to correct these abuses by an ordinance of 1652; at which time Pemaquid had become the principal plantation between the Kennebec and the Penobscot, a great fishing mart and place of shelter for vessels passing to and from the French and English settlements scattered along the coast.

In 1657, we have an Indian deed of land in Portland as follows: "Be it known unto all men that I, Scittery Gasset, of Casco Bay, Sagamore, do hereby firmly covenant, bargain, and sell unto Francis Small, of the said Casco Bay, fisherman, his heirs, &c., all that upland and marshes at Capisic, lying up along the northern side of the river, unto the head thereof, and so to reach and extend unto the river side of Ammoncongans." This Sagamore was, possibly, the murderer of Bagnall, at Richmond's island, in 1631. The consideration for the lands sold to Small was one trading coat and one gallon of liquor annually. Four years later Nicholas White, of Casco Bay, sold to John Breme, "now of the same Bay, fisherman," all his interest in House island, near Portland, being one quarter part, but reserved liberty to Sampson Penley to make fish on the island during his life. These conveyances show what was passing two centuries ago at the present commercial capital of the frontier State.

In 1667 the commissioners of King Charles to New England gave a sad account of the morals of the persons connected with our subject on the "Kennebec river," upon "Shipscot river," and at "Pemaquid." "These people," say they, "for the most part, are fishermen, and never had any government among them; most of them are such as have fled from other places to avoid justice. Some here are of opinion that as many men may share a woman as they do a boat, and some have done so." Josselyn's\* picture of Maine, at this period,

\* John Josselyn arrived in Boston in 1663, and lived in New England a number of years. His account of his adventures in his two voyages is amusing.

is too curious to be omitted, though my limits will not permit its insertion entire. "About eight or nine miles to the eastward of Cape Porpoise," he writes, "is Winter harbor, a noted place for fishers; here they have many stages." "At 'Richmond's island' \* \* are likewise stages for fishermen. Nine miles eastward of Black Point lyeth scatteringly the town of Casco,\* upon a large bay, stored with cattle, sheep, swine, abundance of marsh and arable land, a corn-mill or two, with stages for fishermen. \* \* \* Further yet eastward is Sagadahock,† where are many houses scattering, and all along stages for fishermen. \* \* \* \* From Sagadahock to Nova Scotia is called the Duke of York's province; here Pemaquid, Martinicus, Mohegan, Capeanawhagen, where Captain Smith fished for whales, Muscataquid, all filled with dwelling-houses and stages for fishermen."

Again, he says that "The people in the province of Maine may be divided into magistrates, husbandmen or planters, and fishermen: of the magistrates some be royalists, the rest perverse spirits: the like are the planters and fishers, of which some be planters and fishers both—others mere fishers." After speaking of the quantity of fish taken, and of the various markets to which the different qualities were sent, he thus describes the manner of fishing and the habits of those who lived by the use of the hook and line: "To every shallop belong four fishermen: a master or steersman, a midshipman and a foremost-man, and a shoreman, who washes it out of the salt, and dries it upon hurdles pitched upon stakes breast-high,‡ and tends their cookery. These often get in one voyage eight or nine pounds a man for their shares." The money they earned, he continues, was squandered in drunken revels. The arrival of a "walking tavern," (as he calls a vessel laden with wine, brandy, and other intoxicating liquors,) put an end to fishing, and no persuasions which their employers could use were sufficient to induce them to go to sea for two or three days—"nay, sometimes a whole week," and until wearied with drinking. When thus carousing, "they quarrelled, fought, and did one another mischief."

The course of events during the hostile relations between France and England, cannot be stated in detail. Particular cases will show, however, the general conduct of the French rulers in Acadia, and the kind of warfare meditated and actually perpetrated by their savage allies within the borders of Maine. For a time, the Acadian seas were visited by the eastern fishermen without molestation. But in 1675, De Bourg, the French governor, not only prohibited his people from continuing their intercourse with their Protestant neighbors, but levied an impost or tribute of four hundred codfish on every English colonial vessel found fishing upon the coast of Acadia, and required his officers to seize all that refused, and to take away whatever fish had been caught with the outfits and provisions on board.|| The remark of Mugg, (a

\* Portland.

† The country between the Kennebec and the Penobscot.

‡ The manner of drying on "flakes" is very similar at the present time.

|| Randolph, in a letter dated at Boston, July 28, 1686, and addressed to Mr. Blaithwait, England, remarks: "There will, I fear, be an eruption betwixt the French of Nova Scotia and our people in Maine and New Hampshire," and for reasons which he relates. "We have sent," he further says, "to all places to warn our people, and to the fishermen, not to venture upon their coasts, lest they be surprised and made to answer for damages done by strangers."

sachem of some note,) a year or two afterwards, to the Indians on the Kennebec, it may be assumed, was of French origin: "I know," said the savage, in a laughing mood, "*I know how we can even burn Boston, and drive all the country before us; we must go to the fishing islands and take all the white men's vessels.*" In the lapse of a few years, the fishermen at Cape Porpoise were either slaughtered or driven off, and the settlement there laid desolate; a fishing smack was intercepted near Portland, three of her crew killed, and the remainder carried into captivity; eight fishing vessels were captured at the Fox islands; the coast for more than a hundred miles was abandoned, and the wretched men who depended upon the sea for support, without shelter, and too scattered for concert and resistance, were compelled to suspend their employments.

In 1725, several eminent sachems arrived at Boston to negotiate a treaty with the government of Massachusetts. The fisheries were resumed with the return of peace.

From this time to the controversies that preceded the Revolution, there are but few incidents, in so rapid a narrative, to detain us. The Rev. Thomas Smith, of Portland, records in his journal, under date of September, 1726, that a "storm brought into our harbor about forty large fishing vessels," a fact that indicates a rapid recovery from the desolations of war. He mentions, also, that in the same year several persons, with their families, emigrated to that place from Cape Ann. In 1741, he writes that "the fish struck in, which was a great relief to people almost perishing." The number of fishermen who now had homes in Maine was six hundred.

The war of 1756 was disastrous to persons engaged in maritime enterprises, and several vessels were captured by the French while on the fishing grounds of the eastern coast. An armed ship was finally employed to protect these grounds, and the general trade of the English colonists. In 1760, Mount Desert, containing sixty thousand acres, and the largest island in Maine, was granted to Sir Francis Bernard, the governor of Massachusetts. The gift, made by the general court, was confirmed by the King, and was valuable, at the time, only for purposes of a fishery. Much harmony prevailed between Sir Francis and the people he was sent to govern, for two or three years; but at his recall, in 1769, when the disputes which he provoked had embarrassed trade, ship-building and the fisheries, there were few who lamented his departure.\*

In conclusion, two distinguished natives of Maine, who are intimately connected with our subject, may receive a passing notice.

Sir William Phipps was born at Bristol, the "ancient Pemaquid," and was one of twenty-six children borne by his mother, of whom twenty-one were sons. He lived in Maine until he was twenty-two years of age, when he went to Boston, where he learned to read and write.

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\* Sir Francis Bernard succeeded Pownall as governor of Massachusetts in 1760. He was created a baronet in 1769; and the general court drew up a petition to the King for his recall the same year. He died in England in 1779. He was a friend of literature, and a benefactor of Harvard University. His faults were parsimony, an excitable and arbitrary disposition, the want of address and wisdom.

He engaged in various enterprises, from time to time, by which he acquired wealth. In his endeavors to conquer the French possessions in America he was unwearied, for he saw that, unless they were added to the British crown, there could be no peace upon the fishing grounds. He was at last knighted, and, under the second charter of Massachusetts, was appointed the first governor. When the Indians, who knew him in his youth, listened to the tale of his successes and honors, they were amazed, for, says an old writer, "they had fished and hunted with him many a weary day." He died in 1695, without children.

Sir William Pepperell, the commander of the memorable expedition against Louisbourg, was the son of a fisherman of the Isles of Shoals. As a merchant at Kittery, the oldest incorporated town in Maine, where he was born, where he lived and died, and where strangers are still shown his large mansion-house and his tomb, he was personally concerned in the fisheries. He acquired great wealth. The dignity of a baronet of Great Britain, an honor never before nor since conferred on a native of New England, was bestowed in reward of his military services; and not long previous to his death, he was created a lieutenant general. He deceased in 1759. His grandson, who inherited his title and a large part of his estate, was a loyalist in the Revolution; and losing his patrimony under the confiscation act, was a recipient of the bounty of the British crown. The baronetcy is now extinct; and such are the vicissitudes of human condition, that members of the Pepperell family have been literally saved from becoming inmates of an almshouse by individual charities.

#### NEW HAMPSHIRE.

##### *From 1623 to the Revolutionary Controversy.*

To include the early inhabitants of New Hampshire with Puritans and among refugees from religious persecution, as some do, is to degrade to mere fable many of the best authenticated facts in history. The sole purpose of the first and of the subsequent proprietors was to acquire wealth by fishing and trading. The original patentees were Sir Ferdinando Gorges, John Mason, and several merchants of London, Bristol, Plymouth, Dorchester, and other places in England, who purchased the country between the Merrimack and the Kennebec,\* and back to the great lakes and the St. Lawrence, and styled themselves the "Company of Laconia." In 1623 they sent over David Thompson, Edward and William Hilton, fishmongers in London, with a number of other persons, in two divisions, furnished with ample tools, implements, and provisions, to commence a fishery and plant a colony. One division landed on the south shore of the Piscataqua, at its mouth, where, immediately to provide salt to cure fish, they built salt works,

\* In a paper which Hutchinson preserves in his "Collection," and which he ascribes to the commissioners of Charles II, or to some person employed by them, it is said that "Mr. Mason had a patent for some land about Cape Ann before the Massachusetts had their first patent; whereupon Captain Mason and Mr. Cradock, who was the first governor of the Massachusetts, and lived in London, agreed that the Massachusetts should have that land which was granted to Captain Mason about Cape Ann, and Captain Mason should have that land which was beyond Merimac river and granted to the Massachusetts," &c., &c.

and, to secure shelter for themselves, they erected a house which they called "Mason Hall." The fishery and fur trade engaged their whole attention to the exclusion of agriculture; and, during the seven years succeeding their arrival, they completed but three or four buildings.

Gorges and Mason soon became sole owners of Laconia; for their associates, discouraged by the continual demands upon them without returns for the capital invested, relinquished their shares. But Gorges and Mason did nothing to change the original designs of the first patentees. They formed no government; they merely employed men to fish and trade for them, without erecting any tribunals whatever to protect their own interests or the rights of others.

Finally, Laconia was divided into two colonies. To Gorges was assigned, in his own right, the region east of the Piscataqua, to which he gave the name of Maine; and to Mason the territory on the westerly side of that river, which, in honor of the county in which he lived in England, he called *New Hampshire*.

Mason was bred a merchant, but became an officer in the British navy, and in that capacity had resided at Newfoundland as one of the governors of that island, of the description spoken of in the second part of this report. He was, therefore, personally acquainted with the management of a fishery. In his sentiments he was so unlike the Puritans of the time as to anxiously desire the introduction of the feudal system of lords and serfs into his domain of New Hampshire. This was his darling plan, and he put his fortune at stake and sacrificed his all to accomplish it. Such was the founder of Portsmouth, and of the State of which it is the commercial capital.\*

The history of industry upon the sea, for the century and a half that New Hampshire remained an English colony, is brief and without events of particular interest. In 1632 Mason wrote from London to his agent Gibbens, on the Piscataqua, that "the adventurers here have been so discouraged by reason of John Gibbs's ill dealing in his fishing voyage, as also by the small returns sent hither by Captain Neale, Mr. Herbert, or any of their factors, as that they have no desire to proceed any further until Captain Neale come hither to confer with them, that, by conference with him, they may settle things in better order." Again, in the same letter he remarks that "we desire to have our fishermen increased, whereof we have written to Mr. Godfrey." In July, 1633, Gibbens said, in a communication to his employers, that "for your fishing you complain of Mr. Gibbs. A Londoner is not for fishing, neither is there any amity betwixt the west-countryment and them. Bristol or Barnstable is very convenient for your fishing ships. It is not enough to fit out our ships to fish, but they must be sure (God will) to be at their fishing place the beginning of February, and not come to the land when other men have half their voyage." The last letter is apparently a reply to the first, and both show that, after ten years' experience, the fishery was managed without skill, and afforded no profit, while the intimation of Gibbens, relative to the late arrival o

\* He died in 1635. In 1691 his heirs sold their rights to New Hampshire to Samuel Allen.

† West countrymen of England. Nearly all the fishing vessels that came to America were from the west counties.

his employers' ships, may be construed to mean that English merchants sent their vessels to our coast in mid-winter.

The colony was indeed in an unpromising condition. For years afterwards there was but little change for the better. The colonists neglected the soil, and the food necessary for their support was obtained in Virginia and England. "Piscataway," said the noted John Underhill, "is a desirable place, and lies in the heart of fishing;" and such is the uniform account of the early chroniclers; but yet, the capital invested there by the original patentees, and by Gorges and Mason, was entirely lost.

Winthrop relates that in 1641 a shallop, with eight men, "though forewarned," set sail on the "Lord's day" from Piscataqua, for Pemaquid; that, driven before a northwest gale, they were absent at sea about fourteen days, but arrived finally at Monhegan, where four of the men perished of cold, and where the survivors were rescued by a fisherman.

The trade of Portsmouth was of slow growth. The number of vessels that entered the port in 1681, was forty-nine; but some were of the burden of ten tons, or mere boats, and none were larger than one hundred and fifty tons; while the whole amount of impost or customs collected was less than £62. A pleasant anecdote of a worthy divine of that town occurs in 1690, which may be here related. This clergyman, in speaking of the depravity of the times, is represented to have fallen into the error of saying to his people, that "they had forsaken the pious habits of their forefathers, who left the ease and comfort which they possessed in their native land, and came to this howling wilderness to enjoy, without molestation, the exercise of their pure principles of religion;" when one of the congregation, interrupting him, rose and replied: "Sir, you entirely mistake the matter; *our ancestors did not come here on account of their religion, but to fish and trade.*" The hearer, however discourteous, was in the right as to the fact.

In 1715, Kittery, opposite to Portsmouth, in Maine, and the seat of an extensive fishery, was made a port of entry in consequence of the improper duties and exactions (as was alleged) which the government of New Hampshire demanded of the merchants and fishermen trading at the towns on the Piscataqua. The difficulties which caused this measure seem to have occasioned much excitement. Massachusetts, to secure respect to her authority, erected a breast-work northerly of Kittery Point, and laid a platform sufficient to mount six guns; appointed a naval officer and notary; and ordered the masters of fishing and of other vessels, as well as other persons transacting business on the river, to pay into *her* treasury, imports, powder-money, and other duties, as stipulated by her laws.

An answer was framed to inquiries of the Lords of Trade and Plantations, in 1730, which shows that the commerce of Portsmouth was still small. The exports were stated to be "fish and lumber;" the number of vessels was only five, of about five hundred tons in the aggregate; and the tonnage of vessels trading there, owned elsewhere, even less. "The province," it was said, "makes use of all sorts of British manufactures, amounting to about £5,000 sterling annually, which are had principally from Boston." "The trade to other plantations" was to

the "Carribbee islands, whither we send lumber and fish, and receive in return rum, sugar, molasses, and cotton; and as to trade to Europe, it is to Spain or Portugal, from whence our vessels bring home salt." This is a meagre account, after the lapse of more than a century.

There is nothing to add. The sea and the forest continued to supply the staple exports. A single distillery for the manufacture of New England rum was erected, and two or three vessels were sent, annually, to the Dutch and French West Indies to procure molasses for distillation, from the time, probably, that intercourse with these islands was interdicted, down to the Revolution; and this illicit traffic was the only material change in the commerce of New Hampshire between 1730 and 1775. Certain it is, that until the fisheries and other maritime pursuits were interrupted by the overthrow of the royal government, and the war that followed, agriculture was neglected.

The colony founded by Gorges and Mason depended upon axes and saws, shallops and fishing-lines, until necessity compelled a resort to the plough. Its first exports of corn were mid the desolations of the struggle that resulted in giving it the rank and blessings of an independent State.

#### ISLES OF SHOALS.

##### *From 1614 to the Revolutionary Controversy.*

The cluster of eight islands that bear this name, may contain possibly six hundred acres. Strangely enough, they belong to two States. Those named Haley's or Smutty-nose, Hog, Duck, Cedar, and Malaga, were embraced in the charter obtained by Gorges of King Charles, in 1639, and are under the jurisdiction of Maine at the present time; while Star, White, and Londoner's islands are united to New Hampshire. These islands were discovered in 1614, by the celebrated John Smith, and were named by him "Smith's Isles." This name was changed previous to 1629, since, in the deed of the Indian Sagamores to Wheelwright and others, of that year, they are called the "Isles of Shoals." Dreary and inhospitable in their appearance, they would have remained without inhabitants to our own day, probably, but for their advantageous situation for carrying on the fisheries. Upon them all there are chasms in the rocks several yards wide, and from one to ten deep, occasioned, as some suppose, by a violent earthquake.

In places, acres of rock are partially or entirely severed, and through the fissures thus formed, the sea at high tides, and in some storms, rushes in torrents. There is but one secure harbor, which is of great importance, sheltering not only to the vessels of the resident fishermen of the islands, but the merchant vessels coming upon the coast in distress.

The Isles of Shoals were occupied at a very early date, and soon became places of note and of great resort. In 1661, they were inhabited by upwards of forty families. The fisheries were prosecuted with vigor and success at that period, and subsequently, for quite a century. Three or four ships were loaded there annually, as soon as the year

1730, for Bilboa, in Spain; and large quantities of fish were carried, besides, to Portsmouth, to be shipped to the West Indies. Prior to the Revolution, the *dun-fish* of these islands had attained universal celebrity, and were considered to be the best table-fish in the world.

The population in 1775 was about six hundred. Fishing was the only employment. The annual catch was between three and four thousand quintals. The inhabitants owned a large fleet of boats and shallops, and several vessels; and fancied, as many fishermen still do, that the fishing grounds were prolific in proportion to the distance from home, and extended their adventures to Newfoundland accordingly. It is of interest to remark, as showing the prosperous condition of these islands, and the means of education in "the olden time," that gentlemen of consideration, of some of the principal towns on the seacoast, sent their sons there for literary instruction.

The war of the Revolution produced a disastrous change. It was found by the whigs that their enemies extorted articles of sustenance as well as recruits for their service, and they ordered the inhabitants to abandon their homes. In obedience to the hard mandate, a large proportion removed to towns on the main land, and never returned. A single incident that occurred early in the contest will serve to illustrate the general situation of the islanders previous to their dispersion: An aged woman, who lived on Star island, kept two cows, which fed in winter on hay cut in summer among the rocks with a knife, and with her own hands. These useful animals were always in excellent order, and to her were invaluable. To her great sorrow, though paid for, they were taken by the British and slaughtered for beef.

The fishermen of the Isles of Shoals, as a class, were moral and exemplary men during the entire period embraced in our inquiries. A place of worship was erected even before the year 1641, at which time the Rev. Mr. Hull was their minister. They were disturbed, however, in 1642, by Mr. Gibson, an Episcopal clergyman, who went among them, performed services according to the rites of his church, and created a disaffection towards the government of Massachusetts, which then claimed to exercise jurisdiction over them. The Rev. John Brock\* commenced his pastoral labors about 1650, and remained among them twelve years. He was an excellent man, and was succeeded by Mr. Belcher, who was equally worthy. Mr. Moody followed, in 1706, and continued their pastor upwards of twenty-five years. His successor was the Rev. John Tucke, whose ministry terminated only with his life, in 1773. Their last spiritual guide, previous to the general dispersion, two or three years afterwards, was the Rev. Jeremiah Shaw. Thus we have the remarkable fact that these lone islanders maintained religious worship, with hardly an interval, for one hundred and thirty-five years. Equally remarkable is the fact that the salary of Mr. Tucke was regarded, at the time, as one of the most valuable (his situation considered) in all New England. His stipend was fixed at a quintal of merchantable winter-fish per man, and no change was made for fifteen years. This quality of fish sold at a

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\* Rev. John Brock was born in England, in 1620; came to America about the year 1637, and died in 1688.

guinea the quintal, and the number who contributed to the good man's support was from eighty to one hundred.

A detailed account of the sufferings of these people must be omitted. It will suffice to say that, in the Indian wars, plundering excursions were frequent; that many females were carried into captivity; that one island was entirely deserted by the settlers, in consequence of savage inroads; and that strangers are now shown "Betty Moody's Hole," a chasm in the rocks, where, according to tradition, one Betty Moody concealed herself during an Indian incursion. Poor as they were, in everything but the products of the sea, they were still plundered by the infamous Low, and other pirates who infested our coast, and were disturbed in their industry by visits from the French, who captured their boats and shallops.

Brief, too, must be the record of disasters from and on the sea. Singular to relate, first, that soon after the settlement of these isles, a house on Haley's island was washed from its foundation in a storm, and carried entire to Cape Cod, where it was secured, and a discovery made of its place of departure by opening a box of linen, papers, &c., which it contained. Winthrop notices the oversetting of a shallop, in 1632, and the drowning of three fishermen, whose boat was cast upon the rocks eleven years later. Hubbard speaks of "several fishermen" who, embarking at the isles a day or two before Christmas, 1671, to keep the holiday at Portsmouth, perished in going on shore from their vessel. And we learn, from another source, that in 1695, "many boats and men" were lost in a violent gale. These instances, to except the extraordinary *voyage* of the dwelling-house, indicate, with some degree of accuracy, the perils and losses of life and property not uncommon to those who earn their bread in the waters that surround these bleak and barren islands.

That the fishermen of the Isles of Shoals are "a peculiar people" is a well-known and generally accepted saying. The anecdotes preserved of those of bygone generations are pertinent to our purpose, and will give a miniature picture of the course of life among their fathers, as well as account for some of the expressions and habits which continue to amuse persons from the continent who now visit them.

First, it would seem that prior to 1647 the court had ordained that "no women should live upon the Isles of Shoals," and that one John Renolds, disobeying this ordinance, carried his wife there with the intention of living with her. This was not to be endured by Richard Cutt, and his associate, Cutting, especially as Renolds took with him, also, a "great stock of goats and hogs." Thereupon these aggrieved men, in a petition to the government, set forth the facts in the case, and prayed for relief by the removal thence of the several nuisances of Mrs. Renolds, her goats and her swine. The court gravely considered the matter, and ordered Renolds to take his four-footed property to the main land "within twenty days;" but wisely concluded that, "as for the removal of his wife, if no further complaint come against her, she may as yet enjoy the company of her husband."

Again: During the ministry of Mr. Brock the fishermen were induced by him to enter into an agreement to spend one week day in every month in religious worship. Once, however when a day thus

set apart occurred, they desired him to postpone the meeting, because the weather, which for a number of days previous had been too boisterous to allow them to visit the fishing ground, had then become moderate. To this request, says his biographer, he would not consent. Finding that they were determined to "make up their lost time," he addressed them as follows: "If you are resolved to neglect your duty to God, and *will* go away, I say unto you, catch fish if you can; but as for you who will tarry and worship the Lord, I will pray unto him for *you*, that *you* may catch fish until you are weary." The story concludes with the averment that of the thirty-five to whom this address was made, thirty went to the fishing-ground, and that five remained with the good man Brock. The thirty caught but *four* fish, though they labored all day; while the five, who followed at the conclusion of the religious services, caught *five hundred*. "After this," says the narrator, the week-day meetings "were well attended." It is related of Mr. Brock, that on another occasion he said to a poor fisherman, who had been very useful in carrying persons who attended meeting across from island to island, and who had lost his boat in a storm, "Go home, honest man, I will mention the matter to the Lord: you will have your boat again to-morrow." On the next day—so closes the account—"in answer to earnest prayer the man recovered his boat, which was brought up from the bottom by the anchor of a vessel, cast upon it without design."

A saying still familiar among nautical men, is said to have had its origin in the following circumstance: While Mr. Moody was the minister at the isles, a fishing shallop, with all on board, was lost in a gale in Ipswich bay. "Mr. Moody, anxious to improve this melancholy event for the awakening of those of his hearers who were exposed to the like disaster," put home the case in "language adapted to their occupation and understanding," thus: "Supposing, my brethren, any of you should be taken short in the bay, in a northeast storm, your hearts trembling with fear, and nothing but death before you; whither would your thoughts turn? what would you do?" "What would I do?" replied a fisherman, "*why, I should hoist the foresail and scud away for Squam.*" To explain the wit or point of the answer, it is necessary to add that Squam harbor, on the north side of Cape Ann, was a noted place of shelter for fishing vessels when in the position supposed by Mr. Moody.

At a time when piracies were committed on the coast, a fisherman of the name of Charles Randall, with others, were taken by some freebooters and whipped with great severity. This act perpetrated, the pirates said, "You know old Dr. Cotton Mather, do you?" "Yes," was the reply, "we have heard of him as a very good man." "Well, then," rejoined the gang, "our orders are, to make each of you jump up three times, and say each time, 'Curse Parson Mather,' otherwise you are all to be hanged." Randall and his companions complied.

In conclusion. A worthy deacon, reading a line in the old version of the Psalms, said, "And I know more than all the *Indians* do;" when he should have read, "And I know more than all the *ancients* do." Whereupon "one of the assembly, who had more wit than piety, acquainted with the craftiness and shrewdness of Indians, rose and ad-

dressed the deacon in a loud voice, 'If you do, you are a plaguy cunning man.'

I will only add that the words, "*I will make you fishers of men,*" were used as the text at the ordination of Mr. Tucke; and that among the votes passed by the inhabitants at the time of his settlement, was one imposing a fine of "forty shillings old tenor" on all who "every fall, when he has his wood to carry home, is able to come, but will not come."

Such is a rapid view of affairs at the eight islands that lie off the entrance of the Piscataqua, while they belonged to the British crown.

#### MASSACHUSETTS.

##### *From 1614 to the Revolutionary Controversy.*

The settlement of Massachusetts is to be traced directly to the fisheries. Lest this statement should be thought too broad, and to need qualification, I will cite from the best authorities extant to sustain it. And first, Hubbard, who says the "occasion" of planting this colony was, that, "As some merchants from the west of England had a long time frequented the parts about Monhegan, for the taking of fish, &c., so did others, especially those of Dorchester, make the like attempt upon the northern promontory of Massachusetts Bay, in probability first discovered by Captain Smith before or in the year 1614," and called Cape Ann, in honor of the royal consort of King James. "Here," he continues, "did the aforesaid merchants first erect stages whereon to make their fish, and yearly sent their ships thither for that end, for some considerable time, until the fame of the plantation at New Plymouth, with the success thereof, was spread abroad through all the western parts of England," &c. Again, he says that, "On this consideration it was that some merchants and other gentlemen about Dorchester did, about the year 1624, at the instigation of Mr. White,\* the

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\* The Rev. John White (as stated in the Chronicles of Massachusetts) was born in 1575, and in 1605 became rector of a parish in Dorchester. He removed from that place, and was absent for several years, but returned to Dorchester, and died there in 1648. In the civil wars in England he took sides with the Puritans. He was one of the assembly of divines of Westminster, and "showed himself one of the most learned and moderate among them, and his judgment was much relied on therein." Callender, in his Historical Discourse on Rhode Island, calls him the "father of the Massachusetts colony." His name often occurs in the meetings of the Massachusetts Company in London. The church in which he preached in Dorchester was demolished in 1824. That city, the "cradle of the Massachusetts colony," sends two members to Parliament; it is on the river Frome, 120 miles from London.

The "Planter's Plea," a tract which was printed in London in 1630, soon after Winthrop and his company sailed for Massachusetts, has generally been ascribed to Mr. White. A chapter of this tract is to be found in Young's Chronicles of Massachusetts. It fully warrants the statements in the text in relation to the original objects of colonization, as the following extracts will show:

"About the year 1623," says Mr. White, or the writer of the Plea, "some western merchants, who had continued a trade of fishing for cod and bartering for furs in those parts for divers years before, conceiving that a colony planted on the coast might further them in those employments, bethought themselves how they might bring that project to effect, and communicated their purpose to others, alleging the conveniency of compassing their project with a small charge, by the opportunity of their fishing trade, in which they accustomed to doubleman their ships, that, by the help of many hands, they might despatch their voyage and lade their ship with fish while the fishing season lasted, which could not be done with a bare sailing

famous preacher of that town, upon a common stock, together with those that were coming to make fish, send over sundry persons in order to the carrying on a plantation at Cape Ann, conceiving that planting on the land might go on equally with fishing on the sea, in those parts of America. Mr. John Tylly and Mr. Thomas Gardener were employed as overseers of that whole business—the first with reference to the fishing, the other with respect to the planting on the main land,” &c.

Holmes, in his *American Annals*, states that, “the fame of the plantation at Plymouth being spread in the west of England, Mr. White, a celebrated minister of Dorchester, excited some merchants and other gentlemen to attempt another settlement in New England. They

company. Now, it was conceived that, the fishing being ended, the spare men that were above their necessary sailors might be left behind, with provisions for a year: and when that ship returned the next year they might assist them in fishing, as they had done the former year; and, in the mean time, might employ themselves in building and planting corn, which, with the provisions of fish, fowl, and venison that the land yielded, would afford them the chief of their food. This proposition of theirs took so well, that it drew on divers persons to join with them in this project; the rather because it was conceived that not only their own fishermen, but the rest of our nation that went thither on the same errand, might be much advantaged, not only by fresh victuals which that colony might spare them in time, but withal, and more, by the benefit of their ministers’ labors, which they might enjoy during the fishing season; whereas otherwise, being usually upon those voyages nine or ten months in a year, they were left all the while without any means of instruction at all. Compassion towards the fishermen, and partly some expectation of gain, prevailed so far, that for the planting of a colony in New England there was raised a stock of more than £3,000, intended to be paid in in five years, but afterwards disbursed in a shorter time.”

Such, then, was the original design. We next have an account of the operations and disasters of the contributors of this fund. “The first employment,” continues the writer, “of this new raised stock, was in buying a small ship of fifty tons, which was, with as much speed as might be, despatched towards New England upon a fishing voyage. \* \* \* Now, by reason the voyage was undertaken too late, she came at least a month or six weeks later than the rest of the fishing ships that went for that coast; and by that means wanting fish to make up her lading, the master thought good to pass into Massachusetts bay, to try whether that would yield him any, which he performed; and speeding there better than he had reason to expect, having left his spare men behind him in the country at Cape Ann, he returned to a late, and consequently a bad market in Spain, and so home.” The loss incurred in this voyage was upwards of £600.

The company, the next year, bought a “Flemish fly-boat” of about one hundred and forty tons, which, relates the writer, “being unfit for a fishing voyage, as being built merely for burthen, and wanting lodging for the men which she needed for such an employment, they added unto her another deck, (which seloom proves well with Flemish buildings,) by which means she was carved so high that she proved walt, (crank,) and unable to bear any sail; so that before she could pass on upon her voyage, they were fain to shift her first, and put her upon a better trim, and afterwards, that proving to little purpose, to unlade her, and take her up and far her. \* \* \* And when she arrived in the country, being directed by the master of the smaller ship, upon the success of his former year’s voyage, to fish at Cape Ann, not far from Massachusetts bay, sped very ill, as did also the smaller ship that led her thither, and found little fish; so that the greater ship returned with little more than a third part of her lading, and came back (contrary to her order, by which she was consigned to Bourdeaux) directly for England; so that the company of adventurers was put to a new charge to hire a small ship to carry that little quantity of fish she brought home to market.” These two ships left behind them at Cape Ann thirty-two men. In 1625 three vessels were employed, but with continued loss. In 1626, the “adventurers were so far discouraged that they abandoned the further prosecution of this design, and took order for the dissolving of the company on land, and sold away their shipping and other provisions.”

Most of the fishermen and other persons in the adventurers’ employment at Cape Ann returned to England; “but a few of the most honest and industrious resolved to stay behind, and to take charge of the cattle sent over the year before, which they performed accordingly. And not liking their seat at Cape Ann, chosen especially for the supposed commodity of fishing, they transported themselves to *Nahum-Keilke*, [Salem,] about four or five leagues distant to the southwest from Cape Ann.”

accordingly, on a common stock, sent over several persons, who began a plantation at Cape Ann,\* and held this place of the Plymouth settlers, for whom they set up here a fishing stage."

We have thus the positive declarations that the success of the English merchants in fishing about the island of Monhegan, in Maine, and of the Pilgrims at Plymouth, were the original and moving causes of attempting to settle a second colony in New England. As the good minister Robinson was the principal founder of the first, so the pastor White was like instrumental in promoting the last. The general accuracy of Hubbard and Holmes will not be disputed. The latter, in this particular case, must have been well informed. Ipswich, of which town he was the minister, was a noted and favorite station for the English fishing ships that came to the coast previous to the colonization of Massachusetts; and, aside from the facilities of acquiring information from that source, he was personally acquainted with Roger Conant, the great actor in the events of which we are now to speak.†

In the fishery at Cape Ann, the minister White seems to have had a personal interest. In 1625, Conant, at his instance, was appointed to succeed Tylly and Gardener in the management of the company's concerns there. Conant was already in New England. He arrived at Plymouth in 1623; but unhappy there, and averse to the rigid views of the Pilgrims, though himself a religious man, had removed thence to Nantasket. He undertook the fishery, which, proving unprofitable, was abandoned. "He disliked the place as much as the merchants disliked the business;" and, pleased with Naumkeak, (Salem,) removed there. Deserted by his employers, and helpless mid hordes of savages, he was advised, implored, and warned to quit the country. Discomfiture and ruin had attended the efforts of some of the best men in England to colonize Newfoundland; death and other sad calamities had put an end to the colony attempted in Maine; the plantation at Weymouth had produced a harvest of sorrow and poverty to its projector; the colony at Plymouth survived, but a single boat and net had alone saved it from utter extinction; and now, the destiny of Massachusetts was suspended upon the decision of an ejected manager of a fishery. Conant knew and said that he staid at his post at the hazard

\* Called Gloucester in 1642.

† The Rev. William Hubbard was born in England in 1621, and came to America with his father in 1635. He was graduated at Harvard University, in the first class, in 1642. He was settled at Ipswich, Massachusetts, and died there in 1704, aged 83 years. His History of New England remained in manuscript until 1845, when it was published by the Massachusetts Historical Society, as a part of their Collections.

"The most original and valuable part of Hubbard's history," remarks Dr. Young, in the *Chronicles of Massachusetts*, is the chapter "in which he gives us a statement of facts in relation to the first settlements at Cape Ann and Salem, which can be found nowhere else." These facts the learned Doctor inclines to believe Hubbard obtained from Conant himself. "Living at Ipswich, he must have been acquainted with this prominent old planter, who resided but a few miles from him, at Beverly, and who survived till 1679. Some of the facts which he relates he could hardly have obtained from any other source." \* \* \* "We may therefore consider that \* \* \* we have Roger Conant's own narrative, as taken down by Hubbard in the conversations which he held with him when collecting the materials for his history."

Conant is everywhere spoken of in terms of respect, and was an excellent man. "The superior condition of the persons who came over with the charter cast a shade upon him, and he lived in obscurity."

of his life. The minister White, grieved that his associates had so suddenly relinquished their designs, entreated him to remain, promising to send over a patent, men, provisions, and merchandise, to open a trade with the Indians. "As if animated with some superior instinct," and with visions of a future home for the stricken and hunted men of his own faith, he listened to the wise and courageous pastor's solicitations.

Three trusty companions,\* designated by Mr. White, consented to share his fate; but these, repenting of their engagement, finally pressed him to depart with them to Virginia. In the loftiness of his virtue he uttered "Here will I wait the providence of God, though all should forsake me!" They pledged themselves anew to remain with him; and one of them was soon despatched to England to procure supplies, to renew the attempt to found a colony.

Meanwhile, Mr. White, true to his promises, never lost sight of Conant, or of Massachusetts. The integrity and zeal of both were in due time rewarded with success. In 1627, when Sir Henry Roswell, Sir John Young, and other gentlemen, had purchased the country between the Merrimack and the Charles rivers, Mr. White caused these patentees to become acquainted with persons of similar rank in London, and thus enlisted Winthrop, Johnson, Sir Richard Saltonstall, Cradock, and others, in the enterprise which he himself so untiringly promoted. The London gentlemen were at first associated with those of Dorchester; but in the end, became the sole patentees. Of this second company Endicott was the first agent, and on his arrival at Salem, in 1628, he succeeded Conant in the management of affairs.†

It is important to remember that the London company, by their purchase, did not become proprietors of a charter under which to people and govern a Commonwealth, but merely of a common patent granted for purposes of trade, and similar to several that had been

\* These persons were John Woodbury, John Baleh, and Peter Palfrey. "All bearing the name of Woodbury, in New England, probably descend from John, or his brother William." A son of Baleh subsequently married a daughter of Conant. The Hon. John G. Palfrey claims Conant's associate, Peter, as his ancestor.—*Chron. Mass.*

† Endicott, after his arrival to supersede Conant and his associates, desired the company in England to send him over a "Frenchman experienced in making of salt and planting of vines." In answer to this request the company informed him, April, 1629, "We have inquired diligently for such, but cannot meet with any of that nation. Nevertheless, God hath not left us altogether unprovided of a man able to undertake that work; for that we have entertained Mr. Thomas Graves, a man commended to us as well for his honesty as skill in many things useful. First, he professeth great skill in the making of salt, both in ponds and pans, as also to find out salt springs, or mines," &c. Graves arrived at Salem in June, 1629, but did not remain in America, probably, many years.

In 1629, the Massachusetts company sent over from England "twenty-nine weight" of salt in the Mayflower, Four Sisters, and Pilgrim, "together with lines, hooks, knives, boots, and barrels, necessary for fishing;" with directions to employ their men "either in harbor or upon the bank," and with a desire to their agent "to confer and advise with Mr. Peirce, who hath formerly fished there."

The Mr. Peirce here mentioned was a celebrated navigator of the time. The "Mayflower," of which he was in command in 1629, was the same that brought over the Pilgrims to Plymouth nine years previously. He was an experienced fisherman. In 1630 he was master of the Lion, and arrived at Salem in May of that year. He was again at Salem and at Boston, in the same vessel, in 1631; when his arrival was the occasion of much joy, as the colonists were famishing, and he came "laden with provisions." It was apprehended that he had been "cast away, or taken by pirates." "The celebrated Roger Williams and his wife" were passengers with Captain Peirce in 1631.—*Chron. Mass.*

previously obtained by other companies that designed to adventure for fish and furs elsewhere in America. The original plan of Winthrop, Saltonstall, and their associates, while it embraced a settlement of their domain, still provided that the controlling power should remain in England. Mathew Cradock, a rich London merchant, in accordance with this arrangement, was appointed by the patentees their first governor, in the sense that the head of the Bank of England is denominated "the governor" of that institution. Cradock,\* subsequently, not only relinquished his office voluntarily, but proposed the measure of transferring the government to the actual settlers.

The wise, magnanimous, and patient Winthrop was his successor, and the first governor of the company who came to America. He arrived in 1630, with a considerable body of colonists. Disembarking at Salem, he soon removed to Charlestown, and thence crossed the river to Boston, where he fixed his permanent home. These, as I understand the subject, are the principal facts that relate to the origin of Massachusetts.

In passing from the topic, a single word more of Roger Conant. His history has not been written; it exists only in fragments. He was a good man. He possessed the true test of merit, for he never clamored, or even asked, for reward. In his old age, he did indeed petition, that as "Budleigh," in England, was his birth-place, so "Budleigh,"† in America, might be his burial-place; but this poor boon was denied to the Christian hero, who stood by and saved the colony in the hour of extremity. If men would be remembered by those who come after them, they must win battles, or acquire position in the State. Roger Conant was but an humble superintendent of a fishery, and of a plantation undertaken among the bare rocks of Gloucester, and is forgotten.

William Brewster, of the Pilgrim band of Plymouth, was an accomplished scholar, and a man of distinguished talents; in Europe he was engaged in diplomacy, and was an intimate friend of the minister of Queen Elizabeth, who signed the death-warrant of the beautiful Mary Stuart, Queen of Scotland; but in America he was simply "a ruling elder in the church;" and he, too, has passed from the memory of all, save the students of history.

We are now to trace the progress of the fisheries of Massachusetts, and record a serious quarrel at the outset. The circumstances, briefly related, were these: The Pilgrims at Plymouth, and the merchants in England who were interested with them, seem to have built a fishing-stage and provided other accommodations at Cape Ann, in 1624,‡

\* Governor Cradock was a member of Parliament for London in 1640. "A descendant, George Cradock, was an inhabitant of Boston in the middle of the last century."—*Chron. Mass.*

† This was in 1671, after the second division of Salem, and after the incorporation of Beverly, which name was adopted without consulting Conant and his friends. He gave two reasons in his petition for a change of the name; one, that the people were constantly nick-named "beggarily;" and the other, that those who remained with him in the crisis mentioned in the text, as well as himself, were born in "Budleigh." He built the first house in Salem, and his son Roger was the first white child born there. He died in Beverly, 1679, at the age of 89.

‡ The colony of Plymouth obtained a patent of Cape Ann about the year 1623, and sent vessels there to fish. A "stage," for the accommodation of their fishermen, was built at the Cape in 1624.

which one Hewes, in command of a West of England ship, occupied in the absence of the Plymouth fishermen. Hewes acted under the orders of these merchants, who now, it further appears, had dissolved, or were about to dissolve, their business relations with the Pilgrims, and some of whom, on account of the difficulties that had occurred, cherished an enmity towards them. On hearing that Hewes had taken possession of the stage, Governor Bradford ordered the renowned Indian-slayer, Miles Standish, to eject him. Hewes refused to yield, and Standish resolved to employ force. Hewes made a sort of breast-work on the stage of the casks used in fishing, and was thus strongly fortified, while his opponents were on the land and almost at his mercy. At the point of collision and bloodshed, Conant (of whom we have spoken) and Captain Pearce, a fast friend of the Plymouth settlers, who was also there with a fishing-ship, interposed their good offices, and succeeded in compromising the difficulty, Hewes and his men agreeing to erect another stage.

The next incident that deserves our attention is of a different nature. Mr. Higginson, the first minister of Salem, arrived in 1629. About one hundred of the colonists died before the close of the following year, and among them this excellent divine. He wrote a tract called "New England's Plantation," which was published\* in 1630, and contains the following glowing description of the treasures of our seas: "The abundance of sea-fish," he says, "are almost beyond believing, and sure I should scarce have believed it, except I had seen it with mine own eyes. I saw great store of whales and grampusses, and such abundance of mackerels that it would astonish one to behold, likewise codfish in abundance on the coast, and in their season are plentifully taken. There is a fish called bass, a most sweet and wholesome fish as ever I did eat; it is altogether as good as our fresh salmon, and the season of their coming was begun when we came first to New England in June, and so continued about three months' space. Of this fish our fishers take many hundreds together, which I have seen lying on the shore, to my admiration: yea, their nets ordinarily take more than they are able to haul to land, and for want of boats and men they are constrained to let many go after they have taken them, and yet sometimes they fill two boats at a time with them. And besides bass, we take plenty of scate and thornbacks, and abundance of lobsters, and the least boy in the plantation may both catch and eat what he will of them. For my own part I was soon cloyed with them, they were so great and fat, and luscious. I have seen some myself that have weighed sixteen pounds; but others have had, divers times, so great lobsters as have weighed twenty-five pound, as they assure me. Also here is abundance of herring, turbut, sturgeon, cusks, haddocks, mullets, eels, crabs, muscles and oysters. Besides, there is probability that the country is of an excellent temper for the making of salt; for since our coming our fishermen have brought home very good salt,

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\* The Rev. Francis Higginson was born in 1588, and was educated at Cambridge, England. Excluded from his pulpit for non-conformity, he was invited to come to America by the company engaged in the colonization of Massachusetts. He was ordained at Salem, in August, 1629. He left a wife and eight children, who, after his decease, removed to Charlestown, Massachusetts, and subsequently to New Haven, Connecticut.

which they found candied, by the standing of the sea-water and the heat of the sun, upon a rock by the sea-shore; and in divers salt marshes that some have gone through, they have found some salt in some places crushing under their feet and cleaving to their shoes."

Winthrop\* followed with his colony, as has been observed, in 1630, and records in his journal that on the passage, "we put our ship in stays, and took, in less than two hours, with a few hooks, sixty-seven codfish, most of them very great fish, some a yard and a half long and a yard in compass." And again he says, "we heaved out our hooks, and took twenty-six cods: so we all feasted with fish this day." And still further, a few days afterwards, "we took many mackerels, and met a shallop, which stood from Cape Ann towards the Isles of Shoals, which belonged to some English fishermen."

These passages are selected from the many relating to our subject, which are to be found in the journals, letters, and other documents of the time, not only for the purpose of showing the impressions of the early settlers, but their accounts of the manner of fishing, and the nature of the intelligence which they transmitted to England to induce additional emigrations. A single illustration of the sufferings of the colonists, and of their dependence upon the seas for support, and even to preserve them from utter starvation, as at Plymouth, may properly follow.

Johnson, who came over in 1630, (and probably in Winthrop's fleet,) who was a member of the House of Representatives upwards of twenty-five years, and speaker of that body in 1655, in his curious but very valuable work—"Wonder Working Providence of Sion's Saviour in New England," published in London in 1654†—speaks of persons who, "in the absence of bread, feasted themselves with fish; the women, once a day, as the tide gave way, resorting to muscles and clam-banks, where they daily gathered their families' food with much heavenly discourse of the provisions Christ had formerly made for many thousands of his followers in the wilderness:" of mothers, meek and resigned in their destitution, who smiled over their children, fancying that they were as "fat and lusty with feeding upon muscles, clams, and other fish, as they were in England with their fill of bread, which made them cheerful in the Lord's providing for them:" of others, who, mid "the great straits this wilderness people were in," were relieved because "Christ caused abundance of very good fish to come to their nets and hooks:" and of still others, who, "unprovided with these means, caught them with their hands; and so with fish, wild onions, and other herbs, were sweetly satisfied till other provisions came in:" and, finally, that "this year of sad distress was ended with a terrible cold winter, with weckly snows, and fierce frosts between, while congealing Charles river, as well from the town to seaward as above, in-

\* John Winthrop, first *resident* governor of Massachusetts, was born in Groton, England, in 1587, and was bred to the law. He was a man of considerable fortune. He arrived at Salem, June, 1630. His journal of occurrences in the colony, down to the year 1648, as edited by the Hon. James Savage, of Boston, is one of the most valuable works extant to the lovers of American history. He died in 1649, aged 61, "worn out by toils and depressed by afflictions."

† Republished in parts, in several volumes of Coll. Mass. His. Soc., second series.

somuch that men might frequently pass from one island to another upon the ice.”\*

The aspect of affairs was soon changed. The arrivals of articles of necessity from England, the opening of the soil to husbandry, and the building of vessels, afforded the colonists ample relief in the course of a few years. The “Blessing of the Bay,” a little barque of thirty tons, was launched as early as 1631. Her name indicates the feelings of Governor Winthrop, who built her;† and relates in a word the story of the pressing wants of his people.‡ This vessel proved the “blessing” she was designed to be, and was the means of opening a communication with the Dutch settlers in New York, as well as of maintaining constant intercourse with various parts of Massachusetts.

In 1633 a vessel was built at Boston, and called the “Trial:” three years after, the “Desire,” of one hundred and twenty tons, was launched at Marblehead. Another, of three hundred tons, was built at Salem in 1640; and the fifth in the colony, at the same place, in 1642. Meantime, the Dove, a pinnace of about fifty tons, had made a voyage to Boston, laden with corn, to barter away for fish, and whatever other commodities the colonists could spare. Such was the commencement of the navigation and commerce of Massachusetts.

Fish were exported from Boston, for the first time, I suppose, in 1633. The adventure was to a southern colony; and Governor Winthrop appears to have been interested in the voyage. The vessel, which was laden with furs as well as the products of the sea, was wrecked on the outward passage when near the Capes of Virginia. Another circumstance of interest occurred the same year, namely, the conviction of “*the first notorious thief in Massachusetts;*” who, for stealing fish, corn, and clapboards, was sentenced to the forfeiture of his estate, to be whipped, to be bound as a servant for three years, and to be afterwards at the disposal of the court.

Mr. Cradock, though he never came to Massachusetts, established a fishery at Mystick, and built a house at Marblehead, which was burned in 1634, “there being in it Mr. Allerton|| and many fishermen whom he employed that season.” Thus we connect the first governor who was appointed under the patent, and the first governor who resided in the colony, with the fisheries of Massachusetts, a branch of industry

\* Roger Clap, in his Memoirs, speaking of the scarcity of provisions in 1630, says: “Many a time, if I could have filled my belly, though with mean victuals, it would have been sweet unto me. Fish was a good help unto me and others.” \* \* \* \* “Oh! the hunger that many suffered, and saw no hope in an eye of reason to be supplied, only by clams, and muscles, and fish. We did quickly build boats, and some went a fishing.” Again, he says: “Frost-fish, muscles, and clams, were a relief to many.”

† It would appear from the instructions of the Massachusetts Company, in 1629, that a vessel was built previously: “And if you send the ships to fish at the Bank,” say they, “and expect them not to return again to the plantation, that then *you send our bark that is already built in the country* to bring back our fishermen, and such provisions as they had for fishing,” &c., &c.

‡ In 1633, the Rev. John Cotton, minister of Boston, the Rev. Thomas Hooker, the first minister of Cambridge, and the Rev. Samuel Stone, one of the first ministers of Hartford, came over to America in the same vessel. On their arrival, the people were told that their three great necessities were now supplied, for they had *Cotton* for their clothing, *Hooker* for their fishing, and *Stone* for their building.”

|| The Plymouth Pilgrim who came over in the Mayflower.

which now many affect to believe is fit only for the attention of "the ignorant, the superstitious, and the improvident."

About the year 1636 the celebrated Hugh Peters,\* minister of Salem, moved the people there to raise a capital for the purpose of commencing the business of fishing. With untiring zeal he went from place to place, and labored in public and in private to accomplish this design, and to induce his flock to build ships and to embark in commerce. He was eminently successful, and personally engaged in the enterprises which he recommended to others. To him belongs, in a very great degree, the merit of founding the fisheries and trade of that city. During his residence and ministry, Salem was without a rival in maritime affairs, and claimed to become the capital. His departure for England gave a check to business; Boston acquired the ascendancy, and was selected as the seat of government. That part of it now called Marblehead soon obtained a superiority in the fisheries, and petitioned for an act of incorporation; while Gloucester, Manchester, and the whole eastern shore of Massachusetts, engaging in the same pursuits, still further lessened its importance for a considerable period. Of the merchant minister, Peters, we may add, that, taking the side of Cromwell in the civil war in England, he was executed there on the restoration of the Stuarts.† It is supposed in a late English publication that Peters was one of the two masked executioners of Charles the First, and that it was *he* who held up the monarch's head to the view of the multitude.

In 1639 we have the origin of the system of protection. By an act of that year, passed for the encouragement of the fisheries, it was provided that all vessels and other property employed in taking, curing, and transporting fish, according to the usual course of fishing voyages, should be exempt from all duties and public taxes for seven years; and that all fishermen during the season for their business, as well as ship-builders, should be excused from the performance of military duty. Such a law, in the infancy of the colony, when contributions from every estate, and the personal service in arms of every citizen, were imperatively demanded by the exigencies of the times, shows the deep importance which was attached to this branch of business by the fathers of the Commonwealth.

Of the year 1641, Lechford, in his "Plain Dealing; or, News from New England," (printed in London, 1642,)‡ says that the people were "setting on the manufacture of linen and cotton cloth, and the fishing trade;" that they were "building of ships, and had a good store of barks, catches, lighters, shallops, and other vessels;" and that "they had builded and planted to admiration for the time." We learn from Johnson, in the work already mentioned, that the Rev. Richard Blind-

\* Or Hugh Peter.

† Hutchinson preserves, in his *Collection of Papers*, a letter from Mr. John Knowles to Governor Leverett, dated at London in 1677, by which it appears that Peters's widow was in great poverty. Knowles says: "Sir, there is another trouble which I presume to putt upon you; which is, to speak to the reverend Mr. Higginson, pastour of Salem, to move that congregation to doe something for the maintenance of Mrs. Peters, who, since her husband suffered here, hath depended wholly upon Mr. Coekquain and that church whereof he is pastour. I fear she will be forced to seke her living in the streets, if some course be not taken for her relief, either by Mr. Higginson or Mr. Oxenbridge, or some other sympathizing miuister."

‡ Republished in *Collections of Massachusetts Historical Society*, vol. 3d of 3d series.

man had gathered a church at Cape Ann, "a place of fishing, being peopled with fishermen;" and that "their fishing trade would be very beneficial had they men of estates to manage it." We read in Winthrop's Journal, that "this year the men followed fishing so well that there was about three hundred thousand dry fish sent to the market:" and in Hubbard, that the colonists received letters from England by the English fishing ships that came to the Piscataqua. In 1642, we find in Winthrop that the same class of ships brought news of the civil wars between the King and Parliament, "whereupon the churches kept divers days of humiliation;" and that "there arrived another ship with salt, which was put off for pipe-staves," so that "by an unexpected providence" there was "a supply of salt to go on with fishing:" and in Holmes, that "the settlement at Cape Ann was established to be a plantation, and called Gloucester." Again, Winthrop records, in 1643, the return of the *Trial*, "Mr. Thomas Graves, an able and a godly man, master," from a voyage to Bilboa and Malaga. This was the first vessel built at Boston. Her outward cargo consisted of fish, "which she sold at a good rate;" and she brought home "wine, fruit, oil, iron, and wool, which was a great advantage to the country, and gave encouragement to trade."

In 1644, we have an incident pertinent to our purpose, which is related with some particularity in the chronicles of the time. It appears that a London ship of twenty-four guns, Captain Stagg, arrived at Boston, with a cargo of wine, from Teneriffe; that a Bristol ship, laden with fish, lay in the harbor at the same time; that Stagg, authorized by a commission from the Cromwell party in England to capture vessels belonging to Bristol, made prize of this ship; and that a Bristol merchant, and others interested in the vessel and cargo seized by Stagg, collected a mob, and raised a tumult. It appears, further, that some of the citizens of Boston, apprehensive of serious consequences, made prisoners of the merchant and other strangers, and carried them before Winthrop, who confined them under guard in a public house; and that the people of the town concerned in the affair were committed to prison. Stagg was next called to an account, but it was found that he had not transcended his authority. A great excitement was produced by the occurrence; and some of the ministers, participating in the common feeling, spoke harshly of Stagg in their sermons, and exhorted the magistrates to maintain the people's liberties, which they considered had been violated by his act. A part of the magistrates were of the opinion that the Bristol ship should be restored; but the majority expressed a different view of the case, and Stagg was allowed to retain his prize. But the merchants of Boston, who, it would seem, were owners of the cargo of fish, petitioned to be allowed to test the right of the captor to *their* property by a suit at law. Their request was granted; yet, when the governor, six other magistrates, and the jury assembled, they were induced to refer the decision of the whole matter to the court of admiralty. Thus terminated an affair which, at the moment, wore a very serious aspect, and threatened to involve the government of Massachusetts in a controversy with their Puritan friends in England.

Concluding our account of the year 1644 with the remark that one ship, built at Cambridge, and another, built at Boston, sailed from the

latter place for the Canaries with cargoes of fish and pipe-staves, we come, in 1645, to the first voyage undertaken on the distant fishing grounds of Newfoundland. The projectors of the enterprise were merchants of Boston and Charlestown, who, according to Winthrop, "sent forth a ship and other vessels" to the Bay of Bulls. The effects of the civil war between Charles and his people, felt, as we have just seen, in the capture of the Bristol ship in Boston, were disastrous even in those remote seas; for when these vessels had nearly completed their fares, the ship and most of their fish were seized by a cruiser belonging to the King's party, and retained, to the great loss of the merchants.

By an act of Massachusetts, in 1647, every householder was allowed "free fishing and fowling" in any of the great ponds, bays, coves, and rivers, as far "as the sea ebbs and flows," in their respective towns, unless "the freemen" or the general court "had otherwise appropriated them." By a law of the following year, fishermen and others were forbidden to continue the practice of cutting fuel and timber, without license, on lands owned by individuals or towns; though during the fishing season, persons who belonged to the colony might still dry their fish, and use wood and timber necessary for their business, on all such lands, by making satisfaction to the proprietors. These laws were followed, in 1652, by another, which provided for the appointment of sworn "fish viewers," at "every fishing place" within the jurisdiction, who were required to reject as unmerchantable, all "sun-burnt, salt-burnt, and dry fish, that hath been first pickled," and whose fees on merchantable fish were fixed at one penny the quintal, "to be paid, one half by the deliverer, and the other half by the receiver."\*

Meantime, a schism had occurred between certain persons and the ruling powers of Massachusetts; and the former, embodying their supposed grievances in petitions to the Lords Commissioners of Trade and Plantations, had circulated these papers for signature. "They had sent their agents up and down the country," relates Hubbard, "but of the many thousands they spake of, they could find only twenty-five hands to the chief petition; and those were, for the most part, either young men who came over servants, and never had over much shew of religion in them, or fishermen of Marblehead, feared to be profane persons, divers of whom were brought from Newfoundland for the fishing season, and so to return again."

To relieve our narrative, we may now select some amusing passages from Josselyn. This veracious chronicler—who saw "frogs that, when they sit upon their breech, are a foot high," and ascertained that

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\* In "An Abstract of the Laws of New England," printed in London in 1655, and by William Aspinwall, the publisher, ascribed to Mr. Cotton, which Hutchinson, who preserves it in his "Collection of Papers," says "ought rather be entitled An Abstract of a Code or System of Laws prepared for the Commonwealth of Massachusetts Bay," we find in chapter 3d, under the head "Of the Protection and Provision of the Country," the following: "Because fish is the chiefe staple commodity of the country, therefore all due encouragement to be given unto such hands as shall sett forward the trade of fishing, and for that end a law to be made that whosoever shall apply themselves to sett forward the trade of fishing, as fishermen, mariners, and shipwrights, shall be allowed, man for man, some or other of the labourers of the country to plant and reape for them in the season of the yeare at the publique charges of the Commonwealth, for the spnce of these seven yeares next ensuing, and such labourers to be appointed and paid by the treasurer of the Commonwealth."

“barley frequently degenerates into oats”—made two voyages to New England, and lived here a number of years. He was in Boston in 1663. He thus discourses of fish: “The *sea-hare* is as big as grampus or herring-hog, and as white as a sheet. \* \* \* I have seen *sturgeon* sixteen foot in length; of their sounds they make isinglass, which, melted in the mouth, is excellent to seal letters: \* \* \* *negroes* or *sea-devils*, a very ugly fish, having a black scale: \* \* \* *squids*, a soft fish somewhat like a cudgel, their horns like a snail’s: \* \* \* the *dolphin*; the ashes of their teeth, mixed with honey, is good to assuage the pain of breeding-teeth in children: \* \* \* the *alewife* is like a herring, but has a bigger belly, therefore called an alewife: \* \* \* the *bass* is a salt-water fish, too, but most an end taken in rivers: one writes that the fat in the bone of bass’s head is his brains, which is a lie: \* \* \* the *salmon* the first year is a *salmon-smelt*, the second a *mort*, the third a *spraid*, the fourth a *soar*, the fifth a *sorrel*, the sixth a *forket-tail*, and the seventh year a *salmon*.” One kind of *turtle*, he says, if burned to ashes and mixed with oil and wine, “healeth sore legs,” while the burnt shell, if compounded with whites of eggs, “healeth women’s nipples;” and he avers that *sea-muscles*, if dried and pulverized, “will perfectly cure the piles,” and that “*trout’s grease* is good for the piles and clifts.” Of the inhabitants of the sea he enumerates sixty-four kinds, to some of which he affixes names sufficiently barbarous to display his stock of learning; and concludes with the remark, that “the fish are swum by, and the serpents are creeping on—terrible creatures—carrying stings in their tails that will smart worse than a *satyr’s* whip, though it were as big as Mr. Shepperd’s, the mad gentleman at Milton—Mowbrayes Constantinus Lasculus.”

We turn from Josselyn to an angry king. To supply a circulating medium, Massachusetts, as early as 1652, commenced the coinage of the “pine-tree” shilling-pieces, at which Charles the Second was much displeased. The general court, in 1677, to appease him, ordered a present of “ten barrels of cranberries, two hogsheds of samp, and three thousand codfish.”\* During the same year about twenty fishing vessels were captured by the Indians on the coast of Maine. Most of them were owned in Salem; and having from three to six men each, could have made a successful resistance had they not been taken by surprise; or, as says Hubbard, had they not been “a dull and heavy-moulded sort of people,” without “either skill or courage to kill anything but fish.” In fact, some vessels did make a manful defence, lost a number of men killed, and carried home nineteen others wounded. A large vessel was immediately equipped by the merchants of Salem, and despatched to re-capture their vessels and punish the captors. The Indians plundered the fishing-ketches, abandoned them, and eluded their pursuers.

In 1692 Salem lost by removals about a quarter part of its whole population, in consequence of the trials for witchcraft. The world rings with the enormities of this delusion. It should wonder, rather, that witchcraft in America was so nearly confined to the fishing county of Essex, at a period when all England was peopled with witches and

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\* Hume says that the usual oath of Charles the Second was, “*Cod’s-fish*.”

goblins, and when the venerable and devout Sir Mathew Hale doomed two women to be hanged for vexing with fits the child of a herring merchant! The prosperity of Salem was checked from other causes. In 1697, John Higginson wrote his brother Nathaniel, that in 1689 he had obtained a comfortable estate, and was as much concerned in the fishing trade as most of his neighbors; but that, in the course of the war (then soon to be terminated) he had met with considerable losses; that trade had much diminished; that of upwards of sixty fishing vessels owned in that town at the commencement of hostilities, only six remained; and that he believed no place in Massachusetts had suffered more by the war than Salem.

At the close of the century, as we learn from Neal, the merchants of Massachusetts exported about one hundred thousand quintals of dried codfish annually to Portugal, Spain, and Italy, of the value of four hundred thousand dollars; while from another source we are informed, that, disregarding the navigation act of England, a large contraband commerce was maintained by the merchants of Boston with most of Europe.

Thus far the mention of Marblehead has been incidental. Originally a part of Salem, and more prosperous in the prosecution of the cod-fishery, it was supposed to contain at one period a greater population than its parent town. Departing from the chronological order hitherto preserved in the narrative, I shall here consider its history as connected with our subject, for about half a century. We have already seen the agency of clergymen in establishing the fisheries of Gloucester and Salem, and are now to quote at large from the autobiography of the Rev. John Barnard, to show his influence at Marblehead. He commenced his ministerial labors in 1714, at which time, he says, "there was not so much as one proper carpenter, nor mason, nor tailor, nor butcher, in the town." And he continues: "The people contented themselves to be the slaves that digged in the mines, and left the merchants of Boston, Salem, and Europe to carry away the gains; by which means the town was always in dismally poor circumstances, involved in debt to the merchants more than they were worth; nor could I find twenty families in it that, upon the best examination, could stand upon their own legs; and they were generally as rude, swearing, drunken, and fighting a crew, as they were poor.

"I soon saw that the town had a price in its hands, and it was a pity they had not a heart to improve it. I therefore laid myself out to get acquaintance with the English masters of vessels, that I might by them be let into the mystery of the fish trade; and in a little time I gained a pretty thorough understanding of it. When I saw the advantages of it, I thought it my duty to stir up my people, such as I thought would hearken to me, and were capable of practising upon the advice, to send the fish to market themselves, that they might reap the benefit of it, to the enriching themselves and serving the town. But alas! I could inspire no man with courage and resolution enough to engage in it, till I met with Mr. Joseph Swett, a young man of strict justice, great industry, enterprising genius, quick apprehension, and firm resolution, but of small fortune. To him I opened myself fully, laid the scheme

clearly before him, and he hearkened unto me, and was wise enough to put it in practice. He first sent a small cargo to Barbadoes.

“He soon found he increased his stock, built vessels, and sent the fish to Europe, and prospered in the trade to the enriching of himself; and some of his family, by carrying on the trade, have arrived at large estates. The more promising young men of the town soon followed his example; that now\* we have between thirty and forty ships, brigs, snows, and topsail schooners, engaged in foreign trade. From so small a beginning the town has risen into its present flourishing circumstances, and we need no foreigner to transport our fish, but are able ourselves to send it all to the market.” He relates, also, that the “public ways were vastly mended;” that the manners of the people had greatly improved; that “we have many gentlemanlike and polite families;” and that “the very fishermen scorn the rudeness of the former generation.” I may add, as the contribution of another pen, that Mr. Barnard so zealously studied the “mystery” of naval architecture, as to acquire great skill; and that “several of his draughts, the amusement of leisure hours, were commended by master ship-builders.” He was faithful in the performance of his clerical duties; and besides bestowing much in common charities, generally supported two boys at school. He was eminent for his learning and piety; was distinguished among the divines of America of the last century; and in his old age was regarded “as the father of the churches.” “His form was remarkably erect, and he never bent under the infirmity of years. His countenance was grand, his mien majestic, and there was dignity in his whole deportment.” The “north church” in Boston was built for him, and he preached the dedication sermon, expecting to be ordained, in accordance with a mutual agreement; but he was supplanted by another candidate, who possessed the favor of Cotton Mather. “Of this transaction he could not speak with calmness to the day of his death.” He served the people of Marblehead upwards of fifty years, and deserves their kind remembrance in all coming time. Let our fishermen everywhere take courage. With such benefactors in the past, there must be hope in the future, cheerless to them as seems the present.

We return to the year 1714, near which time the first vessel of the class called *schooner* was built at Gloucester, by Andrew Robinson. The account is well confirmed, and in substance is that having masted and rigged a vessel in a manner unknown either in Europe or America, and to his own fancy, a bystander at the launch exclaimed, as she started from the stocks, “*Oh, how she scoons!*” And that Robinson replied, “*A schooner let her be.*” Thus recent is the appearance of this description of vessel on the fishing grounds, and in the coasting trade.

Of the perils attending the pursuit of the cod on the coasts frequented by the people of Massachusetts during the period of French power, and of warfare with the native tribes, a general view has been given in the first part of this report, and a particular case of Indian hostility has been recorded here.† We may now notice an occurrence in 1726,

\* This autobiography bears date at Marblehead, November 14, 1766, and is to be found in the Collections of the Massachusetts Historical Society.

† The capture of the twenty vessels in 1677.

in which Samuel Daly, of Plymouth, was the hero. While on a fishing voyage he put into a harbor in Nova Scotia to procure water, and seeing John Baptist, a Frenchman, on shore, asked him to come on board. Accompanied by his son, Baptist accepted the invitation; and, after some friendly conversation, Daly and his elder guest retired to the cabin to drink. While there, the younger Baptist returned to the shore. Suspecting no harm, Daly, with his mate and three of his crew, went on shore also, leaving Baptist in the vessel. The son, with two Indians, immediately joined Baptist, and assisted him to seize the vessel as a prize. Daly applied to the mother of Baptist to intercede for the restoration of his property; and after some delay, she consented. The treacherous Frenchman was, however, inexorable; and, several other Indians getting on board, he ordered Daly to weigh anchor and make sail. The savages threatened him with their hatchets, and the luckless fisherman obeyed. But the next day Daly secured Baptist and three of the Indians in the cabin, overpowered the son and the savages, who remained on deck, and regained possession of his vessel. The Indians in the cabin, fired upon by Daly, threw themselves into the sea. Baptist, his son, and three surviving Indians, were safely landed at Boston, where, tried for piracy, all were condemned and executed.

In 1731 the fisheries of Massachusetts employed between five and six thousand men. Three years later a township in Maine was granted to sixty inhabitants of Marblehead, and a similar grant was made to citizens of Gloucester in 1735.\* Possibly many of the fishermen of these ancient towns had become weary of the hazards of the sea, and desired repose; but whatever the motives of the grantees of these lands, the perils and hardships of the forest a century ago were quite equal to those encountered upon the ocean, and such was their particular experience.

In 1741 the cod-fishery was in a prosperous condition. The annual produce was about two hundred and thirty thousand quintals, and the value of the quantity exported nearly seven hundred thousand dollars. The average size of vessels was fifty tons; and of these one hundred and sixty were owned in Marblehead alone. The whole number of fishing *vessels* in Massachusetts was not less than four hundred, besides an equal number of ketches, shallops, and undecked boats.

In the twenty years that succeeded there was a sensible decline, for which the causes were abundant. The emigrations to Maine just mentioned, from Marblehead and Gloucester, the settlements elsewhere in the eastern country by emigrants from Cape Cod, the depopulation and almost entire abandonment of Provincetown, the expedition against Louisbourg, the general events of the two wars that occurred during this period between France and England, in the calamities of which Massachusetts was deeply involved, the demand for fishermen to man privateers and to enter the naval ships of the crown, with several minor events, combined to injure the fisheries to a very considerable de-

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\* The first was called "New Marblehead," but is now *Wintham*; the second, "New Gloucester," which name has been retained to the present time. The settlement of New Gloucester, after being commenced, was suspended—in fact, abandoned—for eleven years, in consequence of the Indian wars. Block-houses were built both there and at New Marblehead, to protect the settlers from the savage foe.

gree, and at times, indeed, to render attention to them nearly impossible. After the peace of 1763, maritime enterprises were again undertaken with spirit and success, and the fishing towns shared in the general prosperity. But the controversies that produced civil war, and finally a dismemberment of the British empire, had already commenced, and soon disturbed every branch of industry. The fisheries suffered first, and at the shedding of blood were suspended. The political history of the fifteen years that preceded the Revolution relates to all New England, and will form a separate chapter.

#### NEW ENGLAND.

#### *From the commencement of the Revolutionary Controversy to the Declaration of Independence.*

In tracing the origin and progress of the fisheries of New England, we have seen that they furnished our first articles of export, and laid the foundation of our navigation and commerce.\* It was so in Europe. Of the present maritime powers of the Old World, there is scarcely one that does not owe much of its commercial prosperity to the same branch of industry. Some fugitives from the wrath of the monster Attila fled to the isles of the Adriatic, where, of necessity, they adopted the avocation of fishermen. By this employment, steadily continued, Venice in a few centuries became renowned for her wealth, commerce, and naval strength. The origin of the republic was celebrated for a long period, and the omission or refusal of a Doge to provide the customary banquet, and to submit to the fishermen's embrace, allowed by his predecessors on this national festival, made the name of Contarini hateful, and well nigh caused the subversion of all legal restraint, and the overthrow of the reigning family.† Genoa, too, grew rich and pow-

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\* The fisheries are identified, indeed, with the earliest mention of commerce. The Phœnicians called a fish *sidon*; hence, according to some, Sidon, the most ancient of maritime cities, derived its name from the abundance of fishes that inhabited the waters near its site. Tyre, which in Scripture story is called the "daughter of Sidon," was founded by Sidonians, and became the greatest commercial mart of the ancient world. Stuffs dyed with the purple fluid which was extracted from a particular kind of shell-fish formed one of the most extensive branches of its trade and sources of its wealth. The Tyrians, by their industry and skill, carried this precious dye, which in value disputed with gold itself, to the highest possible degree of perfection. None but those of imperial dignity or of vast wealth could wear these purple-colored stuffs; and Rome, in her days of conquest and power, conferred them as the highest honor she could bestow upon such of her emperors, consuls, and warriors as she decreed a triumph. Specimens of the purple fish have been found occasionally, in modern times, on the shores of France and Britain; but the Tyrian dye, as a branch of the arts, is now lost. Tyre herself has met the doom pronounced by Ezekiel.

† The fugitives from the oppression of Attila devoted themselves to fishing and the manufacture of salt—the only employments which their scanty territory permitted. The growth of Venice was rapid. In the course of five centuries the small band of exiles and fishermen became a rich, powerful, and independent nation. The custom was finally adopted of inviting the fishermen to the capital to a public banquet every year, and to permit them to embrace the Doge at its conclusion. They were gratified with the privilege, and unwillingly relinquished it. But when the aristocracy was firmly established, some of the nobles revolted from this "supple bonneting" of the people; and a Contarini, when in authority, refused the feast and the kiss of fraternity. "His denial, if persisted in," remarks a historian, "might have shaken Venice to its base. When the fishermen assembled on the appointed day, and clamorously demanded admission, it was long before the reluctant Doge was prevailed upon to appear; and even when he did, he was masked. His guests approached him individually, in-

erful by the same means, and, not content with her own limited fishing grounds, undertook the conquest of others: usurping the fisheries of the regions of the Bosphorus, she captured and for a while awed into submission their rightful owners.\* Amsterdam, from a village of herring-catchers, cabins, and curing-sheds, rose, by the skill of the inmates of these frail structures, by the fame of their commodities in foreign countries, and by the immense consumption of them at home, to unexampled affluence and grandeur; and the sayings everywhere current two centuries ago, that "Amsterdam is founded on herring-bones," and that "Dutchmen's bodies are built of pickled herrings," were hardly more than quaint expressions of historic truth.

The islands and portions of continent separated from each other by deep and boisterous channels, which compose the kingdom of Denmark, compelled the Danes to communicate with different parts of their country by sea, and their barren soil as imperatively obliged them to resort to fishing for support. Extending their voyages at length from their own coasts to Greenland and Iceland, the skill and wealth thus acquired enabled them to add the ports of Copenhagen, Altona, and Kiel, to the

flicted the kiss, and, as a monument of their triumph, they afterwards placed in the church of Sta. Agnese a picture representing the ceremony."

Mocenigo, who died in 1423, was well versed in the commercial and maritime affairs of his country; and he advanced both to unexampled prosperity. A census taken while he was in supreme authority fixed the population of the capital at 190,000 souls.

Early in the sixteenth century, the French ambassador, Louis Helian, pronounced a speech, in which he uttered the most violent invectives against the Venetians, who he declared had "abandoned the cause of Heaven, and deserved to be execrated by God and man—to be hunted down by sea and land—and to be exterminated by fire and sword." Referring to their wars and conquests, he said, that "not a century has elapsed since these fishermen emerged from their bogs; and no sooner had they placed foot on *terra firma* than they acquired greater dominion by perfidy than Rome won by arms in the long course of two hundred years; and they had already concerted plans to bridge the Don, the Rhine, the Seine, the Rhone, the Tagus, and the Ebro, and to establish their rule in every province of Europe."

Her power, however, was soon weakened. Her salt works, in which from her very birth she had refused all partnership and defied all competition, were shared by compulsion with the Holy See within a few years after the maledictions of the French minister. Her decline and fall need not be here related. In modern times Venice is hardly known for her fisheries. Her exports of the products of the sea in 1829 were of the value of about twenty-five thousand dollars, while her imports amounted to nearly a quarter of a million of dollars. "The fishing boats of Venice," says McCulloch, in 1832, "are not of a size to be rated as vessels of tonnage. About sixteen thousand of the population subsist by fishing near the port and over the lagoon."

"At the close of the thirteenth century," says a historian of Venice, "Genoa, by her connexion with the Greeks, had acquired great strength in the East. She was mistress of Scio; she possessed many establishments on the shores of the Black sea, and among them the important town of Caffa, which commands the entrance of the sea of Azoph. Above all, she held, as a fief of the empire, Pera, the suburb of Constantinople; and by its occupation she virtually retained the keys of that great capital. She controlled its fisheries and its customs. Without her permission, not a bark could navigate its harbor; and, as she closed or threw open her granaries, famine or abundance waited on her pleasure."

Gibbon, in his Decline and Fall, speaking of Genoa, and referring to the year 1348, remarks that she "supplied the Greeks with fish and corn—two articles of food almost equally important to a superstitious people." "They proceeded," he continues, "to usurp the customs, the fishery, and even the toll of the Bosphorus, from which they derived a revenue of two hundred thousand pieces of gold. A Byzantine vessel which presumed to fish at the mouth of the harbor was sunk by these audacious strangers, and the fishermen were murdered. Instead of suing for pardon, the Genoese demanded satisfaction; required in a haughty strain that the Greeks should renounce the exercise of navigation, and encountered with regular arms the first sallies of the popular indignation."

great marts of Europe.\* Of France I may remark, that her fishermen founded her marine, and that chief among her early offensive operations upon the ocean was the armament fitted out by this class of her people, under the royal sanction, to relieve themselves from the real or fancied oppressions of their English competitors, while employed on the waters common to the subjects of both crowns, in the pursuit of fish.

Of the origin and rapid increase of the commerce of England, sufficient has been said elsewhere.† We proceed to consider the course of the British government towards New England.

So steadily and successfully were the fisheries pursued by the people of Plymouth, Massachusetts, New Hampshire, and Maine, that only fifty years elapsed from the landing of the Puritans, before an English writer of high authority in matters of trade expressed his apprehension as to the events likely to result, in the following remarkable words: "*New England*," said he, "*is the most prejudicial plantation to this kingdom.*" And why? Because, "*of all the American plantations, his Majesty has none so apt for building of shipping as New England, nor any comparably so qualified for the breeding of seamen, not only by reason of the natural industry of that people, but principally by reason of their cod and mackerel fisheries; and, in my poor opinion, there is nothing more prejudicial, and in prospect more dangerous, to any mother kingdom, than the increase of shipping in her colonies, plantations, or provinces.*" Sir Josiah Child was alarmed too much, probably, at what really was in his own time, but still saw with a prophet's eye what was to be. But the policy of England, from the restoration of the Stuarts down to the Revolution, was in strict accordance with the apprehensions expressed by him, and she not only neglected and declined all support to the nav-

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\* The naval power of Denmark dates from an early period of modern history. This kingdom consists for the most part of islands and portions of the continent separated from each other by deep and stormy seas. Intercommunication naturally produced seamen, while its poor soil drove its people to fishing for subsistence. Canute the Sixth, who died in the year 1202, paid great attention to the herring fisheries of his dominions. A Slavonian chronicler describes this branch of industry at this period as productive and profitable, and as bringing into the country "gold, silver, and all other precious things." The exports of herrings from Nalburg, in 1720, were more than twenty-three thousand tons, but in 1765 only about eight thousand tons. Two years later, a herring company was established at Altona, by royal grant, for ten years; the King, however, bought up the deeds before the expiration of the term, and commenced the fishery on his own account.

While the fisheries of Denmark were in a prosperous condition, Copenhagen, Altona, Kiel, and other ports, were crowded with ships. At present, the commerce of the kingdom is in a languishing state. In 1801, the Danish navy consisted of twenty-three ships-of-the-line, thirty-one frigates, guard-ships, and other vessels; but in 1833 it had diminished to four ships-of-the-line, seven frigates, and eighteen smaller vessels. The diminution of the commercial marine was quite as large. The seas abound with fish, and, under regulations, might now, as in Canute's time, bring into Denmark all manner of "precious things."

† It may be added here, that about the year 1600, there was but *one* quay or wharf in the city of London. The first was at Billingsgate, the great fish-market. The wharfage or toll was a half-penny for every boat-load of fish which was landed.

It may be said, further, that the *first* dock which was constructed in the same city (now so celebrated for its immense docks and warehouses) was used by the Greenland whale-fishers.

So, too, Liverpool, England—the present mart of American commerce—was once a poor fishing village. It derived its first importance, towards the close of the 12th century, from the circumstance of Henry II having used it as a station for the embarkation of troops to Ireland.

And Glasgow, in the reign of James I of Scotland, was a small village, "consisting of little else than the houses of the clergy belonging to the metropolitan church. A merchant of the name of Elphinstoun, engaging in the fisheries upon the coast, and accumulating considerable wealth, inspired his fellow-citizens with a similar ambition."

igation and commerce of New England, but directly oppressed and restrained them. Omitting notice of the acts of Parliament which do not relate specially to the subject before us, the first law to claim our attention was passed in 1733, after a discussion of two years. This act, by imposing duties on rum, molasses, and sugar, imported into the colonies from any West India islands other than British, was designed to break up an extensive and valuable trade with the French, Dutch, and Spanish islands, where these products of the plantations were exchanged for fish. It is said that, previous to the commencement of the trade to these islands, molasses was thrown away by the planters, and that this article, which is now so extensively used in food, was first saved and put into casks to be brought to New England, to be distilled into rum. Certain it is, that on the passage of the act of 1733, the people of the northern colonies insisted that, unless they could continue to sell fish to the planters of the foreign islands, and to import molasses from thence to be manufactured into spirit, for domestic consumption and for trade with the Indians, they could not prosecute the fisheries without ruinous losses. The penalty for violating the act was the forfeiture of vessel and cargo. Yet New England never submitted, though a fleet was sent to enforce obedience; and the interdicted trade with the French, Dutch, and Spanish islands did not cease until a late period of the controversy which terminated in the Revolution. In fact, therefore, a measure which threatened to ruin the cod-fishery of New England, produced, as I incline to believe, no serious injury to it, for quite thirty years.

But in 1764 the act was renewed, and the collection of the duties it imposed on rum, molasses, and sugar was attempted by the officers of the crown, in a manner to create the most anxious concern; for, the jurisdiction of the admiralty courts was enlarged, and the people were deprived of the trial by jury in all cases arising between them and the government under this law, and the trade and navigation laws generally.

The most alarming discontents followed the collisions and quarrels which constantly occurred between ship-masters and merchants, on the one hand, and the officers of the customs on the other, in various parts of New England, and especially in Boston, Salem, Gloucester, Falmouth,\* and elsewhere in Massachusetts; and the impression became general among commercial men, that their business and property were both to be sacrificed to appease the clamors of the planters of the British islands, and to test the ability of the mother country to "raise a revenue in America" under the "sugar and molasses acts," as this odious law was called in the politics of the day.

Meantime, the southern colonies ridiculed the madness or folly of their northern brethren, in resisting taxation upon so homely a commodity as *molasses*, and made themselves merry over the accounts of the quarrels of the Yankees for cheap "*sweetening*."

In truth, the South, from first to last, never seemed to understand or appreciate the North upon this question, and forbore to come to the rescue for years after the leading men of Massachusetts had wasted

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\* Now Portland, Maine.

their energies in endeavors to induce the ministry to abandon a policy so ruinous to northern industry. The "*petty dealers in codfish and molasses*" struggled long and manfully, but without success.

The State papers of Massachusetts contain the most earnest remonstrances against the "sugar and molasses acts." In the answer of the Council and House of Representatives to the speech of the governor, in November, 1764, it is said that "our pickled fish *wholly*, and a *great part* of our codfish, are only fit for the West India market. The British islands cannot take off *one-third of the quantity caught*; the other *two-thirds must be lost* or sent to foreign plantations, where molasses is given in exchange. The duty on this article will greatly diminish the importation hither; and being the only article allowed to be given in exchange for our fish, a less quantity of the latter will of course be exported—the obvious effect of which must be a diminution of the fish-trade, not only to the West Indies but to Europe, fish suitable for both these markets being the produce of the same voyage. If, therefore, one of these markets be shut, the other cannot be supplied. *The loss of one is the loss of both, as the fishery must fail with the loss of either.*" These representations cover the whole ground.\*

In the petition of the Council and the House to the House of Commons, prepared at the same time, it was urged that the acts in question "must necessarily bring many burdens upon the inhabitants of these colonies and plantations, which your petitioners conceive would not have been imposed if a full representation of the state of the colonies had been made to your honorable House;" that "the importation of *foreign molasses* into this province, in particular, is of the greatest importance, and a prohibition will be prejudicial to many branches of trade, and will lessen the consumption of the manufactures of Great Britain; that this importance does not arise merely, nor principally, from the necessity of foreign molasses, in order to its being consumed or distilled within the province," but "that if the trade, for many years carried on for foreign molasses, can be no longer continued, a vent cannot be found for more than one-half of the fish of inferior quality which are caught and cured by the inhabitants of the province, the French not permitting fish to be carried by foreigners to any of their islands, unless to be bartered or exchanged for molasses; that *if there be no sale of fish of inferior quality, it will be impossible to continue the fishery*: the fish usually sent to England will then cost so dear, that the French will be able to undersell the English in all the European markets, and by this means one of the most valuable returns to Great Britain will be utterly lost, and that great nursery of seamen destroyed." Accompanying this petition was a letter to the agent of Massachusetts, in England, which closes with the remark, that "we are morally certain that the molasses trade cannot be carried on, and the present duty paid."

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\* Mr. Burke, in his "Observations" on a publication called "The Present State of the Nation," in 1769, reviews the course of the ministry, and says that, among the acts relating to America, were "some *which lay heavy upon objects necessary for their trade and fishery.*"

The Hon. Josiah Quincy, of Massachusetts, in a speech delivered in the House of Representatives of the United States, in 1808, on our "foreign relations," enumerated the principal "causes which led to a separation from Great Britain," and included among them the "embarrassing our fisheries."

These representations were followed by a letter of Mr. Oliver, secretary of Massachusetts, to Mr. Jackson, the colonial agent, written in June, 1765, by order of the general court, which, as showing that the evils apprehended were not imaginary, I insert entire: "By several of the papers directed to be delivered to you by Mr. Mauduit, the late agent," says the secretary, "you will observe the opinion of the two houses with regard to some of the probable ill effects of the last year's acts of Parliament for granting certain duties in the colonies, and some of them, with respect to trade, have been already verified, as will appear by the petitions and statements of Messrs. Patrick Tracy, Thomas Boylston, and Fortesque Vernon, merchants within this province. In consequence of said act, three vessels, belonging to them severally, *have been seized and condemned*,\* with respect to which matter, they, in their petitions in general, declare that their vessels sailed hence before said act took place, viz: before September last; that no bond was required of them at the respective custom-houses at which their vessels were cleared out, and that said act did not require any bond; that said vessels proceeded to the French islands and loaded with molasses; that, on return, they were forced, by stress of weather, two of them into New Providence, and the other into Bermuda; that these were the first English ports which Tracy and Boylston's had put in at after sailing hence; that William Vernon's vessel had only touched at Barbadoes, and sailed again before the 29th of September; that at Providence and Bermuda said vessels were seized and, with their cargoes, by the court of admiralty, finally adjudged and condemned—*forfeited for a want of certificates*; that bonds had been given, pursuant to said acts; that the vessels and cargoes were appraised at a rate much below their value, with a view (they say) that, in case they should be able to reverse the decree, they should, notwithstanding, recover a small part of the value of their vessels and cargoes. This is a brief representation they make, as you will see by their petitions. If their representation be just, their case is really hard, and merits the notice of those who have the power to relieve them."

A detailed account of the seizures of French and Spanish molasses, which, contrary to the acts of Parliament, was continually imported—or, to speak the exact truth, *smuggled*—would occupy too much space; yet, as the "molasses excitement" was one of the earliest in the revolutionary controversy, some further notice of the course of events cannot well be omitted. The merchants, determined to maintain intercourse with the interdicted islands, devised a plan, finally, which for a time enabled them to accomplish their purpose, and still avoid the penalties of the law. This plan was simply to lade their vessels with molasses at the French islands, as usual, but to purchase clearances, "signed with the name, if not the handwriting, of the governor of Anguilla, who acted also as collector." This island was so small as not to afford a cargo for a single vessel, as was well known to the collectors of the customs in New England; yet they permitted vessels fur-

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\* The act which imposed a duty of sixpence the gallon upon all foreign molasses imported into the colonies gave one-third part of the proceeds of forfeitures to the crown, for the use of the colony where the forfeiture occurred, one-third to the governor of that colony, and one-third to the informer. "The act," says Hutchinson, "was always deemed a grievance."

nished with the "Anguilla clearances" to enter with their cargoes without inquiry, for a considerable time; but, on a sudden, libels were filed, and prosecutions were commenced in the court of admiralty against those who had been concerned in such evasions of the statutes, and ruinous forfeitures of property and renewed clamors were the consequences.

We pass to other topics. In 1762, the fishing towns of Massachusetts, alarmed at the news that the French had captured St. John, Newfoundland, petitioned the governor and council to fit out a ship and a sloop, then in the service of the province, to protect their vessels. Both vessels, in accordance with these petitions, were provided with additional men and means of defence, and sent to sea. The expense thus incurred became the subject of legislative inquiry, and was objected to because the executive branch of the government had appropriated the public money without the consent or knowledge of the representatives of the people. The debate in the House was angry and protracted. James Otis, the popular leader, used expressions never before uttered in the colonies; and, soon after the close of the session, published a pamphlet, in which he justified himself for his conduct on the occasion, and defended with great ability the principles for which he had contended as a member of the House. "This production has been considered the original source from which all subsequent arguments against taxation were derived;" while the whole affair created an intense excitement, and, in the judgment of the biographer of Otis, exerted very great influence in causing the Revolution.

It is a singular fact, that the fisheries furnished the advocates of the supremacy of Parliament with one of their best illustrations. They stated that the authority of the imperial legislature was indispensable in many cases, and that without it the colonies would often be involved in conflicts injurious to each other's interests. Governor Hutchinson, in his remarks upon the question, said, substantially, that it had been generally thought a public benefit to prevent fishing vessels from departing on their voyage until the month of April; but that if any colony engaged in the business failed to conform to a law imposing such a regulation, others that complied with it would suffer, because their fish, later caught, must, of necessity, be later in market; and he declares that a motion had actually been made in the legislature of Massachusetts, a few years previously, for parliamentary interposition in this behalf, which failed, not in consequence of any objection to the principle involved in the motion, but because a majority of the members disapproved of the restraint itself, and were willing that fishing vessels *should* depart from port before April, and whenever their owners and masters thought proper.

In 1772, a fishing vessel, having one passenger on board, sailed from Boston for Chatham, Cape Cod. The morning after her departure she was discovered without her crew, who, as the passenger said, were all murdered soon after leaving Boston, by a party of men who came on board in a boat, despatched from an armed schooner. This party, he further averred, plundered the fishing vessel, lashed her helm with her sails standing, and abandoned her; while he, supposing that they belonged to a King's cruiser, and would impress him, concealed himself

by hanging by his hands over the stern. The passenger was examined by a magistrate, who gave credit to his story, and suffered him to go at large, but still sent a copy of the examination to the governor. The account seemed untrue to the governor, who, as commissioner for trial of piracies, issued a warrant to apprehend him, and he was tried for murder at a special court of admiralty. He was acquitted; but the affair was transferred to the politics of the time, and did much to increase the popular excitement. He was visited by several of the leading whigs, who affirmed their belief in his declarations, and charged the murder upon a vessel of the royal navy; while the Tories, on the contrary, insisted that he killed three of the crew to obtain their money, and then took the life of the fourth, who was a boy, to prevent detection.

These incidents will serve to show the connexion of the fisheries with the questions which caused a dismemberment of the British empire. It remains to speak of the act of Parliament passed in 1775, which, by depriving the people of New England of the right of fishing, was designed to "starve them into submission." The trade arising from the cod-fishery alone, at that period, furnished the northern colonies with nearly half of their remittances to the mother country, in payment for articles of British manufacture, and was thus the very life-blood of their commerce. The fishing towns had become populous and rich. Marblehead, for example, next to Boston, was the most important place in Massachusetts, and was second to the capital only in population and taxable property. A fearful change awaited all. The dispute was now to be determined by an appeal to arms, and every maritime enterprise was to be interrupted and ruined.\*

On the 10th of February, Lord North moved "that leave be given

\* The inhabitants of the sea-shore of Massachusetts, impelled by their necessities, commenced the manufacture of salt from sea-water early in the Revolution. From the accounts preserved, it would seem that they boiled the water at first, but were compelled to relinquish the experiment because of the expense, and of the impurity of the salt. The next attempt was by solar evaporation, on Boston Neck, by General Palmer, "a worthy and enterprising gentleman," who failed in consequence of the rain-water which fell into his uncovered works. The third experiment is said to have been made in Dennis, Cape Cod, by Captain John Sears, who, in the end, was successful. He constructed a vat with rafters and shutters, so arranged as to exclude the rain in storms, and to expose the sea-water to the action of the sun in pleasant weather. The first year he obtained only eight bushels of salt. His neighbors called his invention "Sears's Folly;" yet he persevered. The second year he made thirty bushels of salt. The fourth year, instead of pouring water into his vat from buckets, he introduced a *hand-pump*. In 1785, at the suggestion of Major Nathaniel Freeman, of Harwich, he contrived a *wind-pump*, which he continued to use, and which saved a vast deal of labor. In 1793 Mr. Reuben Sears, of Harwich, invented covers for salt-vats, to move on shives, or small wheels, as in ships' blocks. Five years later Mr. Hattil Kelley, of Dennis, constructed a new kind of vat, and a new method of moving the covers. Various changes were made by different persons subsequently; and the manufacture of salt from sea-water, by solar evaporation, became extensive, and at times profitable. Capt. John Sears was assisted in the improvements in his works by Capt. William, Capt. Christopher Crowell, and by Capt. Edward Sears, of Dennis. They resigned to him whatever claims they might have had for their aid; and in 1799 he obtained a patent from the government. His right was, however, disputed by others, who asserted that he made no "new discovery."

In 1802 the number of salt-works in the county of Barnstable, Massachusetts, was 136, containing 121,313 feet. These works were estimated to produce, annually, salt of the value of \$41,700. The business increased rapidly; and in 1832 the number of feet of salt-works, in the same county, was 1,425,000; the quantity of salt manufactured, 358,250 bushels. The reduction of the duty on the foreign article, and other causes, produced a great change in the value of this description of property. In 1831 the manufacture was ruinously depressed; and

to bring in a bill to restrain the trade and commerce of the provinces of Massachusetts Bay and New Hampshire, the colonies of Connecticut and Rhode Island and Providence Plantation, in North America, to Great Britain, Ireland, and the British islands in the West Indies; and to prohibit such provinces and colonies from carrying on any fishery on the Banks of Newfoundland, or other places therein to be mentioned, under certain conditions, and for a time to be limited." He supported his motion by declaring that, as the Americans had refused to trade with Great Britain, it was but just that they should be deprived of the right to trade with any other nation. In particular, he said that the fishery on the Banks of Newfoundland, and the other Banks in America, was their undoubted right, and that, therefore, such disposition might be made of them as the government pleased. The two houses, he continued, had declared that a rebellion existed in Massachusetts, and that it was just to deprive that province of its fisheries; that though a government still existed in New Hampshire, the royal authority was weak; that a quantity of powder had been taken out of a fort there by an armed mob; and that, besides, the vicinity of that province to Massachusetts Bay was such, that if it were not included, the purpose of the act would be defeated. Rhode Island, he stated, was not in much better situation than Massachusetts; that several pieces of cannon had been taken and carried into the country, and that the people were arming to aid any colony that should be attacked. With regard to Connecticut, he observed that a large body of her men had marched into Massachusetts, on a report that the soldiers had killed some inhabitants of Boston, and that that colony was in a state of great disorder and confusion. To this he added, that the river Connecticut afforded the people of that colony an opportunity of carrying on the fishery, and that the same might be said of Rhode Island; and as the argument of vicinity might be applied also to New Hampshire, the whole ought to be included in the prohibition to fish and trade, in order that the act might not be defeated. But he was willing, he said, to admit of such alleviations of the measure as would not prove destructive to its great object, and would therefore move it as only temporary, and would permit particular persons to be excepted, on certificates from the governor of their good behavior, or upon their taking a test of acknowledgment of the rights of Parliament.

Lord North having concluded, a most interesting and animated debate was commenced, which was continued from time to time until the final passage of the bill. It was during the discussion of this measure that Fox made his *first* great speech; and, as we learn from a letter of Gibbon, the historian, to Lord Sheffield, that he "discovered powers for regular debate which neither his friends hoped nor his enemies dreaded." I cannot forbear to insert a condensed view of the course of argument of the members of Parliament who defended and who opposed this crowning act of a cruel and barbarous policy.\*

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salt-works, which, for many years previously, had been considered valuable, as affording a certain income, could hardly be sold at prices above the cost of the materials used in constructing them.

\* This debate is here abridged from the *American Archives*. A regard for brevity has not allowed me, generally, to preserve verbal accuracy; but I have endeavored to give a faithful synopsis of the remarks of the respective speakers.

Mr. Dunning opposed the bill. He thought that the Americans had a right to fish on the Banks of Newfoundland; that there was no rebellion in Massachusetts Bay, and nothing there that could be construed into treason; that, if even there was a rebellion in some parts, the *whole* should not be punished; and why, he asked, punish New Hampshire, Rhode Island, and Connecticut? "The ministers," he added, "were the best authors of a receipt to *make* rebellion."

Mr. Attorney General Thurlow followed in reply. In his judgment there *was* a rebellion in Massachusetts.

Governor Johnstone said that the measure was absurd and cruel; that the God of nature had given these fisheries to *New* and not to *Old* England, and the proposition to starve a whole people, except such as the governor should think proper to favor, was inhuman; and that this partial permission would give rise to unjust preference, monopoly, and all sorts of jobs. He declared, further, that he had served in the navy during the entire period of the last war, and that it was a constant rule in the service for the British cruisers on the enemy's coast to spare the fishing craft, thinking it savage and barbarous to deprive the poor fishermen of their little means of livelihood, and the miserable inhabitants of the seacoast of their daily food.

Sir George Saville exposed the folly of depriving one province of its subsistence because rebellion, we knew not where nor by whom, is lurking in it; and then punishing a second province because it is next door to rebellion; a third, because ministers would accomplish nothing if a third were allowed to escape; and a fourth, because otherwise the authors of the scheme could not square their plan.

Sir W. Meredith supported the bill. He indulged in terms of severe reprobation of the spirit which continued to prevail in the colonies; and concluded with declaring, that whatever distress might be occasioned by suspending the fisheries, the Americans would have no cause to complain, since they had commenced the same course of conduct, and had resolved, as far as was in their power, to ruin British merchants and manufacturers, and to starve all the West India islands.

Lord Beauchamp and Sir Richard Sutton defended the ministry on similar grounds, and because the colonists had prohibited trade with the mother country.

Mr. Burke was extremely severe in the course of his attack upon the bill, and remarked that the ministers had disposed of four of their provinces; some for concealed rebellion, others for concealers of the concealment; some for infection, and others for being next door to infection. But, said he, there is a fifth province which is as likely to suffer as any of the four, and *that* province is England, which has several hundreds of thousands of her property in the four provinces of New England; and, as these can only pay their debts by means of the fisheries, and the trades that depend upon them, the effect of the passage of the bill will be to beggar the English merchants and manufacturers.

Lord North's motion was, however, agreed to—two hundred and sixty one members voting in favor, and but eighty-five against it.

On the 25th of February the bill was taken up, and several persons acquainted with the fisheries were examined as to their value, and the probable results of suspending them. Mr. David Barclay appeared to

conduct the examination, as the agent of the committee of North American merchants. Much useful information was elicited in the course of the inquiries. Mr. Brook Watson was the first witness. He stated that he had been called to the bar of the House in 1765 and 1766, to give such testimony as he could with regard to the American fisheries; since which time he had received additional information from his correspondents in America, and had actually visited the country himself. A considerable part of his statement relates to estimates of vessels and men employed, and the value of the produce of the different branches of the business, which I am compelled to omit. As curious facts to show commercial transactions of the time, we may, however, observe, that he testified that the shipment of brandy from England to Canada had entirely ceased, in consequence of the consumption of rum, made in New England from molasses; and that, so dependent were the colonies upon the mother country, as to import "everything" they used, 'except salt, and the timber of which their vessels were built.'

The second witness was Stephen Higginson, "from Salem, in the Massachusetts Bay, a merchant." After Mr. Higginson, Mr. John Lane, a New England merchant, and Mr. Seth Jenkins, from the island of Nantucket, were interrogated with great particularity and minuteness. Their testimony as to the injury to be inflicted upon their country by the passage of the bill, was strong and definite. Mr. Jenkins, on being asked how long the people of New England, who subsisted by fishing, could live without employment, replied, "*Perhaps three months.*"

The ministry, I think, from several questions submitted to the witnesses, indulged the hope that many fishermen would emigrate from the disaffected colonies to the more loyal province of Nova Scotia, and there pursue their avocation. But the answers they received must have convinced them of their mistake.

On the 6th the consideration of the bill was resumed.

Lord Howe insisted upon the necessity of its passage, as the only moderate means of bringing the disobedient provinces to a sense of their duty, without involving the empire in all the horrors of a civil war.

Mr. Fox was of the opinion that the bill was designed to put an end to all that remained of the legislative authority of Great Britain over America. He was quite satisfied, he said, that it was meant to exasperate the colonies into open and direct rebellion; that hitherto, rebellion was only asserted ambiguously of one colony, but would now become apparent and universal in all, and thus give an opportunity for drawing the sword and throwing away the scabbard; and that the colonists, deprived of their means of subsistence, and of provisions from other countries, would have no alternative left them but starvation or rebellion.

Mr. Jenkinson came to very different conclusions. The fact so strongly stated by Mr. Fox, he remarked, impressed him with the belief that the colonists aimed at independence from the beginning; and he thought the bill to be just in every respect, and even merciful, considering the offences of those who were the objects of it.

Mr. T. Townsend urged the cruelty and injustice of the measure; a measure which made no discrimination between innocence and guilt;

which starved all alike; and which had a tendency to fix an eternal hatred of England and of Parliament in the minds of the Americans.

The Solicitor General of Scotland, Mr. Henry Dundas, said the bill had his most hearty approbation. It is just, he declared, because provoked by the most criminal disobedience; it is merciful, because that disobedience would have justified military execution; and *as to the famine which had been so pathetically lamented, he was afraid, he said, that it would not be produced by the act.* The people of New England, though deprived of the sea-fisheries, could still fish in their rivers; and though he understood that the country was not fit for grain, yet the colonists had a kind of grain of their own—Indian corn—on which they might subsist as well as they deserved; but whether they might so subsist or not, was no matter that he was bound to consider.

Lord John Cavendish expressed himself to be shocked at the perfect ease and alacrity with which gentlemen voted famine to a whole people; and he was particularly surprised at the ideas of clemency entertained by the learned gentleman who spoke last, (Dundas.) That functionary of the crown had commended the bill because it was not sanguinary, assuming that to kill by starving is not cruelty; and that, provided a man's blood be not shed, he may be destroyed with great gentleness in any other way whatsoever. As for himself, he could not but regard the bill as alienating the Americans forever, and rendering useless any possible plan of reconciliation.

Mr. Rice adopted the proposition before the House, he stated, with great pain and reluctance. It was harsh, but harsh measures were unfortunately necessary. He was satisfied, from a careful comparison of all the parts of the proceedings of the Americans with each other, that independence was their object.

Mr. Burke now rose and said, that he was afraid any debate on the subject was to little purpose. The road by penitence to amendment was, he knew, humiliating and difficult.

The greater part of mankind were disposed to think like Macbeth:

"I am in blood  
Stept in so far, that should I wade no more,  
Returning were as tedious as go o'er."

And thus they pass toward the further bank, be the channel ever so wide, or the flood ever so deep and rapid. This measure was in the same spirit as all former ones, and he did not doubt would be productive of the very same consequences. This, continued he, is in effect the Boston Port Bill, but upon infinitely a larger scale. Evil principles were prolific: the Boston Port Bill begot this New England bill; this New England bill will beget a Virginia bill; again, a Carolina bill; and that will beget a Pennsylvania bill, till, one by one, Parliament will ruin all its colonies, and root up all its commerce, and the statute-book become nothing but a black and bloody roll of proscription—a frightful code of rigor and tyranny—a monstrous digest of acts of penalty, incapacity, and general attainder; so that, open it where you will, you will find a title for destroying some trade, or ruining some province. This act confounds all kinds of people, all ages, all sexes, in one common ruin. Nothing can be more foolish, more cruel, and more insulting, than to hold out, as a resource to the starving

fishermen, ship-builders, and others employed in the trade and fisheries of New England, that after the plenty of the ocean, they may poke in the brooks, and rake in the puddles, and diet on what we consider as husks and draft for hogs.

He averred that he was convinced by the whole tenor of the debate, as well as by private conversation, that most of those who would vote for the bill had never read it, and would support it out of respect to the opinions of others; and he concluded with expressing the hope that such, if any there were, would have the benefit of the prayer made for those who *alone* had done an act worse than this: "Forgive them; they know not what they do."

The Lord Advocate of Scotland replied, and closed the discussion. He charged upon those who took part with the Americans in Parliament and elsewhere, all the guilt and bloodshed that might come of the measures of the government. He sat down in temper; the House evincing much impatience.

The vote on the question of passing the bill to a third reading was then taken: two hundred and fifteen members answered *aye*, and sixty-one *no*.

On the day assigned, namely, the 5th of March, the bill was put upon its final passage. Mr. Hartley introduced an amendment providing that the colonies might transport coastwise, and from one to the other, "fuel, corn, meal, flour, or other victual;" and supported his views in a speech of great power. He reviewed the dealings of Parliament with Massachusetts, and pointed out the disastrous consequences that were sure to result to the commerce and manufactures of the mother country herself from the act before the House.

Lord North opposed the amendment. Mild and courteous in his words and bearing, he yet avowed his determination to adhere to the principles of the bill as they stood; and so far from relaxing from these, said he, more severe measures must follow if the conduct of the colonists rendered such further legislation necessary.

Mr. Burke\* again attacked the ministry in a speech of exceeding warmth and bitterness. The act, he uttered, is not sanguinary. No; it did not mean to shed blood; but, to suit some gentlemen's humanity, it *only* meant to starve five hundred thousand people—men, women, and children at the breast. Some gentlemen had even expressed their approbation of famine in preference to fire and sword. The act not only took from these people the means of subsisting themselves by their own labor, but, if the amendment proposed should be rejected, would deprive them also of support by the charity of their friends. The ministry reduced them to beggary first, and then took the beggar's scrip from them; nay, they even dashed from the mouth of hunger the morsel which the hand of benevolence would bestow.

Lord Clare, in reply, said he would not enter the list with the honorable gentleman who had just spoken; he should wage an unequal war. But he had in his hand a friend who was a match for him—his

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\* Mr. Burke, in his speech, subsequently, on his "resolutions for conciliation with the colonies," March 22, 1775, refers to this bill as "the grand penal bill by which we have passed sentence on the trade and sustenance of America."

old friend Sir Joshua Ghee, a great friend to America, though no patriot; a man who had written better on trade than any other man living, and who knew more of America; and Sir Joshua Ghee says, if ever the people of New England should aim to set up for themselves, we must do the very things we are now doing—restrain their trade and prohibit them from the fishery, and we shall soon bring them to their senses.

Mr. Fox renewed his opposition in terms of lofty indignation.

He was followed by Governor Pownall, who declared that he considered the measure as simply one of commercial regulation, and that it should have his support.

Mr. Dundas, as on a former occasion, closed the debate. Mr. Hartley's amendment was rejected by a very large majority; whereupon the House "resolved that the bill do pass;" and that "Mr. Cooper carry the bill to the Lords and desire their concurrence."

The subject was immediately considered in the House of Lords, and an early day was assigned for final action upon it. Witnesses were examined on the 15th of March. Lord Townsend asked Mr. Jenkins "whether the Nantucket fishermen, after their business was interrupted by the operation of the bill, would not emigrate to Nova Scotia?" The Quaker, in his plain way, answered "No," as he had done when questioned in the Commons. "Why not?" inquired his lordship. "Because," said Jenkins, "it is a barren country, and the government, they think, is military." From these and similar inquiries made of other witnesses, it seems quite evident that the lords who supported the ministry hoped, with their political friends in the lower house, that the fishermen of New England would abandon their homes rather than suffer and remain idle. While they elicited nothing to encourage the design of thus increasing the fisheries of the loyal colony to which their thoughts were directed, they were told by Mr. Lyster and Mr. Davis, who were engaged in the Newfoundland fishery, that the fish hitherto sent to foreign markets from New England could be supplied by themselves and others. Among the other persons examined were two former governors of Newfoundland, Admiral Shulldham and Sir Hugh Palliser. The former spoke in terms of contempt and disparagement of Massachusetts and the other northern colonies; and the latter, besides indulging in similar remarks, expressed the opinion, that whether the restraints proposed by the bill were temporary or perpetual, they would prove advantageous to Great Britain.

On the 16th of March the bill was taken up as the order of the day. The debate upon its merits and consequences was long and animated. The Marquis of Rockingham opposed it as oppressive and tyrannical throughout, and said that he dissented from every syllable of its contents. The Earl of Carlisle expressed himself surprised at the sentiments of the noble marquis, and averred that the object of the ministry was merely to draw America to her duty by the most lenient measures. The Duke of Manchester spoke of the bill as indiscriminately cruel, as presaging nothing but evil, and as bearing the marks of despotism. The Earl of Denbigh defended the administration from the charges preferred against it, and called upon his Grace of Manchester to explain, which he did. Viscount Dudley observed that when the inter-

ests of the mother country—the manning of her navy, the increase of her seamen, and the employment of her own people—came in competition with the pretended hardships and severities of the bill, he thought it should not only meet with approbation, but be made perpetual, in order to secure for her so important a branch of commerce; and that the colonies were at present spared by the lenity and mildness of the government, when fire and sword might be used throughout the whole continent of America. Lord Camden rose, he said, with reluctance. He was wearied with the fruitless efforts he had made in opposition to the measures brought forward to overawe and subdue the colonies. The bill then before them was one of war; it drew the sword, and, as a necessary consequence, would involve the empire in a civil and unnatural contest. Lord Sandwich declared that the colonists were raw, undisciplined, cowardly men; and he wished that, instead of forty or fifty thousand of these *brave* fellows, they would produce in the field at least two hundred thousand—the more the better; the easier the conquest: if they did not run away, they would starve themselves into compliance with the measures of the administration. The Earl of Shelburne coincided with the views expressed by Lord Camden; and he charged upon the ministers the most unscrupulous fraud upon Parliament and the country in suppressing whole letters, and in giving only mutilated extracts from others, relating to affairs in America. The Earl of Suffolk, though he disapproved of the insinuations against the courage of the Americans made by Lord Sandwich, and though he believed that there were as brave men among them as could be found anywhere, considered that the bill was intended to coerce the people of New England to submit merely to the just and legal power of the mother country, and that the faith of Parliament would be pledged to them to restore the fishery as soon as it should appear that they had returned to their former obedience. The Earl of Radnor said that he was going out of the House, not intending to vote on either side, when he heard the last noble earl pledge the faith of Parliament that so valuable a branch of British commerce was intended to be given up to the New Englanders as a sacrifice for their returning to their duty; the language was improper, and the policy exceptionable in every respect, and he had returned to give his voice against the bill. The Earl of Suffolk explained, but did not satisfy Lord Radnor, who repeated his determination to vote in opposition. The Duke of Grafton had not the least difficulty as to the vote he should give. The bill, in his opinion, was founded on the principle of retaliation and punishment for an outrage as daring as it was unprovoked, still further heightened and aggravated by a resistance to all lawful authority, and almost a positive avowal of a total independence of the mother country. The Earl of Abington entertained sentiments precisely opposite. Reason, justice, conscience, principle, and instinct, all prompted him to pronounce the bill a most diabolic one. How the Right Reverend Bench reconciled it to their consciences, he was unable to conceive: for his part, he put his trust in the Almighty; and though he knew all he could say would avail nothing against a ministerial majority, yet he cautioned the lords to beware of injustice, since the judicial visitations of Providence generally fell heavy on the heads of those who planned iniquity.

The final question was taken in the House of Lords on the 21st of March, when the bill passed by a decisive majority. The peers in minority—twenty-one in number only—entered a solemn protest, embodying the objections they had uttered in the debates. This document is one of the most earnest and eloquent state papers on record. A single passage will indicate its general tone: “We dissent,” said these noblemen, “because the attempt to coerce, by famine, the whole body of the inhabitants of great and populous provinces, is without example in the history of this or, perhaps, of any civilized nation, and is one of those unhappy inventions to which Parliament is driven by the difficulties which daily multiply upon us from an obstinate adherence to an unwise plan of government. We do not know exactly the extent of the combination against our commerce in New England and the other colonies; but we do know the extent of the punishment we inflict upon it, which is universal, and includes all the inhabitants: among these, many are admitted to be innocent, and several are alleged by ministers to be, in their sense, even meritorious. That government which attempts to preserve its authority by destroying the trade of its subjects, and by involving the innocent and guilty in a common ruin, if it acts from a choice of such means, confesses itself unworthy; if from inability to find any other, admits itself wholly incompetent to the ends of its institution.”\*

Having destroyed the fisheries of New England, Lord North, on the 11th of April, moved that the House of Commons do resolve itself into a committee of the whole house, on the 27th instant, to consider the encouragement proper to be given to the fisheries of Great Britain and Ireland. He introduced his motion with disclaiming any motives of resentment against America, by the present measure, or meaning it either directly or indirectly to oppress that country. The fisheries, in his judgment, when well conducted and properly directed, were an inexhaustible fund of riches; for, while they extended British commerce and kept open a continual advantageous intercourse with foreign nations, they increased the naval strength of the kingdom, and were, consequently, the great source of that power which gave it the pre-eminence over all other nations of Europe. Such was the tenor of his remarks.

On the day proposed by his lordship, the House considered the subject, in the manner suggested. A bill was framed which granted boun-

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\* Botta, in his History of the Revolution, thus speaks of this measure: “The ministry,” he remarks, “thus guided, as usual, by their spirit of infatuation, confided their cause, not to the certain operation of armies, but to the supposed inconstancy and partiality of the American people. Upon such a foundation Lord North proposed a new bill, the object of which was to restrict the commerce of New England to Great Britain, Ireland, and the West India islands; and prohibit, at the same time, the fishery of Newfoundland. The prejudice that must have resulted from this act to the inhabitants of New England may be calculated from the single fact, that they annually employed in this business about forty-six thousand tons, and six thousand seamen; and the produce realized from it, in foreign markets, amounted to three hundred and twenty thousand pounds sterling. This bill, however, did not pass without opposition in the two houses; on the contrary, the debates and the agitation it excited were vehement in both. Many of the members exerted all their efforts to defeat it; and more than any the Marquis of Rockingham, who presented to this end a petition of the London merchants. The bill was, however, approved by a great majority. The opposition protested; the ministers scarcely deigned to perceive it,” &c., &c.

ties to vessels employed in the cod and whale fisheries, repealed the duty payable on the importation of seal-skins, and abolished some other restrictions, particularly in Ireland; passed the Commons on the 17th of May, and the Lords five days afterwards. That this act was devised in consequence of the suspension and ruin of the New England fisheries, and as the means to stimulate English merchants and fishermen to supply the domestic and foreign markets, cannot be doubted.

To retaliate upon the ministry, the colonies, by their congress of delegates, strictly prohibited the supplying of British vessels coming to the American coasts to engage in fishing, with any kind of provisions or outfits.

I have said that the object of Lord North's bill to restrain Massachusetts, New Hampshire, Connecticut and Rhode Island, from carrying on any fishery on the Banks of Newfoundland, and other places, was to "starve them into submission." The sentiments uttered in Parliament, and the facts derived from other sources, show this too plainly to be mistaken. Nor was the opinion that the people of these colonies, deprived of their most important maritime employment, would yield to the blow, confined to British statesmen. Reference to the letter of Silas Deane to the "Secret Committee of Congress," dated at Paris, in July, 1776, will show that the French ministry, of whom he solicited aid, in his public capacity, were impressed with the idea that "submission" was not an improbable result. Mr. Deane, in this letter, details at some length the occurrences of an interview with Count de Vergennes, the Principal Minister of State, and says, in the course of the narrative: "He asked me many questions with respect to the colonies; but what he seemed *most to want to be assured of, was their ability to subsist without their fisheries*, and under the interruption of their commerce. To this I replied, that the fisheries were never carried on but by a part of the colonies, and by them not so much as a means of subsistence as of commerce; that the fisheries failing, those employed in them turned part to agriculture and a part to the army and navy."

Rejoicing now in our strength and prosperity, we can afford to smile at the inhumanity and cool contempt manifested in Parliament by Jenkinson and Dundas, by their lordships Dudley and Sandwich, and his Grace of Grafton. And since, too, the untiring labors of Mr. Sparks have explained the enigma of Lord North's course on American affairs, we may qualify our reproaches upon his memory.\* The oppressors and the oppressed have disappeared, and repose in the grave; but the warning may still go out for some living men to heed, that to drive fishermen from the ocean is an outrage.

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\*The "Extracts from the letters of George the Third to Lord North, selected by Lord Holland from the manuscripts of Sir James Macintosh," which are to be found in the Appendix of the sixth volume of Sparks's Washington, show that the popular opinion, that Lord North was the author of the war and its constant advocate, is wholly erroneous.

## THE UNITED STATES.

*From the Declaration of Independence to the year 1852.*

We open upon a new era. Every fact and circumstance known to the whigs of the Revolution indicated that, at the close of the contest, England was prepared to insist that, as one of the penalties of "rebellion," the interdictions of Lord North's bill should be perpetual. We had fought for, had won, and had enjoyed the fishing grounds as British subjects. As these grounds were east of the easterly boundary of the thirteen colonies, and within the possessions acquired of France, they were not of necessity connected with the question of independence. Yet many of the prominent whigs of New England considered the fisheries so intimately connected with our commercial prosperity and success in maritime affairs, as to determine that our rights should be distinctly recognised and stipulated in the treaty of peace.

Though finally successful, these statesmen were doomed to encounter serious obstacles; for, to allow that their suspicion that France secretly gave countenance to the views of England was unfounded, they were still opposed by the representations and influence of the leading loyalists, or "tories," who, during the war, fled to the mother country; and were compelled, besides, to meet the arguments of the whigs of the South, who having no particular knowledge of, or interest in, the subject, were never able to understand the importance attached to it.

Having stated, in another connexion, that a plan was submitted to the French court, previous to the treaty of alliance of 1778, to conquer Newfoundland, Canada, and Nova Scotia, with the design of dividing these colonies between France and the United States, and thus, as the projectors considered, to ruin the British fisheries, and, of direct consequence, the British marine, and that the measure was submitted to Washington, was disapproved by him, and finally abandoned, we pass to notice the course of Congress, and of their ministers abroad, subsequently, and to the conclusion of the treaty with Great Britain in 1783, by which our independence was secured and acknowledged.

Whoever examines the records of Congress will find that between February and August, 1779, the various questions connected with the fisheries were matters of the most earnest and continued debates, and of the most anxious solicitude. During the discussions upon a proposition to open a negotiation for peace, Mr. Gerry introduced the following resolutions. First: "That it is essential to the welfare of these United States that the inhabitants thereof, at the expiration of the war, should continue to enjoy the free and undisturbed exercise of their common right to fish on the Banks of Newfoundland, and the other fishing banks and seas of North America, preserving inviolate the treaties between France and the said States." Second: "That an explanatory article be prepared and sent to our minister plenipotentiary at the court of Versailles, to be by him presented to his Most Christian Majesty, whereby the said common right to the fisheries shall be more explicitly guaranteed to the inhabitants of these States than it already is by the treaties aforesaid." Third: "That in the treaty of peace with Great

Britain, a stipulation be made on their part not to disturb the inhabitants of these States in the free exercise of their common right to the fisheries aforesaid, and that a reciprocal engagement be made on the part of the United States." Fourth: "That the faith of Congress be pledged to the several States, that, without their unanimous consent, no treaty of commerce shall be formed with Great Britain previous to such stipulation." Fifth: "That if the explanatory article should not be ratified by his Most Christian Majesty, nor the stipulation aforesaid be adopted by Great Britain, the minister conducting the business shall give notice thereof to Congress, and not sign any treaty of peace until their pleasure be known."

The opposition to these resolutions was determined and violent in the extreme. Those who enlisted against them insisted that it was unreasonable and absurd to ask or expect that a war commenced for freedom, should be continued for the humble privilege of catching fish. Mr. Gerry, who had grown up among the fishermen of Massachusetts, replied: "It is not so much fishing," said he, "as enterprise, industry, employment. It is not fish merely which gentlemen sneer at; it is gold, the produce of that avocation. It is the employment of those who would otherwise be idle, the food of those who would otherwise be hungry, the wealth of those who would otherwise be poor, that depend on your putting these resolutions into the instructions of your minister."

The majority of Congress sustained Mr. Gerry's propositions, in fifteen divisions on calls of the ayes and noes, and rejected numerous amendments offered to modify them; but consented, finally, to the adoption of the single declaration, that "although it is of the utmost importance to the peace and commerce of the United States that Canada and Nova Scotia should be ceded, and more particularly that their equal common right to the fisheries should be guaranteed to them, yet, a desire of terminating the war has induced us not to make the acquisition of these objects an ultimatum on the present occasion."

This declaration appears to have been the result of concession and compromise; since Mr. Adams was instructed, in September, 1779, first, "that the common right of fishing should in no case be given up;" second, "that it is essential to the welfare of all these United States that the inhabitants thereof, at the expiration of the war, should continue to enjoy the free and undisturbed exercise of their common right to fish on the Banks of Newfoundland, and all the other fishing-banks and seas of North America, preserving inviolate the treaties between France and the said States;" third, "that our faith be pledged to the several States that without their unanimous consent no treaty of commerce shall be entered into, nor any trade or commerce whatever carried on with Great Britain, without the explicit stipulation hereinafter mentioned. You are, therefore, not to consent to any treaty of commerce with Great Britain without an explicit stipulation, on her part, not to molest or disturb the inhabitants of the United States of America in taking fish on the Banks of Newfoundland, and other fisheries in the American seas, anywhere, except within the distance of three leagues of the shores of the territories remaining to Great Britain at the close of the war, if a nearer distance cannot be obtained by ne-

gotiation. And in the negotiation you are to exert your most strenuous endeavors to obtain a nearer distance in the Gulf of St. Lawrence, and particularly along the shores of Nova Scotia; as to which latter, we are desirous that even the shores may be occasionally used for the purpose of carrying on the fisheries by the inhabitants of these States."

These instructions—tediously minute and encumbered with repetitions—embody, as will be seen, the substance of Mr. Gerry's resolutions, with this essential difference—that the right to visit and freely use the fishing grounds was to be made an ultimatum to a treaty of commerce instead of a treaty of peace. Strangely enough, these instructions were revoked by Congress in July, 1781, though adopted after mature deliberation and in the spirit of concession. Whatever the motive of Congress, it was not communicated to Mr. Adams by that body, or by the Committee on Foreign Affairs, or by any individual member. Of this he complains with some asperity. In a letter to Robert R. Livingston he states the fact just mentioned, and remarks, that whether the act of neglect "was intended as a punishment to me, or with a charitable design not to lead me into temptation; whether it was intended as a punishment to the English for their insolence and barbarity; whether it was intended to prevent or remove suspicions of allies, or *the envy and green jealousy of co-patriots*, I know not." That, then, we finally secured the rights in question, was owing to the zeal of Mr. Adams and his associate commissioners, and not to the firmness or good faith of Congress.

Meantime, a number of pamphlets, written by loyalists of distinction and devoted to American affairs, were published in London. In one of these it is said that "with the independence of America" Great Britain "must give up her fisheries on the Bank of Newfoundland, and in the American seas," and "thirty-five thousand American seamen, with twenty-eight thousand more, bred and maintained in these excellent nurseries;" that, furthermore, "the valuable trade carried on from thence with the Catholic States will be in the hands of America;" that "these nurseries and this trade will ever remain the natural right of the people who inhabit that country;" and that "a trade so profitable, and a nursery of seamen so excellent and so necessary for the support of her naval force, will never be given up, or divided by America with any power whatsoever." Meantime, too, the celebrated Dean of Gloucester submitted proposals "to the English, Americans, French, and Spaniards, now at war," on the subject of their differences, suggesting, upon the subject before us, that "Great Britain shall retain Newfoundland, with the desert coasts of Labrador; also Canada, Nova Scotia, and the country bordering on the Bay of Fundy," westerly, "as far as the bay and river of Penobscot."

Mr. Adams was appointed sole commissioner to negotiate with Great Britain, and entered alone upon the arduous duties intrusted to him. Messrs. Franklin, Jay, and Laurens were, however, subsequently designated joint commissioners, and in due time joined him in France. In 1782, a letter of Barbe de Marbois, the French chargé d'affaires in the United States, addressed to Count de Vergennes, the Principal Minister of State, was intercepted. The contents of this letter caused great uneasiness. Marbois represented that Samuel Adams was stirring up

the people of Massachusetts to consent to no treaty of peace which did not guaranty to them the right of free fishing upon their ancient fishing grounds; that the reigning toast among these people was, "*May the United States ever maintain their rights to the fisheries;*" that the public prints in Massachusetts discussed the importance of adhering to the sentiment; and that the general court of that State, in the course of their deliberations, gave frequent utterance to the popular voice. These representations were substantially true, and Marbois committed no wrong in communicating them to his court. But he did not stop here, for he suggested means to defeat the expectations of the eastern States; to disappoint "Samuel Adams and his party," and to *secure the fisheries to his own country*. This communication was dated at Philadelphia in March, and in September following was in the hands of the American commissioners at Paris.

Mr. Jay expressed the opinion that M. de Marbois disclosed the real wishes of his government upon the subject of the fisheries; and Mr. Madison remarks, that upon receipt of letters from Franklin and others, there was "much indignation against the author of the intercepted" despatch, "and visible emotions in some against France." Mr. Adams wrote to Robert R. Livingston, from Paris, November 8, 1782, that, "If Congress or their ministers abroad suffer themselves to be intimidated by threats, slanders, or insinuations, we shall be duped out of the fishery, the Mississippi, much of the western lands, compensation to the tories, and Penobscot at least, if not Kennebec. This," he adds, "is my solemn opinion, and I will not be answerable to my country, posterity, or my own mind, for the consequences that might happen from concealing it."

The suspicion that France was secretly promoting the views of England increased as the negotiation progressed. "We knew," said Mr. Adams, that the French ministry "were often insinuating to the British ministers things against us, respecting the fisheries, tories, &c., during the negotiation, and Mr. Fitzherbert\* told me that the Count de Vergennes had 'fifty times reproached him for ceding the fisheries, and said it was ruining the English and French commerce both.'" Again, he records in his journal that Mr. Jay had informed him "that our allies did not play fair. They were endeavoring to deprive us of the fishery, the western lands, and the navigation of the Mississippi. *They would even bargain with the English to deprive us of them.*"

Mr. Jay himself relates that he "dined with Dr. Franklin, and found Mr. Rayneval there." \* \* \* Rayneval "asked what we expected as to the fisheries? We said, the same right we had formerly enjoyed. He contested the propriety of the demand, *adding some strictures on the ambition and restlessness of Mr. Adams*, and intimated that we might be contented with the coast fishery. This coincidence between the language of the confidential secretary of Count Vergennes," continues Mr. Jay, "and that of the French chargé d'affaires at Philadelphia, (M. de Marbois,) in relation to the fisheries and the conduct of Samuel Adams, is of itself a strong evidence of the real views of the French cabinet."

The American commissioners were probably mistaken. Whatever their impressions relative to the course of the French court, evidence in

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\*One of the British commissioners.

the public archives is wanting to show that De Marbois "disclosed the real wishes of his government;" that Mr. Fitzherbert was justified in his declarations to Mr. Adams; or that M. Rayneval uttered the sentiments of his principal. Yet our commissioners, embarrassed on every hand, were driven to the expedient of disobeying the directions of Congress, as to concluding peace without the consent of their ally, and of proceeding upon their own responsibility. The relative merits of these distinguished men, in securing the rights in question, has been a matter of some discussion; and Franklin has been charged openly and frequently with criminal lukewarmness. Mr. Jay, expressly and by letter, relieves the philosopher from this imputation, and commends his zeal; and I am satisfied that whoever examines the facts of the case will find no ground for the accusation. All did their duty, and the whole of it. And yet, upon Mr. Adams, as a resident of Massachusetts, and as better acquainted with the importance of the fisheries than his associates, the principal labor of meeting the British arguments appears to have devolved. I can in truth imagine no bolder line of conduct than he adopted; and to condense his principal observations, as preserved by himself in his journal, will be sufficient to show the difficulties that were actually overcome during the negotiations.

In noting a conference with the British commissioners, he says that "the affair of the fishery was somewhat altered. They could not admit us to dry on the shores of Nova Scotia, nor to fish within three leagues of the coast of Cape Breton. I could not help observing that these ideas appeared to me to *come piping-hot from Versailles.*"

On another occasion, and when a "whole day had been spent in discussions about the fishery and the Tories," and in reply to a proposition from the opposing mission, to leave out of the treaty the word "*right*," and insert, instead thereof, the term "*liberty*," he rose, and in the direct and vehement manner which characterized him through life, thus spoke: "Gentlemen, is there, or can there be, a clearer *right*? In former treaties, that of Utrecht and that of Paris, France and England have claimed the right, and used the *word*. When God Almighty made the Banks of Newfoundland at three hundred leagues distance from the people of America, and six hundred leagues from those of France and England, did he not give as good a *right* to the former as to the latter? If Heaven in the creation gave a *right*, it is ours at least as much as yours. If occupation, use, and possession give a *right*, we have it as clearly as you. *If war, and blood, and treasure, give a right, ours is as good as yours.* We," continued he, in the same eloquent strain, "*have constantly been fighting in Canada, Cape Breton, and Nova Scotia, for the defence of this fishery, and have expended, beyond all proportion, more than you.* If, then, the *right* cannot be denied, why should it not be acknowledged and put out of dispute? Why should we leave room for illiterate fishermen to wrangle and chicanery?"

Mr. Fitzherbert, a member of the British commission, confessed that the reasons of Mr. Adams were good. "The argument," said he, "is in your favor; but Oswald's instructions are such, that I do not see how he can agree with us." Nor was there an agreement, until Mr. Adams pushed the "argument" to the point of an *ultimatum*. Finding that if the treaty contained *any* provision on the subject, it must be in the form presented by our commission, the British mission endeavored

to waive the point altogether in the provisional, and leave the question to be adjusted in the definitive treaty that was to follow. To this Mr. Adams would not listen. He stood on ground from which he could not be driven by any device or evasion of diplomacy; and he emphatically declared, "I will never put my hand to *any* articles without satisfaction about the fishery." "When Congress," he added, "three or four years ago, did me the honor to give me a commission to make a treaty of commerce with Great Britain, they gave me positive instructions not to make such a treaty without an article acknowledging our right to the fishery; and I am happy that Mr. Laurens is now present, who, I believe, was in Congress at the time, and must remember it." Mr. Laurens confirmed the statement; and Mr. Jay followed with the remark, that "it could not be a peace—it would only be an insidious truce," without the stipulations contended for; and thus the *right*, so courageously maintained, was acknowledged in the third article of the treaty, and in the following terms:

"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 the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground."

The privileges thus conceded were ample; since, with regard to *catching* fish, all were continued to us that we could or should have enjoyed had we remained colonists; while, in *drying and curing* we were not injuriously restricted.

It has been remarked that the American commissioners were instructed to conclude no treaty with Great Britain without the concurrence of France, and that they disobeyed the injunction. Such, indeed, is the fact. Mr. Adams, communicating officially with Mr. Livingston, says that obedience "would have infallibly prevented the whole peace." The Count de Vergennes complained of the course of the mission in words which show deep sensibility. "I am at a loss, sir," he wrote to Franklin, "to explain your conduct, and that of your colleagues, on this occasion. You have concluded your preliminary articles without any communication between us, although the instructions from Congress prescribe that nothing shall be done without the participation of the King. You are about to hold out a certain hope of peace to America, without even informing yourself on the state of the negotiation on our part. You are wise and discreet, sir; you per-

fectly understand what is due to propriety; you have all your life performed your duties. I pray you to consider how you propose to fulfil those which are due to the King."

The policy of England towards the people "who assumed an independency which separated them from her sovereignty" was soon developed. An order in council was promulgated by proclamation in July, 1783, prohibiting American fish from being carried to the British West Indies. This order was regarded as the result of loyalist or "tory" influence. It was probably so, and was not only aimed at our fisheries, but intended to encourage those of Nova Scotia and other British possessions north and east of the United States. An extensive trade was thus destroyed. While colonies, the New England States had bartered their "West India fish" for sugar, rum, and molasses, with the planters of the British islands, with profit to all parties. Congress declared that retaliatory measures were necessary, in order that American commerce should not pass into the hands of foreigners; and asked to be invested with powers from the States to provide for the exigency. But no adequate authority was or could be conferred upon the confederacy. The restrictive policy thus commenced was long continued; nor was the vexed question of our commercial relations with the possessions of England in this hemisphere adjusted for nearly half a century.

We pass to notice the proceedings of the convention that framed the constitution of the United States. Those relating to our subject, though transmitted in mere allusions, are still significant and important.

Thus upon the proposition that "no treaty shall be made without the consent of two-thirds of the members present," and upon Mr. Madison's suggestion to "except treaties of peace," Mr. Gerry was of the opinion that in *such* treaties a greater, rather than a less, proportion of votes should be required, for the reason that, in terminating hostilities, our *dearest interests will be at stake, as the fisheries, territories,*" &c. So, too, Mr. Gouverneur Morris\* expressed the sentiment that "if two-thirds of the Senate should be required for peace, the legislature will be unwilling to make one for that reason, on *account of the fisheries or the Mississippi—the two great objects of the Union.*"

The records of the discussions in the conventions of the different States for the adoption or rejection of the constitution are less fragmentary. In that of South Carolina, Charles Cotesworth Pinckney, in reply to some ill-natured remarks against New England, generously said that, in the Revolution, "the eastern States had lost everything but their country and freedom;" that "it was notorious that some ports at the eastward which used to fit out one hundred and fifty sail of vessels do not now fit out thirty; that their trade of ship-building, which used to be very considerable, was now annihilated; that their fisheries were trifling, and their mariners in want of bread;" and that the South were

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\* Hon. Gouverneur Morris was a son of Lewis Morris, one of the signers of the Declaration of Independence. He was a member of the Continental Congress, and of the convention which framed the constitution of the United States. In Washington's administration he was minister to France. He died at Morrisania, New York, in 1816, aged 64. He possessed the confidence of Washington.

“called upon by every tie of justice, friendship, and humanity, to relieve their distresses.”

In the convention of Virginia Mr. Grayson affirmed that “*it is well known that the Newfoundland fisheries and the Mississippi are balances for one another*”; that the possession of one tends to the preservation of the other. This,” he continued, “accounts for the eastern policy. They thought that if the Mississippi was given up, the southern States would give up the right of the fishery, on which their very existence depends. It is not extraordinary, therefore, while these great rights of the fishery depend on such a variety of circumstances—the issue of the war, the success of negotiation, and numerous other causes—that they should wish to preserve this great counterbalance.” Patrick Henry, in dissenting from these views, and in reply, exclaimed: “But, said the honorable gentleman, the eastern States will wish to secure their fishery, and will therefore favor the right to the Mississippi. How does he draw the inference? Is it possible that they can act on that principle? The principle that led the southern States to admit of the cession was, to avoid the most dreadful perils of war. But their difficulties are now ended by peace. Is there anything like this that can influence the minds of the people of the North? Since the peace, those States have discovered a determined resolution to give away the Mississippi, to discourage emigration thither.”

In the convention of Massachusetts, one member observed, that as the different members of the confederacy regulated their commerce at pleasure, and did not even protect the coasting trade of the country, “a vessel from Rosaway or Halifax found as hearty a welcome, with its fish and whalebone, at the southern ports, as though it was built, navigated, and freighted from Salem or Boston;” and that “this would continue to be the case, unless a more perfect union of the States was formed:” while a second member remarked, that abroad we were held in contempt, for since the war we had been engaged in “commerce with six different nations of the globe, and if he might believe good, honest, credible men,” our position with them was like that of “a well-behaved negro in a gentleman’s family.”

The sentiments thus uttered—north and south—indicate the feelings of eminent statesmen of the time, as well as reveal to us some of the arguments in favor of the adoption of the constitution; and serve, moreover, to show that the branch of industry at present so fallen in public estimation was continually referred to by our fathers in connexion with, and as equivalent to, “the Mississippi,” or the western country.

Pursuing our inquiries in chronological order, we are led now to cite the opinions of the founders of the present national government, as preserved in the debates in the 1st Congress. Our quotations must be confined to the discussions which occurred during the first session, and upon the bill to levy “duties on imports.” The pure and highly gifted Fisher Ames thus spoke: \*

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\* The Hon. Fisher Ames was born in Dedham, Massachusetts, in 1758, and was educated at Harvard University. In the Revolution he was a zealous whig. He was a member of the convention of Massachusetts which considered and adopted the constitution of the United States, and was elected the first representative to Congress from Boston. He occupied a seat in the House for eight years, and was a principal speaker in the debates on every import-

“We exchange for molasses those fish that it is impossible to dispose of anywhere else; we have no market within our reach but the islands from whence we get molasses in return, which again we manufacture into rum. It is scarcely possible to maintain our fisheries with advantage, if the commerce for summer fish is injured, which I conceive it would be very materially, if a high duty is imposed upon this article; nay, it would carry devastation throughout all the New England States: it would ultimately affect all throughout the Union. \* \* \* The taking of fish on the Banks is a very momentous concern; it forms a nursery for seamen, and this will be the source from which we are to derive maritime importance. It is the policy of some nations to drive us from this prolific source of wealth and strength; but what their detestable efforts have in vain endeavored to do, you will accomplish by a high duty on this article.”

Again he said: “*I conceive, sir, that the present constitution was dictated by commercial necessity more than any other cause. The want of an efficient government to secure the manufacturing interests, and to advance our commerce, was long seen by men of judgment, and pointed out by patriots solicitous to promote the general welfare.* If the duty which we contend against is found to defeat these objects, I am convinced the representatives of the people will give it up. I trust that gentlemen are well satisfied that the support of our agriculture, manufactures, navigation and fisheries, are objects of very great moment. *When gentlemen contemplate the fishery, they admit its importance, and the necessity we are under of encouraging and protecting it, especially if they consider its declining situation; that it is excluded from those advantages which it formerly obtained in British ports, and participates but in a small degree of the benefits arising from our European allies, whose markets are visited under severe restrictions: yet, with all these discouragements, it maintains an extent which entitles it to the fostering care of government.*” \* \* \* \* \* “In short, unless some extraordinary measures are taken to support our fisheries, I do not see what is to prevent their inevitable ruin. It is a fact, that near one-third of our fishermen are taken from their profession—not for want of skill and abilities in the art, for here they take the rank of every nation on earth—but from the local, chilling policy of foreign nations, who shut us out from the avenues to market. *If, instead of protection from the government, we extend to them oppression, I shudder for the consequences.*” Still further: “It is supposed that the fishermen must be poor, if they are not able to bear the tax proposed. *I contend they are very poor: they are in a sinking state; they carry on the business in despair. But gentlemen will ask us, ‘Why, then, do they not quit the profession?’ I answer, in the words that are often used in the eastern country respecting the inhabitants of Cape Cod—they are too poor to live there, and are too poor to remove.*” The remarkable coincidence, in many particulars, between 1789 and 1852, as indicated in the passages which I have placed in italics, cannot escape the attention of persons acquainted with the subject.

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ant question. His speech on the British treaty in 1794 was his greatest effort. Eminent alike for his talents and his purity of character, he was an ornament to his country. He died in 1805.

To omit the statements and arguments of Mr. Goodhue and of Mr. Thacher, who participated in the debate, and sustained the main positions of Mr. Ames, we will refer, in conclusion, to the declarations of Mr. Gerry.\* “At a time when the policy of every country,” said he, “is pointed against us, to suppress our success in the fisheries, when it is with extreme difficulty that it continues its existence, shall we lay burdens upon it which it is unable to support? If this important interest is injured, it will not only destroy the competition with foreigners, but *will induce the people to sell their property in the United States and remove to Nova Scotia, or some other place, where they can prosecute their business under the protection of government.*” \* \* \* \* “I will not reiterate the arguments respecting the fisheries: it is well known to be the best nursery for seamen; the United States have no other; and it never can be the intention of gentlemen to leave the navigation of the Union to the mercy of foreign powers. It is of necessity, then, that we lay the foundation of our maritime importance as soon as may be, and this can be done only by encouraging our fisheries. It is well known that we have a number of rivals in this business, desirous of excluding us from the fishing banks altogether. This consideration of itself is sufficient to induce a wise legislation to extend every encouragement to so important a concern.”

Congress were not unmindful of these representations and appeals. An act was passed in 1789, which allowed a bounty of five cents per quintal on dried, and the same sum per barrel on pickled fish exported from, and imposed a duty of fifty cents the quintal and of seventy-five cents the barrel on foreign fish imported into, the United States. The system of protection, of bounties, and allowances, is as old, therefore, as the government itself, and was devised and adopted by the statesmen of the Revolution.

In 1790, Washington, in his speech to Congress, remarked that “our fisheries and the transportation of our own produce offer us abundant means for guarding ourselves against” the evil of depending upon foreign vessels. The Senate waited upon the President and the Vice President with an address. Among its topics we find the following: “The navigation and the fisheries of the United States are objects too interesting not to inspire a disposition to promote them by all the means which shall appear to us consistent with their natural progress and permanent prosperity.” Mr. Hamilton, in his report as Secretary of the Treasury, suggested that a reduced duty on the article of pickled fish, under the circumstances of the time, would prove advantageous, but admitted that he was not in possession of all the facts of the case, and, deferring to members of the House familiar with the subject, declined to hazard a decisive opinion. Such were the official acts relative to the fishing interest, at the opening of the session. The relief afforded the previous

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\*The Hon. Elbridge Gerry was a native of Marblehead, the ancient fishing capital of Massachusetts, and a graduate of Harvard University. He devoted several years to commercial pursuits, and acquired a competent estate. He was a signer of the Declaration of Independence, minister to France, governor of Massachusetts, and Vice President of the United States. He died at Washington in 1814, at the age of seventy. His life, by Hon. James T. Austin, of Boston, who married his daughter, contains much matter relative to the maritime affairs of the Revolution, not to be met with elsewhere.

year was insufficient. The fishermen represented that their condition was deplorable, and they earnestly implored the protection of the government. In the petition presented Congress from Marblehead, are several statements which deserve attention. That document shows, from an exact investigation, the expenses and earnings of the fishing vessels of that town for the three preceding years. For the year 1787, each vessel earned \$483; in 1788, the sum of \$456; and in 1789, only \$273. The annual average of expenses, including insurance, was \$416: thus affording a gain of \$67 for the first of these years; of \$40 for the second; and a loss of \$143 for the third. It estimated that the duty paid on articles necessary for a vessel of sixty-five tons and eleven men, amounted annually to \$138; the duty on molasses being computed at *ninety-nine cents*, and that *on rum at just fourteen dollars!* This petition, and several others of similar character, were referred to Mr. Jefferson, the Secretary of State. His brief but able and interesting report, submitted to Congress in 1791, is the only state paper of the kind to be found in our archives.

The additional relief desired was not long delayed. Early in 1792 an act was passed which abolished the bounty on dried and pickled fish exported, and granted in lieu thereof a specific allowance to vessels employed in the cod-fishery. This allowance was graduated according to the size of the vessels. Boats between five and twenty tons burden were entitled to receive one dollar per ton annually; those between twenty and thirty tons, fifty cents per ton additional; and to those more than thirty tons, the allowance was fixed at two dollars and fifty cents the ton; but no vessel could receive more than one hundred and seventy dollars in one season. By a subsequent act the same year, these several rates were increased one-fifth, to commence in January, 1793, to continue seven years, and thence to the end of the next session of Congress.

The first act was opposed. Mr. Giles, a member of the House from Virginia, refused his support, because "the bill appeared to contain a direct bounty on occupation; and if that be its object," said he, "it is the first attempt as yet made by this government to exercise such authority; and its constitutionality struck him in a doubtful point of view; for in no part of the constitution could he, in express terms, find a power given to Congress to grant bounties on occupations. The power is neither directly granted, nor (by any reasonable construction that he could give) annexed to any other specified in the constitution." Mr. Williamson objected for similar reasons. In his apprehension, "the object of the bounty and the amount of it are equally to be disregarded in the present case. We are simply to consider whether bounties may be safely given under the constitution. For myself, I would rather begin with a bounty of one million per annum than one thousand. \* \* \* Establish the doctrine of bounties, and it is not a few fishermen that will enter, claiming ten or twelve thousand dollars, but all manner of persons; people of every trade and occupation may enter at the breach, until they have eaten up the bread of our children."

Still further to encourage the prosecution of the fisheries, an act of

1793\* authorized the collectors of the customs to grant vessels duly licensed permits "to touch and trade at any foreign port or place," and under such documents to procure salt and other necessary outfits without being subjected to the payment of duties. This act, which is still in force, has proved extremely beneficial to our fishing vessels in certain emergencies; but it may be admitted that its privileges are liable to be abused. Four years later, the system of allowances to vessels employed in the cod-fishery was revised. Under the law then passed, the smallest class were entitled to draw from the treasury one dollar and sixty cents per ton annually; and vessels upwards of twenty tons, two dollars and forty cents the ton; while the maximum was increased to two hundred and seventy-two dollars. A second revision occurred in the year 1800, which effected some changes in details, but which provided for the continuance of the rates of allowance then fixed until March, 1811.

President Jefferson, in his message to Congress in 1802, spoke of "fostering our fisheries as nurseries of navigation, and for the nurture of man," as among "the land-marks by which we were to be guided in all our proceedings;" and made further allusion to the subject in his annual communication of the following year. His remarks, in the second message, were referred to a committee of Congress, who, in their report, said that there was too much reason to believe that both the whale and cod-fisheries had been for some time on the decline, and that it was more than doubtful whether the United States employed as many men and tons in these branches of industry as when they were colonies or previous to the Revolution. As a means to reanimate them, they recommended that ships and vessels actually and exclusively employed in these fisheries should not, in future, be subject to the payment of the tonnage duty levied on other vessels; that fishermen and other persons actually employed in catching whales and fish should be exempt from the usual charge of hospital money; and that the bounty or allowance under existing laws should be paid in cases of shipwreck or loss of vessels without deduction.

A single incident more of the year 1803 claims our notice. One hundred and five inhabitants of Block island, engaged in the cod-fishery, joined in a petition to Congress for an allowance or bounty on boats of less than five tons burden. They represented, that from the bleak situation of the island which they inhabited, and the high surf

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\* The following notice, which was published in a Boston newspaper, April, 1794, is inserted as a matter of curious history, rather than to illustrate the text:

"SALMON-stand.—Great inconveniency arising from exposing salmon for sale on the Exchange, in State street, where citizens of the town, and those from abroad, assemble to transact business, the board of selectmen have assigned a stand therefor in Market square. Those who bring salmon for sale from neighboring towns are requested to apply to the clerk of the market, at his office, north corner of Faneuil Hall, who will point them to the stand. The law against nuisances is sufficient; a wish to accommodate, 'tis hoped, will preclude the necessity of coercion. The inspector of polite makes this publication, having in view the prosperity of our country brethren, as well as accommodation of the town. He gratefully acknowledges the past kindness of his fellow-citizens, and requests, in this instance, that neither themselves, nor those under them, would purchase salmon in State street, but apply at the stand assigned therefor.

"N. B.—The printers in town, and those in Salem, Newburyport, and Haverhill are requested to publish the above."

by which it was incessantly assailed, they pursued their occupation in small boats during the day, returned to their homes at night, and hauled their craft above the reach and fury of the waves. They stated, also, that the number of fishermen upon the island was nearly two hundred; that they caught from ten to fifteen thousand quintals of fish annually, about half of which were pickled and the remainder dried. The committee to whom the petition was referred made an adverse report, and legislation in their behalf was refused.

The embargo and other restrictive measures which preceded the war of 1812 produced the most disastrous results in New England. In 1808, and during the existence of the prohibitory acts, a number of citizens of Boston petitioned Congress for liberty to export a quantity of pickled and dried fish in their warehouses, and liable to rot or decay if kept during the summer months. But the government declined interference, and property of this description was allowed to perish in most of the fishing towns, to the utter ruin of many of its owners. These losses were followed by others; and as the results of the policy of our own rulers, as well as the seizure and confiscation of cargoes of fish in ports of Europe under the memorable decrees of Napoleon, the distresses of all classes of persons engaged in the catching and curing the products of the sea became in the end general and alarming.

During the war with England, the distant fishing grounds were abandoned. The British colonists determined that we should never occupy them more. The duties which devolved on Messrs. Adams, Clay, Gallatin, Bayard, and Russell, the American commissioners at Ghent, were consequently difficult and arduous. On the one hand, they were expected to arrange conditions of peace, and yet were instructed, in terms which admitted of no discretion, to break off their consultations and return home, rather than allow the subject of surrendering the fisheries to come under discussion; on the other hand, the British plenipotentiaries met them with the doctrine that the privileges were entirely destroyed by hostilities. "These gentlemen," said the late President Adams, "after commencing the negotiations with the loftiest pretensions of conquest, finally settled down into the determination to keep Moose island\* and the fisheries to themselves. This was the object of their deepest solicitude. Their efforts to obtain our acquiescence in their pretensions, that the fishing liberties had been forfeited by the war, were unwearied. They presented it to us in every form that ingenuity could devise. It was the first stumbling-block and the last obstacle to the conclusion of the treaty." †

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\* Moose island, in the Bay of Passamaquoddy, and former name of Eastport. This town was captured in July, 1814, and retained for more than three years after the peace. On the 30th of June, 1818, it was surrendered to the United States with imposing forms and ceremonies.

† The following letter, addressed by John Adams to President Madison during the negotiations at Ghent, is derived from an authentic source:

QUINCY, November 28, 1814.

DEAR SIR: When my son departed for Russia, I enjoined upon him to write nothing to me which he was not willing should be published in French and English newspapers. He has very scrupulously observed the rule.

I have been equally reserved in my letters to him; but the principle on both sides has been to me a cruel privation, for his correspondence when absent, and his conversation when present has been a principal enjoyment of my life.

It is a singular circumstance, that at Ghent, as at Paris, there should be an accusation of defection against an American minister. Mr. Russell, the delinquent in the latter case, less fortunate than Franklin, found no colleague to vouch for the manliness of his course; and the fact that he adopted the British argument as to the effects of the war to terminate our privileges, as well as the opinion that the fisheries themselves were of decreasing value, rests upon his own published statements. In these views he stood alone. Mr. Adams suggested to his associates, and Mr. Clay embodied in a proposition to be presented to the British commissioners, the principle that we held our rights of fishing by the same tenure as we did our independence; that, unlike another class of treaties, the treaty of 1783 is to be regarded as perpetual, and of the nature of a deed, in which the fisheries are an appurtenant of the soil conveyed or parted with; and that, therefore, no stipulation was necessary or desirable to secure the perpetuity of the appendage, more than of the territory itself. In other words, if we must contract anew for fishing grounds, so must we also obtain a new title to our territories. This, as I understand it, is the substance of the proposition itself, and of the various discussions of which, from time to time, it formed the basis. The position was impregnable. The arguments founded upon this ground were not answered by the British mission in 1814, nor by the ministry during the negotiations which terminated in the convention of 1818. They are unanswerable. But it is not to be denied that the present difficulties are attributable to the war. Had the two nations remained at peace, there could have been no pretence of forfeiture; there would have been no compromise in 1818 between the British doctrine and our own; and, of course, no ambiguous instrument on which the colonists could assume, as they now do, to shut us out of bays that our vessels have visited ever since they were won from France. And since England has not renounced the pretension that was assented to by Mr. Russell, it may be worthy the consideration of our statesmen, whether the principle may not be revived, on the recurrence of relations similar to those which first caused its assertion. The consequences of wars no one is wise enough to foresee; the questions which they really adjust, how few! the questions which they open for future generations, how many!

Notwithstanding the position taken by Messrs. Adams, Clay, Bayard, and Gallatin, at Ghent, that our treaty rights were not abrogated by

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In the enclosed letter he has ventured to deviate, and has assigned his reason for it. I think, however, that I ought to communicate it to you.

I have no papers, that I recollect, that can be of any service to him. I published in the Boston Patriot all I recollect of the negotiations for peace in 1782 and 1783. But I have no copy of that publication in manuscript or print, and I had hoped never to see it or hear of it again.

*All that I can say is, that I would continue this war forever, rather than surrender one acre of our territory, one iota of the fisheries, as established by the third article of the treaty of 1783, or one sailor impressed from any merchant ship.*

I will not, however, say this to my son, though I shall be very much obliged to you if you will give him orders to the same effect.

It is the decree of Providence, as I believe, that the nation must be purified in the furnace of affliction.

You will be so good as to return my letter, and believe me your respectful fellow-citizen and sincere public and private friend,

JOHN ADAMS.

President MADISON.

the war, the British government revived their pretension to the contrary immediately after the peace. An American vessel was fallen in with by the armed ship the *Jaseur*, Locke, commander, in June, 1815, when about forty-five miles from Cape Sable; and her papers were endorsed, "Warned off the coast, not to come within sixty miles." So extraordinary a procedure was promptly disavowed as unauthorized; but discussions ensued, which were terminated, in 1818, by the conclusion of a treaty that embodied a compromise of the adverse views of the two cabinets, and which is still in force. The article 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 said 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 northern coast of Newfoundland; from the said Cape Ray to the Quirpon islands, on the shores of the Magdalene 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 Bellisle, 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, hereabove 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 portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, the 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."

The distinguishing features of this article, as compared with the stipulations of the treaty of 1783, are obviously two: first, that we gave up the *catching* along certain shores; and, secondly, that our facilities of *drying* and *curing* were increased. The practical construction of *both* governments has been, until a very recent period, that our vessels could *fish* everywhere, as under the treaty of 1783, except *within three miles of certain coasts*; in other words, that our rights were not impaired on the southern shore of Newfoundland, between Cape Ray and the Rameau islands, on the western and northern shores of

Newfoundland, from said Cape Ray to the Quirpon islands, at the Magdalen islands, between Mount Joly and the Straits of Bellisle, and through these straits to an indefinite extent along the shores of Labrador; *while elsewhere in British America we retained the sea fisheries, but surrendered the inner or shore fisheries.*

During the discussions abroad, in consequence of the outrage of the *Jaseur* and other British cruisers, Congress were not unmindful of the fishing interest, both to repair the wrongs of unauthorized captures and to afford protection against foreign competition. The tariff of 1816 imposed a duty of one dollar the quintal on foreign dried or smoked fish imported into the United States, two dollars the barrel on salmon, one dollar and fifty cents the barrel on mackerel, and one dollar the barrel on all other kinds of pickled fish. So, in 1817, an act was passed which required that all officers, and three quarters of the crews of vessels employed in the cod-fishery, and claiming the bounty or allowance, should be American citizens, "or persons not the subjects of any foreign prince or state;" while no such vessel, it was provided by further enactments, should be deprived of bounty, if prevented from fishing the full time prescribed by law, by reason of detention or seizure by British ships-of-war.

In the revision of the tariff in 1824, there was no change in the rates of duty imposed on foreign fish. These rates were continued also in the tariffs of 1828 and 1832. Thus, in four revisions, the principle of ample protection was preserved, except that the products of the sea, like all other commodities imported, were subject to the provisions of the "compromise" measure introduced by Mr. Clay. In the present tariff, specific duties on fish are entirely abolished, and the uniform rate of twenty per cent. ad valorem substituted, which on some kinds is merely nominal, and on all insufficient. The ad valorem system has proved extremely beneficial to British colonists. In fact, having driven us from the markets of Catholic Europe, they are in active competition with us for our own.

The question of "bounty," or allowance to vessels employed in the cod-fishery, will next engage our attention. The act now in force was passed by Congress in 1819. Its provisions, the construction given to it, as well as the rules to be observed by the collectors of the customs, will be found in the circular of the Secretary of the Treasury of February 20, 1852. Before inserting this carefully prepared document, which supersedes all former instructions and regulations on this subject, I may remark, that the course of the government has not only been just, but liberal, towards those who, in peculiar cases, have applied for relief. Many special acts of Congress, for the payment of the bounty or allowance, are to be found scattered through the statute-book. These acts embrace cases where the original fishing agreements required by law were burned, or otherwise accidentally destroyed; where vessels were known to be lost at sea, or were never heard of after leaving port, or were driven on shore and wrecked; and where sickness and death prevented the completion of the full term of time at sea. The petitions of owners whose vessels were "unlucky" on the fishing grounds, and returned with "broken fares;" whose articles of agreement were in-

formal or incomplete; or, whose masters proceeded upon fishing voyages under licences to follow the *coasting* trade, have been rejected.

Much has been said, from time to time, about the extent of frauds in procuring the allowances authorized under the system of bounties. As late as 1840, the Senate of the United States caused an investigation, in order to ascertain the truth of special and of general allegations. The proper officers of the treasury communicated to that body several documents containing all the information in their possession, which show that there had been instances of mistaken construction of the law, of non-compliance with the prescribed rules and forms, and of actual fraud. But the number, of all descriptions, was limited, and of the latter, especially, very small. Still, it cannot be doubted that, as in every other business, *some* dishonest men are concerned in this branch of industry, and defraud both the government and the persons whom they employ, whenever opportunity to do so occurs. It would seem that, under this circular, fraudulent owners and masters must soon disappear, since the most daring and expert, in the past, will hardly adventure upon making the false records and representations, upon committing the forgeries and perjuries, which will be necessary to evade its provisions. In a word, the officers of the customs, if faithful to their duty, can put an end to corruption, and of consequence to the demands to repeal the "fishing bounty allowances," often made on the ground that our fishermen, whether honest or dishonest, claim and receive almost at pleasure the money of the government.

*Circular instructions to certain collectors of the customs relative to fishing bounty allowances.*

TREASURY DEPARTMENT,  
February 20, 1852.

For the purpose of producing uniformity in the requirements of proofs by collectors who are charged with the allowance of bounty on the tonnage of vessels employed in the bank or other cod-fisheries, it has been deemed advisable to embody the existing regulations, prescribed during a series of years past for the execution of the laws on that subject, in the present instructions.

To entitle fishing vessels to the allowance of bounty, the laws require that they shall have been exclusively employed in the cod-fishery at sea a specified period between the last day of February and the last day of November, under certain restrictions and conditions. No allowance can be made unless the proofs herein pointed out are duly made in good faith, and presented to the collector at the custom house where the cod-fishing license was issued, for his decision. These indispensable proofs are set forth, with the necessary explanations, as follows:

1. In the case of a vessel of twenty tons burden or upwards, the original agreement made previous to the fishing voyage or voyages of the vessel between the master or skipper thereof, and every fisherman employed therein, not being an apprentice or servant of the master skipper or owner, which original agreement must be endorsed or countersigned by the owner of the vessel or his agent, and must express

whether the same is to continue for one voyage or for the season; and also stipulate that the fish or the proceeds of such fishing voyage or voyages, which may appertain to the fishermen, shall be divided among them in proportion to the quantities or number of said fish which each fisherman shall have respectively caught, together with an affidavit or affirmation of the owner, his agent or legal representative, showing expressly that such agreement or agreements contain the true and actual contracts under which the cod-fishery was pursued on board such vessel during the period required for the allowance of bounty.

In the case of a boat or vessel of more than five and less than twenty tons burden, an account from the owner of such boat or vessel, showing that there have been landed therefrom during the preceding season at least twelve quintals of fish, when dried and cured fit for exportation, according to the weight thereof at the time of delivery when actually sold, for each ton of the admeasurement of such boat or vessel; the original adjustment and settlement of the fare or fares embracing the period required for the allowance of bounty, among the owners and the fishermen of such boat or vessel; a written account of the length, breadth, and depth of such boat or vessel, and the time she has actually been employed at sea in the cod-fishery exclusively in the preceding season; and the affidavit or affirmation of the owner or his agent, showing that each of these three documents is true.

In all these cases of vessels above as well as under twenty tons burden, the affidavits or affirmations required must be made before the collector of the district in which the cod-fishing license was issued.

No fishing vessel of which the fishermen, or any one of them, are compensated for their services on board by wages, or in any other manner than by the division of the fish, or the proceeds of the same, as required by law, is entitled to bounty; but the cook, where one is employed, being regarded as the servant of the skipper and crew, may be compensated by wages without impairing the claim of the vessel to bounty.

2. No fishing vessel is entitled to the allowance of bounty unless it is shown by sufficient proof that the master and three-fourths of her crew are citizens of the United States.

3 Every fishing vessel for which bounty is intended to be claimed must be examined, previous to her departure on a fishing voyage, by the proper officer of the customs, designated for that duty by the collector of the district where her license was issued, or some other district, on account of his competent knowledge of the requisites of a proper outfit for the cod-fishery. Such officer will certify in writing whether she is sea-worthy, and duly fitted with proper ground tackle, and other necessary equipment; describing her fishing gear, and stating whether she has a sufficient crew for her tonnage; and whether the master and three-fourths of the crew are citizens of the United States. Such certificate must be obtained in all cases. And in vessels of twenty tons and upwards, it should appear by this certificate whether the fishing agreement has been duly executed by the parties required by law. The following is an approved form of a certificate when the inspecting officer is satisfied that the vessel is sea-worthy, well fitted, and all other requisites duly complied with:

DISTRICT OF \_\_\_\_\_, port of \_\_\_\_\_, 18 .

This certifies that I have examined the \_\_\_\_\_, of \_\_\_\_\_, whereof \_\_\_\_\_ is master; that she is sea-worthy, well found in sails, rigging, cables, anchors, and fishing gear, suitable for the cod-fisheries; that her crew is sufficient for her tonnage, being composed of \_\_\_\_\_ persons; that the master and three-fourths of her crew are citizens of the United States; and that in all respects said vessel is fitted for the cod-fisheries agreeably to the provisions of law, [adding in the case of a vessel of twenty tons and upwards,] and that the agreement between the master and fishermen is duly executed by them and the owner, or his agent.

The proofs of inspection may remain, with the other papers of the vessel, to be presented to the collector with the other proofs.

4. The legal necessity of keeping journals or log-books on board fishing vessels at sea was, several years since, expressly laid down by the circuit court of the United States for the eastern circuit, in decreeing forfeiture of a fishing vessel for false statement of the time employed in the cod-fishery for the purpose of fraudulently obtaining bounty. Such journals or log-books were required by the regulations of 22d December, 1848, to be produced to collectors in support of all claims to bounty. It is understood that this requirement has been perverted at some ports by regarding memoranda in almanacs, and other memoranda even more exposed to after-fabrication, as sufficient. If the owners of fishing vessels choose to send them on voyages without requiring regular journals or log-books to be kept on board from day to day, they have the undoubted right to do so; but it must be distinctly understood that hereafter no claim for bounty on the tonnage of any vessel, as having been employed in the cod-fishery, can be recognised in such cases.

Unless a regular journal or log-book is kept day by day on board a fishing vessel while at sea, and such journal or log-book is produced to the collector, duly verified by the oath or affirmation of the master or skipper of such vessel, it will not hereafter be considered that the necessary evidence of her employment at sea in the cod-fishery is presented. Such journal or log-book must contain the dates of her departure from, and arrival at, every port or place she may touch at during her voyagers or fares, and state the material daily occurrences on board, as is usual in other sea-going vessels, and must specially contain daily entries of the catch of fish by each person on board.

5. It is also required that the owner or agent of every fishing vessel of the burden of twenty tons or upwards, for which bounty is claimed, shall make a certificate stating therein the particular days on which such vessel sailed and returned on the several voyages or fares during the season which comprises the period for which bounty is claimed. It must expressly appear in this certificate that such vessel was exclusively employed in taking codfish for the purpose of being dried or dry-cured, for such period. This certificate must be subscribed by the claimant, and sworn or affirmed to before the collector.

6. The master or skipper of every fishing vessel, for which bounty is intended to be claimed, immediately on her arrival from any voyage

or fare of such fishery, at any port or place at which any officer of the customs is stationed, must report such arrival to such officer, who is required to examine such vessel, her papers, equipment, and the quantity of fish on board, and to enter the result of such examination in these respects upon a record kept by him for that purpose, which is to be returned to the collector of his district whenever required. In case the master or skipper of such vessel neglects or refuses to make report of his arrival, the officer will state that fact upon his record, with such other particulars respecting such vessel as may come to his knowledge. Such neglect or refusal to report by the master or skipper of any vessel claiming bounty will operate against the allowance of the claim, unless a full and satisfactory explanation of such neglect or refusal is made under oath.

The collectors of the respective districts will direct the inspectors at the several ports therein, or where the district contains but a single port the collector will detail an inspector, to examine all fishing vessels arriving at such ports, requiring them to take down their names, and of their masters, their employment, whether they had fish on board, and of what kind, and whether fresh, pickled, or otherwise, and report the same to the collector of the district at such times as may be required. On receipt of such reports of the inspectors he will advise the collectors of the districts where such vessels were licensed, of the facts concerning each; those licensed for the cod-fishery in one statement, and other fishing vessels in another. It is important, for the prevention and detection of fraudulent practices, that this duty be performed with fidelity and circumspection by the officers of the customs charged with making these records and reports.

7. From the original act of 16th of February, 1792, changing the drawback on dried fish exported to bounty on the tonnage of vessels employed in the bank or other cod-fisheries, it has always been held that, to entitle any fishing vessel to bounty, she must be shown to have been employed at sea exclusively in catching codfish for the purpose of being dried, or dry-cured, during the period prescribed by law. It is not required that the entire period be embraced in one voyage or fare, or in voyages or fares immediately succeeding each other; but it is indispensable to the allowance of bounty that the period required shall be comprehended in distinct voyages or fares in which no other kind of fishery is pursued. No part of a fare or voyage in which halibut, mackerel, or any other fish, are taken as an object of pursuit, as well as cod, can be reckoned as a portion of the time required by law; where other fish are taken merely as bait for cod, or as food for the crew, no objection will be made, as such taking is regarded as strictly subsidiary to the cod-fishery; but if such other fish remain on board until the close of the fare or voyage and are carried into port, the fare or voyage must be regarded as one of mixed fishery, which cannot be taken into the computation of the time required by law for the allowance of bounty. A vessel may be exclusively employed in the cod-fishery at sea for one, two, or three months in a distinct fare or fares in the first part of the fishing season, then pursue the mackerel fishery under the license required by law, afterwards may surrender her mackerel license, and then complete the period required by law by another dis-

inct fare or fares, of exclusive employment in the cod-fishery, previous to the last day of November. But the taking of mackerel by any vessel under cod-fishing license, except as bait or food for her crew, is regarded as a violation of the license laws. Such illegal fishery during any season will forfeit all claim to bounty for that season, and when the fact is known to any collector he is instructed to refuse the allowance hereafter accordingly.

Vessels employed in taking any kind of fish for sale and consumption in a fresh or green condition, as well as fish to be preserved by pickling, are not within the bounty laws, and no voyages or fares in which such fisheries are pursued can be lawfully computed as any part of the period required for the allowance of bounty.

8. When the proofs presented fully satisfy you that all the requirements and conditions herein contained have been complied with in good faith, you are authorized to pay the owner or owners, or his or their agent or representative, of fishing vessels, where exclusive employment at sea in the cod-fishery for four calendar months, at least, is shown by the evidence herein required.

If measuring more than five tons, and not exceeding thirty tons, \$3 50 per ton.

If measuring more than thirty tons, \$4 per ton.

If the above thirty tons, with crews not less than ten persons, and having been exclusively employed at sea in the cod-fishery three and one-half calendar months, \$3 50 per ton.

The allowance for one vessel during the season, whatever may be her tonnage, cannot exceed \$360.

9. Vessels exclusively employed at sea in the cod-fishery the full time required to entitle them to bounty, and afterwards wrecked, may be allowed bounty under the provisions of the act of 26th of May, 1824, which requires the evidence of the loss of the vessel to be transmitted to the Comptroller for his decision thereon. Under the act of March 3, 1849, this duty has been transferred to the Commissioner of the Customs, to whom the proof, certified by the collector of the district to which the vessel belonged, should be sent for his official direction thereon.

Instructions will be given in due season in regard to the mode of payment of bounty allowances, at and after the close of the year. To obviate any responsibility which might otherwise devolve on collectors, should such payments be made upon proof regarded as insufficient under the present instructions, it will be advisable that probable claimants to fishing-bounty allowances be apprized, before the sailing of vessels on their first cod-fishing voyage, of the requirements of these instructions, which are intended to supersede and supply the place of all former instructions on this subject.

THOMAS CORWIN,  
*Secretary of the Treasury.*

An account of the fishing grounds has been reserved for the conclusion. Of those near our cities, and visited for the purpose of supplying our markets with fish to be consumed fresh, it is unnecessary to speak. Those within the limits of British America, and secured to us by

treaty, as well as those on the eastern coasts of Maine, are less generally known, and may properly claim attention.

Of the distant, Newfoundland is the oldest. That vessels from Boston fished there as early as the year 1645, is a fact preserved in the journal of Governor Winthrop. The "great bank," which has been so long resorted to, is said to be about two hundred miles broad and nearly six hundred miles long. In gales the sea is very high, and dense fogs are prevalent. The water is from twenty-five to ninety-five fathoms deep. The edges of the bank are abrupt, and composed of rough rocks. The best fishing grounds are between the latitudes of 42 and 46 degrees north. The "bankers," as the vessels employed there are called, anchor in the open sea, at a great distance from the land, and pursue their hazardous and lonely employment, exposed to perils hardly known elsewhere. The fish are caught with hooks and lines, and (the operations of splitting and dressing performed) are salted in bulk in the hold, from day to day, until the cargo is completed. The bank fish are larger than those taken on the shores of Newfoundland, but are not often so well cured.

The first American vessel which was fitted for the Labrador fishery sailed from Newburyport towards the close of the last century. The business once undertaken, was pursued with great energy, and several hundred vessels were engaged in it annually previous to the war of 1812. A voyage to Labrador, unlike a trip to the Banks of Newfoundland, is not without pleasant incidents even to landsmen. The coast is frequented for a distance of ten or twelve degrees of latitude. It has been preferred to any other on account of its security, and a general certainty of affording a supply of fish. Arriving in some harbor early in June, an American vessel is moored, and remains quietly at anchor until a full "fare" has been obtained, or until the departure of the fish requires the master to seek another inlet. The fishing is done entirely in boats, and the number usually employed is one for about thirty tons of the vessel's register. Here, under the management of an experienced and skillful master, everything may be rendered systematic and regular. As soon as the vessel has been secured by the necessary anchors, her sails and light rigging are stowed away, her decks cleared, her boats fitted, and a day or two spent in fowling and sailing, under color of exploring the surrounding waters and fixing upon proper stations for the boats, and the master announces to his crew that they must try their luck with the hook and line. Each boat has now assigned to it a *skipper*, or master, and one man. At the time designated, the master departs with his boats, to test the qualities of his men, and to mark out for them a course for their future procedure.

The love of power, so common to our race, is exemplified even here, since the *skippers* of these boats, though commanding each but a single man, often assume airs and exercise authority which are at once ridiculous and tyrannical; while their ingenuity in explaining the causes of a bad day's work, really occasioned by idleness, or by time spent in shooting sea-birds, frequently puts the patience and the risibility of the master to a severe trial. If fish are plenty, and not too distant from the vessel, the boats are expected, in good weather, to catch two loads in a day. Their return, if laden, is the signal for the *dressing-*

*crew*, who are left on board, to begin a series of operations which, when completed, leave the fish in the form in which the consumer buys them. From the *dressing-table* the fish are thrown down the hatch-way to the *salter*, who commences the process of curing by salting and placing them in layers in the bottom of the vessel. If the master intends to remain on the coast until his fish are ready for market, they are commonly taken on shore as soon as caught, and there dressed, salted and dried, before being conveyed to the vessel. If, on the contrary, it be his intention to dry them at home, as is now the common practice, the *salter's* duty is the last that is performed abroad. The bait used in the Labrador fishery is a small fish called *capelin*. This small but useful fish seldom remains on the fishing-ground for more than six weeks in a season; a time which is long enough for securing a full supply, and which an experienced and energetic master does not often allow to pass away without one. The average produce of this fishery may be estimated at about ten quintals to every ton of the vessels employed in it, though the best masters are dissatisfied when they fail to catch a fourth or fifth more.

The selection of a master is a point so important to owners that a word upon his qualifications will not be amiss. Besides all the responsibilities at sea which devolve upon a master in the merchant service, he has cares and anxieties, which are unknown to that branch of maritime adventure. His passage being safely made, the master of the merchantman is relieved by the counsel and assistance of the owner or consignee. But it is not so with the master of the fishing vessel. During the period devoted to fishing, his labor is arduous in the extreme; and come what will, in the desolate and distant regions which he visits, his own sagacity and prudence are his only reliance. If, as not unfrequently happens, he be so unfortunate as to have among his crew two or three refractory spirits, who seek to poison the minds of all the rest; if others, who boasted loudly, before sailing from home, how well and quickly they could use the *splitting-knife*, or how true and even-handed they were in distributing the salt, prove too ignorant to be trusted; or if every man under his charge, without being dogged or incapable, is still of so leaden a mould as to remain immovable under promises of bounty or promotion;—these difficulties must be but new inducements to use extraordinary personal exertions, and to preserve his reputation at the expense of his health and strength. Even if there are none of these embarrassments to contend with, his ordinary employments require an iron frame, and an unconquerable resolution.

A friend who has seldom failed to accomplish what he has undertaken, and whose life has been full of daring enterprises, has often assured me, that while on the Labrador shore, his duty and the fear of making a "*broken voyage*" kept him awake and at his post full twenty hours every day throughout the time employed in taking fish. "Once," said he, "I was deceived by every man that I had on board my vessel, my mate alone excepted. Each shipped, as is usual, to perform a particular service, and each boasted of his accomplishments in catching, dressing down or salting away; but there was neither a good boatman, an adroit splitter, nor a safe salter, among them all. My situation was painful enough. I was interested in the loss or gains of the voyage,

and was too poor and too young in command to bear the consequences of returning without a full fare; and, besides, I was never good at accounting for bad luck, and felt that it was far easier for me, even under these untoward circumstances, to fill my vessel, than to explain to every one who would question me at home as to the causes of my failure; and the result of the matter was, that I got as many fish per ton and per man as any vessel that I met on the coast."

"Another season," says the same friend, "while in the West India trade I was disappointed in obtaining a cargo, and was compelled to go to Labrador, or haul my schooner up. I was too restless to be idle, and resolved upon fishing. It was three weeks too late; and, on attempting to ship a crew, I found that no good men were to be had, and that I must take raw Irishmen, and a drunkard for a mate.

The chances, as you may well suppose, were all against me; but I made the voyage and obtained as many fish as my vessel could carry. But I always had pistols in my pockets, and enforced most of my orders with a threat or a handspike. I slept full dressed, and with arms in my berth. A battle with one or more was almost of daily occurrence, and I was in constant fear either of losing my own life, or of being compelled to take that of some one of my crew, to overawe the rest." These incidents occurred on voyages made from a port on the frontiers of Maine, and before the commencement of the temperance reform; and are, of course, to be regarded not only as having been rare in former times, but as never happening now. But the master's duty, if he be an efficient man, is never an easy one. If he would provide for every contingency, and make sure of a cargo despite of every adverse event, he must not even allow the full repose which nature craves. It is upon his regularity and perseverance in procuring fresh bait, a service which must sometimes be performed at the hazard of his life; upon the frequency of his visits to his boats, which are often miles asunder; upon his readiness to use his own hands to make up the laggard's deficiency; upon his economy and system in the use of time and outfits; upon the degree of energy and regularity which he infuses; and, finally, upon the care which he exercises in dressing and salting the object of his search, that the success or failure of the voyage mainly depends. Masters who are able and willing to sustain these varied and incessant calls upon their bodily vigor and mental activity are to be found, probably, in every fishing port. But it is very certain that the number has sensibly diminished during the last twenty years, and that the transfer to other and more profitable and ambitious commands is still going on. The mercantile men of the commercial emporium of the North, and the packet-ships of the commercial emporium of the Union, rank deservedly high; but were their counting-rooms and quarter-decks to yield up all, or even half, of those whose birth-places were on the two capes of Massachusetts, and whose earliest adventures were made in fishing-craft, they would lose many high and honored names. So, too, were either to cease recruiting from the same sources, the humble employment of which I am speaking would speedily become more prosperous, in public estimation more respectable, and of consequence be considered more worthy of the care and protection of our rulers.

The cod-fishery in the Bay of Fundy differs in many respects from that of Labrador. It commences earlier, and is pursued more irregularly, and to a later period of the season; while it yields a larger and better fish, and, from the greater depth of water and rise of tide, requires much longer lines. This fishery is pursued principally by the colonists who live along the shores of the bay, and by the fishermen of the eastern part of Maine.

The vessels which are employed in it, though of greater variety, are neither so large nor so valuable as those which are required for the more hazardous and distant fishing grounds; and, unlike these, it allows of the use of sail-boats of the smallest size, as well as of those which can be propelled with safety and celerity by the oars of a single man. The vessels anchor upon the outer grounds as often, and for such times, as the weather permits; while the boats keep within the passages and about the ledges, with which the bay abounds. The time used for fishing is just before high tide, and just before low water, which states of the sea are called *slacks*. Most of the fishermen own or occupy small farms, so that fishing is an occasional, rather than a constant, employment with them. Two hundred boats are sometimes in sight at Eastport; and when, by a turn of the tide or a change of the wind, the little fleet draw together and float past the town in line, the scene is not without interest even to those who have witnessed it for many years.

From the earliest, or, as they are called, the *spring fares* of the cod-fish obtained in the Bay of Fundy, are made a considerable part of the table or *dun-fish* which are consumed in the New England States; and next to the Isles of Shoals fish, they are undoubtedly the best. Those caught in boats are seldom fit for *dunning*. They are commonly sold fresh to the little fishing stands or trading establishments set up by the more independent inhabitants. But, owing to a variety of causes, the process of curing is so imperfectly performed, that none are so good as those caught in vessels, and many are wholly unfit for human food. The sprinkling of lime, however, over the defective parts, (a practice which some fishermen deem entirely honest,) will deceive the eye and quiet the nasal organ of the inexperienced or careless purchaser. These waters afford, also, a considerable part of the dried fish known among dealers as *pollock*, *hake*, and *haddock*. They are usually taken when fishing for the cod, and by the same means. The "Quoddy pollock" is a great favorite everywhere in the interior, and is to be found in almost every farm-house of the North. The hake fishery of this bay is small; nor is it of much consequence on any part of the American coast. The hake and haddock are poor fish, and neither commands more than half the price of the cod. The hake, however, yields a larger quantity of oil, and is, therefore, held in estimation by those who catch it and are not compelled to eat it. The haddock, when fresh, suits the taste of some; but when dried, it is without reputation even in the hut of the negro, who is doomed to be its principal consumer. There is a tradition in Catholic countries, that the haddock was the fish out of whose mouth the Apostle took the tribute-money, and that the two dark spots near its gills preserve to this day the impression of his thumb and finger.

Particular mention of our cod-fishery on the coasts of Nova Scotia, in the Bay of Chaleurs, in the Gulf of St. Lawrence, and elsewhere in British America, may be omitted; since the brief notice of the manner of conducting it at Newfoundland, at Labrador, and in the Bay of Fundy, is sufficient to give a general idea of it, in vessels and boats, in the open sea, in harbors, along the shores, and in the most distant regions.

*Statistics of the cod-fishery of Massachusetts from the year 1765 to 1775, and from 1786 to 1790.*

Towns.	From 1765 to 1775.			From 1786 to 1790.		
	Vessels annually employed.	Tonnage.	No. of men.	Vessels annually employed.	Tonnage.	No. of men.
Marblehead .....	150	7,500	1,200	90	5,400	720
Gloucester .....	146	5,530	888	160	3,600	680
Manchester .....	25	1,500	200	15	900	120
Beverly .....	15	750	120	19	1,235	157
Salem .....	30	1,500	240	20	1,300	160
Newburyport .....	10	400	60	10	460	80
Ipswich .....	50	900	190	56	860	248
Plymouth .....	60	2,400	420	36	1,440	252
Cohasset .....	6	240	42	5	200	35
Hingham .....	6	240	42	4	180	32
Scituate .....	10	400	70	2	90	16
Duxbury .....	4	160	28	9	360	72
Kingston .....	6	240	42	4	160	28
Yarmouth .....	30	900	180	30	900	180
Wellfleet .....	3	90	21	.....	.....	.....
Truro .....	10	400	80	.....	.....	.....
Provincetown .....	4	160	32	11	550	88
Chatham .....	30	900	240	30	900	240
Nantucket .....	8	320	64	5	200	40
Weymouth .....	2	100	16	3	150	24
In Maine .....	60	1,000	230	30	300	120
Total .....	665	25,630	4,405	539	19,185	3,292

*Statistics of the fisheries of the United States in 1840.—General view showing the produce, men, and capital employed in each State and Territory.*

States and Territories.	Number of quintals of smoked or dry fish.	Number of barrels of pickled fish.	Number of gallons of spermaceti oil.	Number of gallons of whale and other fish-oil.	Value of whale bone and other productions of the fisheries.	Number of men employed.	Capital invested.
Maine .....	279, 156	54, 071	1, 044	117, 807	\$2, 351	3, 610	\$526, 967
New Hampshire...	28, 257	1, 714	.....	15, 234	.....	399	59, 680
Massachusetts...	389, 715	124, 755	3, 630, 972	3, 364, 725	442, 974	16, 000	11, 725, 850
Rhode Island .....	4, 034	2, 908	487, 268	633, 860	45, 523	1, 160	1, 077, 157
Connecticut .....	1, 384	6, 598	183, 207	1, 909, 047	157, 572	2, 215	1, 301, 640
Vermont .....	.....	.....	.....	.....	.....	.....	.....
New York .....	5	22, 224	400, 251	1, 269, 541	344, 665	1, 228	949, 250
New Jersey .....	.....	1, 134	12, 000	80, 000	74, 000	179	93, 275
Pennsylvania .....	.....	2, 012	.....	.....	15, 240	58	16, 460
Delaware .....	.....	28, 000	49, 704	142, 575	7, 987	165	170, 000
Maryland .....	.....	71, 292	.....	.....	12, 167	7, 814	88, 947
Virginia .....	.....	30, 315	262	.....	4, 150	556	28, 383
North Carolina .....	2, 385	73, 350	.....	2, 387	23, 800	1, 784	213, 502
South Carolina .....	.....	425	.....	.....	.....	53	1, 617
Georgia .....	.....	14	.....	.....	.....	6	.....
Alabama .....	2	.....	.....	.....	.....	.....	.....
Mississippi .....	9	.....	.....	.....	.....	.....	.....
Louisiana .....	.....	.....	.....	.....	.....	.....	.....
Tennessee .....	.....	97	.....	.....	.....	7	242
Kentucky .....	.....	.....	.....	.....	.....	.....	.....
Ohio .....	.....	3, 506	.....	14	.....	165	12, 210
Indiana .....	.....	14	.....	.....	1, 150	.....	.....
Illinois .....	.....	1	.....	23	.....	.....	.....
Missouri .....	.....	.....	.....	.....	.....	.....	.....
Arkansas .....	.....	.....	.....	.....	.....	.....	.....
Michigan .....	.....	16, 535	.....	60	.....	453	28, 640
Florida .....	69, 000	73	.....	.....	6, 000	67	10, 000
Wisconsin .....	.....	9, 021	.....	1, 500	155	138	61, 330
Iowa .....	.....	.....	.....	.....	.....	.....	.....
Dist. of Columbia..	.....	24, 300	.....	.....	15, 500	527	64, 500
	773, 947	472, 359	4, 764, 708	7, 536, 778	1, 153, 234	36, 584	16, 429, 620

Statistics of the cod-fishery of the United States, exhibiting the tonnage employed; bounty paid to fishing vessels; imports of salt; exports of dried fish, and the value of the same.

Year.	Tonnage.	Bounty.	Salt imported.	Dried fish exported.	Value of exports.
			<i>Bushels.</i>	<i>Quintals.</i>	
1789.....	19, 185	None.	1, 250, 255	.....	.....
1790.....	28, 348	None.	2, 355, 760	.....	.....
1791.....	32, 542	None.	1, 850, 479	383, 237	.....
1792.....	32, 060	.....	1, 779, 510	364, 898	.....
1793.....	59, 163	\$72, 965 32	2, 027, 332	372, 825	.....
1794.....	28, 671	93, 768 91	2, 958, 411	436, 907	.....
1795.....	30, 934	66, 230 47	2, 233, 186	400, 818	.....
1796.....	34, 963	76, 889 63	3, 975, 922	377, 713	.....
1797.....	40, 629	80, 475 76	2, 674, 251	406, 016	.....
1798.....	42, 746	94, 684 30	2, 891, 453	411, 175	.....
1799.....	29, 978	128, 605 87	2, 471, 969	428, 495	.....
1800.....	29, 427	87, 853 45	3, 095, 807	392, 726	.....
1801.....	39, 381	74, 520 92	3, 282, 064	410, 948	.....
1802.....	41, 521	104, 447 92	3, 564, 605	440, 925	.....
1803.....	51, 813	117, 173 57	3, 862, 804	461, 870	\$1, 620, 000 00
1804.....	52, 014	145, 986 73	3, 479, 878	567, 828	2, 400, 000 00
1805.....	57, 466	152, 927 72	3, 652, 277	514, 549	2, 058, 000 00
1806.....	59, 183	162, 191 95	3, 941, 616	537, 457	2, 150, 000 00
1807.....	69, 306	161, 254 17	4, 671, 628	473, 924	1, 896, 000 00
1808.....	51, 998	142, 911 89	1, 300, 177	155, 808	623, 000 00
1809.....	34, 486	47, 166 11	No returns.	345, 648	1, 123, 000 00
1810.....	34, 828	3, 406 44	No returns.	230, 864	913, 000 00
1811.....	43, 233	None.	No returns.	214, 357	757, 000 00
1812.....	30, 459	None.	No returns.	169, 019	592, 000 00
1813.....	20, 878	None.	No returns.	63, 616	210, 000 00
1814.....	17, 855	None.	333, 344	31, 310	128, 000 00
1815.....	36, 938	1, 811 74	2, 020, 131	103, 251	494, 000 00
1816.....	48, 126	84, 736 26	6, 854, 821	219, 991	935, 000 00
1817.....	64, 807	119, 919 51	2, 884, 504	267, 514	1, 003, 000 00
1818.....	69, 107	148, 915 65	3, 678, 526	308, 747	1, 081, 000 00
1819.....	76, 076	161, 623 35	3, 874, 852	280, 555	1, 052, 000 00
1820.....	72, 040	197, 834 68	4, 711, 329	321, 419	964, 000 00
1821.....	62, 293	170, 052 91	3, 943, 727	267, 305	708, 778 00
1822.....	69, 225	149, 897 83	4, 087, 381	241, 228	666, 730 00
1823.....	78, 253	176, 706 04	5, 127, 657	262, 766	734, 024 00
1824.....	77, 446	208, 924 08	4, 401, 399	310, 189	873, 685 00
1825.....	81, 462	198, 724 97	4, 574, 202	300, 857	830, 356 00
1826.....	.....	215, 859 01	4, 564, 720	269, 803	667, 742 00
1827.....	.....	206, 185 55	4, 320, 489	247, 321	747, 171 00
1828.....	94, 756	239, 145 20	3, 962, 957	265, 217	819, 926 00
1829.....	101, 797	261, 069 94	5, 945, 547	294, 761	747, 541 00
1830.....	98, 529	197, 642 28	5, 374, 046	229, 796	530, 690 00
1831.....	106, 188	200, 428 39	4, 182, 340	230, 577	625, 393 00
1832.....	102, 454	219, 745 27	5, 041, 424	250, 544	749, 909 00
1833.....	111, 445	245, 182 40	6, 822, 672	249, 689	713, 317 00
1834.....	117, 485	218, 218 76	6, 038, 076	253, 132	630, 384 00
1835.....	.....	223, 784 93	5, 375, 364	287, 721	783, 895 00
1836.....	63, 306	213, 091 03	5, 088, 666	240, 769	746, 464 00
1837.....	80, 552	250, 181 03	6, 343, 706	188, 943	588, 506 00
1838.....	70, 064	314, 149 00	7, 103, 147	206, 028	626, 245 00
1839.....	72, 248	.....	6, 061, 608	298, 720	709, 218 00
1840.....	76, 036	.....	8, 183, 203	211, 425	541, 058 00
1841.....	66, 551	.....	6, 823, 946	252, 199	602, 810 00
1842.....	54, 803	.....	.....	256, 083	567, 782 00
1843.....	61, 223	.....	.....	174, 220	381, 175 00
1844.....	85, 224	.....	.....	271, 610	699, 833 00
1845.....	76, 990	.....	.....	288, 380	803, 353 00

## STATEMENT—Continued.

Year.	Tonnage.	Bounty.	Salt imported.		Dried fish ex- ported.	Value of ex- ports.
			Bushels.	Quintals.		
1846.....	79,318	.....	.....	.....	277,401	\$699,559 00
1847.....	78,280	.....	.....	.....	258,870	659,629 00
1848.....	89,856	.....	.....	.....	206,549	609,482 00
1849.....	81,695	.....	11,622,163	.....	197,457	419,092 00
1850.....	93,806	.....	11,224,185	.....	168,600	365,349 00
1851.....	*95,616	.....	8,681,176	.....	151,088	367,729 00

\* Maine, 45,528; New Hampshire, 1,916; Massachusetts, 39,982; Rhode Island, 371; Connecticut, 6,785; New York, 1,034; total, 95,616.

*Statistics of pickled fish exported from the United States and imported into the same.*

Year.	Exports.		Value.	Imports.
	Barrels.	Kegs.	Dollars.	Barrels.
1791.....	57,426	.....	.....	.....
1792.....	48,277	.....	.....	.....
1793.....	45,440	.....	.....	.....
1794.....	36,929	.....	.....	.....
1795.....	55,999	.....	.....	.....
1796.....	84,558	5,256	.....	.....
1797.....	69,782	7,351	.....	.....
1798.....	66,827	6,220	.....	.....
1799.....	63,542	15,993	.....	.....
1800.....	50,388	12,403	.....	.....
1801.....	85,935	10,424	.....	.....
1802.....	75,819	13,229	.....	.....
1803.....	76,831	11,565	560,000	.....
1804.....	89,482	13,045	640,000	.....
1805.....	56,670	7,207	348,000	.....
1806.....	61,615	10,155	366,000	.....
1807.....	57,621	13,743	392,000	.....
1808.....	18,957	3,036	98,000	.....
1809.....	54,777	9,380	282,000	.....
1810.....	31,674	5,964	214,000	.....
1811.....	41,716	9,393	305,000	.....
1812.....	23,636	3,143	146,000	.....
1813.....	18,833	568	81,000	.....
1814.....	8,436	87	50,000	.....
1815.....	36,232	3,062	218,000	.....
1816.....	33,228	6,983	221,000	.....
1817.....	41,426	15,551	325,000	.....
1818.....	55,119	7,400	317,000	.....
1819.....	66,563	6,746	499,000	.....
1820.....	87,916	7,309	538,000	.....
1821.....	76,429	4,162	261,000	1,174
1822.....	69,127	7,191	249,108	1,726
1823.....	75,728	8,349	270,776	1,842
1824.....	72,559	12,911	363,019	6,611
1825.....	70,572	10,636	248,417	2,560

## STATEMENT—Continued

Year.	Exports.		Value.	Imports.
	Barrels.	Kegs.	Dollars.	Barrels.
1826.....	85,445	11,459	257,180	1,342
1827.....	66,123	7,446	240,276	1,680
1828.....	63,928	4,205	240,737	955
1829.....	61,629	3,207	220,527	1,232
1830.....	66,113	6,723	225,987	2,727
1831.....	91,787	8,594	304,441	7,320
1832.....	102,770	4,030	308,812	2,400
1833.....	86,442	3,636	277,973	2,512
1834.....	61,633	2,344	223,290	3,747
1835.....	51,661	3,487	224,639	13,843
1836.....	48,182	3,575	221,426	14,107
1837.....	40,516	3,430	181,334	7,910
1838.....	41,699	2,667	192,753	7,493
1839.....	23,831	3,975	141,320	.....
1840.....	42,274	2,252	179,106	25,493
1841.....	36,508	3,349	148,973	18,013
1842.....	40,846	4,559	162,326	14,678
1843.....	30,544	.....	116,042	12,334
1844.....	46,170	.....	197,179	43,542
1845.....	44,203	.....	208,654	39,506
1846.....	57,060	.....	230,495	31,402
1847.....	31,361	.....	136,221	31,113
1848.....	23,736	.....	109,315	122,594
1849.....	25,835	.....	93,085	138,503
1850.....	19,944	.....	91,445	108,300
1851.....	21,214	3,215	113,932	145,363

## THE MACKEREL FISHERY.

*From the settlement of New England to the year 1852.*

It is frequently said that the mackerel fishery is of very recent origin, or that, at least, *vessels* were not employed in it until about the close of the last or the beginning of the present century. Both suppositions are entirely erroneous. The Indians, regardless of the beautiful form and color of the fish, called it *wawwunckescag*, on account of its fatness. There is mention of it in the earliest records of the country. Winthrop relates that, in 1633, the ship Griffin, two days before her arrival at Boston, lost a passenger by drowning, as he was casting forth a line to catch mackerel. The first settlers must have commenced the fishery soon after, since—to omit several minor incidents—we have the fact that Allerton, one of the Pilgrims who came over in the Mayflower, received mackerel for sale at New Haven, on “half profits,” in the year 1653. That the business was prosecuted with success is evident from the additional fact, that in 1660 the commissioners of the colonies of New England recommended to the general courts of the confederacy to regulate it, “considering” that “the fish is the most staple com-

modity of this country." The mackerel fishery at Cape Cod was held by the government of the colony of Plymouth as public property, and its profits were appropriated to public uses. The records show that it was rented, from time to time, to individuals, who paid stipulated sums, and that a *part of the fund to support the first free-school established by our Pilgrim fathers was derived from it.*

The proposition to found and endow a school of this description seems to have been made in 1663, but not to have been adopted until seven years later, when the general court, "upon due and serious consideration, did freely give and grant all such profits as might or should annually accrue to the colony," from this and the bass and hering fisheries, at the same place. In 1689, the "rent of the Cape fishery was added to the appropriation for magistrates' salary for that year."

Exact statements as to the progress and extent of the mackerel fishery previous to the Revolution, are hardly to be found; but it is still certain that the people of Rhode Island and Connecticut, as well as those of Massachusetts, were "largely concerned in it," and that fleets of sloops employed in it were often seen upon the coast and in the harbors. It is certain, also, that about the year 1770, the town of Scituate, alone, owned upwards of thirty vessels that were annually fitted out as "mackerel catchers;" and that the whole number of vessels in Massachusetts was not less than one hundred. Soon after the peace of 1783, a writer in a Boston newspaper, in a series of articles on American commerce, said that the mackerel fishery "was of more value to Massachusetts than would be the pearl fisheries of Ceylon."

There is little of interest relating to this branch of industry for several years after the period last mentioned. A highly respectable ship-master, who is still living, entertains the opinion that the fishery in *vessels* was commenced within fifty years; and that "he was personally engaged in the *first* regular mackerel voyage ever made in New England." His account, as related to me by himself, would occupy too much room. Its substance is, that, engaged in the coasting business for some time between Massachusetts and Maine, he commonly saw and caught mackerel, during the summer months, in the vicinity of the island of Mount Desert; that, believing that they might be taken in quantities, he resolved, finally, to fit out a vessel for the express purpose; that his success was even greater than he had expected, and that others were induced to follow his example. The mistake of this gentleman probably is, that what he considers the *origin* of the vessel fishery was only a *revival* of it, since we can easily imagine that repeated losses and discouragements had caused a suspension of it.

The accompanying table of statistics will show the number of barrels inspected annually in Massachusetts since the year 1804, and also the fluctuations and uncertainties of the fishery. It will be seen, that, commencing with a catch of eight thousand barrels, the quantity was actually less in 1808, and during the three years of the war of 1812; that the inspection rose to two hundred and thirty-six thousand barrels in 1820, and declined more than half in the following year; that, again increasing in 1825, and again declining until 1829, there was a considerable gain in 1830, and that the largest "catch" during the whole period which it embraces was in 1831, when the quantity inspected was

three hundred and eighty-three thousand barrels, or only twenty thousand barrels less than the aggregate for the six consecutive years ending in 1844.

Legislation in behalf of this fishery has been extremely limited. Its legal existence as a branch of maritime industry does not appear to have been so much as recognised by the government of the United States until 1828, when an act was passed by Congress, which authorized the collectors of the customs to issue special licenses for its prosecution, and extended to the vessels employed in it the provisions of the laws then in force relative to enrolled and licensed tonnage generally. It has never been allowed full protection. In 1824, the Comptroller of the Treasury instructed the collectors that it was not entitled to participate in the bounty or allowance granted to the cod-fishery; and that persons who designed to claim for "bounty-fishing," ought not to be permitted to compute the time and voyages in which their vessels caught *both* cod and mackerel, as chance or circumstances might direct, but such time and voyages only as were *exclusively* devoted to the catching of the cod. In 1832, the same officer, in a second circular, defining the law in another particular, stated that a vessel under a mackerel license, and with a "permit to touch and trade" at a foreign port where she intended to procure her salt for the voyage, having but a single cable and anchor, and unable to purchase additional ground-tackle in the port where she was owned, would be required, on her return to the United States with a cable and an anchor obtained in her necessity at such port, to pay the duties thereon; that the fish caught during the voyage would not be entitled to bounty on exportation; and that "it admitted of doubt whether such fish would not be liable to duty." To add, that, in 1836, Congress exempted vessels licensed for and employed in this fishery from forfeiture or penalty for catching the cod or fish of any other description, and prohibited the payment of bounty or allowance to such vessels, is to complete a notice of the most material laws and regulations which relate to it at the present time, the duty imposed on foreign mackerel imported into the United States alone excepted.

This duty, prior to the tariff of 1846, was specific and ample. The protection under the ad valorem system then introduced (less than before under all circumstances) has been, and must continue to be, often merely nominal.

The modes of catching the mackerel have varied with time, and the real or supposed changes in the habits of the fish. The original method was probably in seines, and in the night. John Prince and Nathaniel Bosworth petitioned the general court of the colony of Plymouth, in 1671, in behalf of themselves and their fellow-townsmen of the "little and small place of Hull," within the jurisdiction of Massachusetts, to be allowed to continue to fish for mackerel at Cape Cod; and stated, among other reasons, that they and others of Hull were some of the first who went there; and that by "beating about by evening," and "travelling on the shores at all times and seasons," they had "*discovered the way to take them in light as well as in dark nights.*" This shows the practice of the early settlers. The court of Plymouth, however, in 1684, prohibited "the taking mackerel ashore with seines

or nets," and ordered the forfeiture of these implements, and the vessels and boats, of persons who violated the decree.

The mode of catching by "bobbing," or with "fly-lines," is said to have been introduced about the year 1803, by the fishermen of Gloucester: these lines are still in use at sea. The course of our fishermen in pursuit of the mackerel is commonly and substantially as follows: The master of the vessel, after reaching some well known resort of the fish, furls all his sails except the mainsail, brings his vessel's bow to the wind, ranges his crew at proper intervals along one of her sides, and, without a mackerel in sight, attempts to raise a *school*, *scool*, or *shoal*, by throwing over bait. If he succeeds to his wishes, a scene ensues which can hardly be described, but which it were worth a trip to the fishing ground to witness. I have heard more than one fisherman say that he had caught sixty mackerel in a minute; and when he was told that at that rate he had taken thirty-six hundred in an hour, and that, with another person as expert, he would catch a whole fire in a single day, he would reject the figures, as proving nothing beyond a wish to undervalue his skill. Certain it is, that some active young men will haul in and jerk off a fish, and throw out the line for another, with a single motion; and repeat the act in so rapid succession, that their arms seem continually on the swing. To be "high-line,"\* is an object of earnest desire among the ambitious; and the muscular ease, the precision, and adroitness of movement which such men exhibit in the strife, are admirable. While the *scool* remains alongside and will take the hook, the excitement of the men and the rushing noise of the fish, in their beautiful and manifold evolutions in the water, arrest the attention of the most careless observer.

Oftentimes the fishing ceases in a moment, and as if put an end to by magic: the fish, according to the fishermen's conceit, panic-stricken by the dreadful havoc among them, suddenly disappear from sight.

Eight, ten, and even twelve thousand have been caught, and must now be "dressed down." This process covers the persons of the crew, the deck, the tubs, and everything near, with blood and garbage; and as it is often performed in darkness and weariness, and under the reaction of overtaxed nerves, the novice and the gentleman or amateur fisher, who had seen and participated in nothing but keen sport, become disgusted. They ought to remember that in the recreations of manhood, as in those of youth, the toil of hauling the hand-sled up hill is generally in proportion to the steepness and slipperiness which gave the pleasurable velocity down.

The approach of night or the disappearance of the mackerel closing all labor with the hook and line, the fish, as they are dressed, are thrown into casks of water to rid them of blood. The deck is then cleared and washed; the mainsail is hauled down, and the foresail is hoisted in its stead; a lantern is placed in the rigging; a watch is set to salt the fish and keep a lookout for the night; and the master and the remainder of the crew at a late hour seek repose. The earliest gleams of light find the anxious master awake, hurrying forward preparations for the morning's meal, and making other arrangements for a renewal

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\* To catch the greatest number of fish.

of the previous day's work. But the means which were so successful then fail now, and perhaps for days to come; for the capricious creatures will not take the hook, nor can all the art of the most sagacious and experienced induce them to bite.

Repeating, however, essentially the operations which I have described, from time to time, and until a cargo has been obtained, or until the master becomes discouraged, or his provisions have been consumed, the vessel returns to port and hauls in at the inspector's wharf, where the fish, many or few, are landed, sorted into three qualities, weighed, repacked, resalted, and repickled. In two or three days she is refitted, and on her way to the fishing ground for a second fare. Meantime the owner, and all others who inquire "what luck?" learn from some wise "old salt" (and there is always a Sir Oracle on board) how much *knowledge* the mackerel have acquired since the previous season. Having been thus employed until the cold weather approaches, the smaller vessels haul up, and their "skippers" pass the winter in cracking nuts, relating stories, and accounting for bad voyages or boasting of good ones; while the larger vessels go south, and engage in freighting.

The bait, which I have said is thrown overboard to attract the fish to the surface, is usually composed of small mackerel or salted herrings cut in small pieces. As economy and success alike require a careful use of it, the master seldom allows other hands than his own to dispose of it. It was formerly the duty of the man who kept the watch on deck in the night to cut the bait on a block; but the *bait-mill* has taken place of this noisy and tedious process. Nothing, certainly, in the time of any fisherman now living, has occasioned so much joy as its introduction. This labor-saving, sleep-promoting machine, as constructed at first, was extremely simple. It was a box which was made to stand on end, and had a crank projecting through its side; while internally it had a wooden roller armed with small knives, in rows, so arranged that when the roller was turned, the fish to be ground or cut up should undergo the operation by coming between these rows of knives and others which were arranged along a board that sloped towards the bottom. It has been improved in form and efficiency, and is in common use.

The superiority of sound, strong, and well-furnished vessels over those of opposite qualities, may seem too apparent to require a word of notice. Many poor ones are nevertheless employed, and so are poor masters; but the misplaced economy of trusting either is becoming so perceptible, that their number is rapidly diminishing. Yet I may be pardoned for relating a single fact, illustrative of the folly of retaining in use a solitary vessel that ought to be, or one master that seeks to be, in a harbor during any of the gales which occur on our coast before the equinox. A few years ago, between Mount Desert and Cape Sable, there were one day three hundred vessels in sight of each other; and, as was judged, they were mostly mackerel catchers, meeting with more than the average success. The moderate breeze of the morning freshened towards noon, and as night approached there were strong indications of a storm. A movement was soon perceptible throughout the fleet, and it finally scattered and sailed away. The staunch vessels which were controlled by stout hearts sought an offing; but the rest, the shelter of the nearest havens. Two thousand men, probably, were

trous interrupted in their employment; but mark the issue: the vessels that kept their positions under their storm-trimmed foresails escaped unharmed, and resumed their business early the next day; while the refugees were seen no more for four days, two of which were excellent for fishing, and during that time many vessels caught from a quarter to a third part of a full fare.

What has been said of the operations on board of a mackerel-catcher at sea is to be received as general only, since circumstances modify and change the ordinary course, and since, too, some masters adopt means to suit their peculiar whims and fancies.\*

As being more minute in some particulars, and somewhat different in others, I insert the remarks of Captain McLaughlin, of Grand Menan, as contained in Mr. Perley's excellent report upon the fisheries of New Brunswick, in 1851. The captain professes to give the mode of proceedings on board of American vessels in the Gulf of St. Lawrence and the Bay Chaleurs, and states that his observations are the result of ten years' experience in the fishery. "The vessel," says he, "starts for the fishing ground with the trail-line out: if it catch a mackerel, the vessel is hove-to on the larboard side. The *baiter* stands amidships, with the bait-box outside the rail: with a tin pint nailed to a long handle he begins throwing out bait, while every man stands to his berth. If they find mackerel, the foresail is taken in, and the mainsail hauled out with a boom-tackle. Then the fishing begins. You haul your line through the left hand with the right, and not hand-over-hand as you do for cod: if you do, you are sure to lose your fish after it breaks water. When your fish is near coming in, you must take it by leaning over the rail, to prevent its striking against the side of the vessel, catching the line quick, close to the fish, with the right hand, unhooking it, with a sling, into the barrel: with the same motion, the *jig* goes out in a line parallel with your own berth. You must be quick in case a mackerel takes your other line, and entangles your

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\* The British mackerel fishery is unlike ours in several particulars. The vessels employed in it are smaller, nets are in more common use, and a much larger proportion of the fish caught are consumed fresh.

The average number of fresh mackerel sold in London is upwards of one million annually. This fish was first allowed to be cried through the streets of that city on Sundays in 1698; and the year following, Billingsgate, by act of Parliament, was opened as a free market, with permission to the fishmongers to sell mackerel on Sundays, previous to the performance of divine service.

The London market sometimes allows the fishermen to receive liberal reward for their toil. In May, 1807, the first boat-load of mackerel sent there sold at forty guineas the hundred, or for seven shillings each, (the count is six score to the hundred); and the second fare brought thirteen guineas the hundred. But in 1808, the price on the coast, so large was the catch, was one shilling only for sixty fish. Again, in 1828, the supply was large, and more than three millions were sent to London. In 1831, the crews of sixteen boats caught in a single day mackerel which sold for £5,252, or about twenty-five thousand dollars. Two years later, 10,800 fish were brought on shore on Sunday by the crew of one boat. In 1831, a crew earned in one night upwards of five hundred dollars.

The English fishermen make frequent complaints against their French competitors, and petition to Parliament for protection. A mackerel boat, with suitable nets and other equipments, may be estimated to cost about two thousand dollars.

The French mackerel fishery was established by Fouquet, near the close of the seventeenth century, principally at Belleisle, on the coast of Brittany. It has never acquired great importance. The number of vessels from Dieppe (a large fishing port) in 1830 was only forty-five, and the catch was valued at 280,000 livres.

comrade's. You fish with two lines, most commonly seven fathoms long—that is, in heavy weather. In calm weather, the jigs are lighter than when it blows hard. There is an eye spliced at the end of the line, so that the jig may be shifted at pleasure. There are two other lines used, called fly-lines, with smaller hooks: when mackerel are shy in biting, they will often take these. The fly-lines are only three fathoms long. Very often the mackerel stop biting. Then the fishermen take the gaffs, and work with these until the fish disappear. The gaffs must not be used while the lines are out, as they entangle them, and cause great trouble. No man must leave the rail to pick up fish which miss his barrel and fall on the deck, until the fishing is over. You must take care to dress your mackerel quickly, as they are a fish that is easily tainted. When you stop fishing, the captain or mate counts the fish, and notes down in the fish-book what each man has caught. Then the crew goes to dressing and splitting. The splitter has a mitten on the left hand, to keep the fish steady to the knife. Two men gib the fish, with mittens on, to prevent the bones scratching their hands. One man hands up the fish to the splitter, while the rest of the crew draw water to fill the barrels in which the fish are put to soak. The fish are put in the soak-barrels back up. In a short time the water is shifted, and the fish washed out for salting. The salter sprinkles a handful of salt in the bottom of the barrel, then takes the fish in his right hand, rolls them in salt, and places them skin down in the barrel until he comes to the top layer, which he lays skin up, covering the top well with salt. Herring or small mackerel are the best bait that can be used. These are ground in a bait-mill by the watch at night: if the vessel has no bait-mill, the fish are chopped up with a hatchet, or scalded with boiling water in a barrel or tub. When there is a fleet of mackerel-vessels fishing, they often lee-bow each other—that is, run ahead of one another—and so draw the fish towards the shore. There they anchor, and put springs on their cables, which is done by taking a strap outside the hawse-hole and fastening it to the cable, then hooking it to a tackle, and hauling it aft, at the same time paying out the cable. This brings the vessel broadside to the wind or current, and the fishing goes on. Boats may fish with the same success as vessels when moored in this manner. This is the whole system of mackerel fishing, British or American, and requires nothing but activity and energy.”

As already intimated, the mackerel is a capricious and sportive fish, and continually changing its haunts and habits. When first seen upon the coast in the spring, it is thin and poor. It differs essentially, from one season to another, in size and quality. One year it is fat and large, and is sought for almost entirely in the Bay Chaleurs; anon it is lean and small, deserts that bay and the adjacent waters, and frequents George's Banks, or our own shores.\* Sometimes, our whole fleet seek

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\* Paul Crowell, in a report on the fisheries of Nova Scotia, February, 1852, remarks: “The mackerel in the spring generally strike the south part of Nova Scotia. From the 18th to the 25th of May they come from the southward, falling in with the Nantucket and St. George's Shoal; a large quantity come through the South Channel, and, when abreast of Cape Cod, shape their course towards the south coast of Nova Scotia. Being bound to Boston this spring, about the 18th of May, I met large schools of mackerel, about fifty or sixty, to the

it in vain in every American sea; at others, it is so voracious as to leap from the water when lured by a red rag, or attracted by flies and other insects. Some fishermen entertain very strange conceits with regard to it, and aver that "it knows as much as a man." Under ordinary circumstances, our vessels pursue it north and east, as the season advances; "make fares" in the Bay of Fundy in July and August; in the Bay Chaleurs in September; and sometimes in the latter bay and in the Gulf of St. Lawrence in the month of October. More frequently, however, they are following it on their return west and south, before the equinoctial gale.

Of the fishery in the waters of New England there is mention, as we have seen—incidentally—in the earliest records. The visits of the vast *scools* occurred, probably, at intervals, as at present. Winthrop

westward of South Seal island; they appeared to be coming from Cape Cod, until nearly over to the Cape. Their course may occasionally vary in consequence of strong southerly and northerly winds; they generally fall in on the coast to the westward a few days before they do at Canso and Cape Breton. The chief places for netting and seining mackerel in the spring are the Tusket islands, the west side of Cape Sable, east side of Margaret's bay, Little Harbor, White Head, St. Peter's in Cape Breton, Antigonish, and several other places. As there is no doubt but that the mackerel are bound to the Bay Chaleurs for the purpose of spawning, it would lead us to believe that when one fish is taken with the net or seine, thousands are destroyed which would otherwise likely come to maturity. Could the practice of taking the fish with their spawn be abolished, it is likely they would be much more abundant. The mackerel, after passing the south coast of Nova Scotia, proceed to the northward, through the Straits of Canso, and to the eastward of Cape Breton, making their way northwardly until they are up with Shippegan, Bradelle Bank, Gaspé, Seven Islands, &c. After having spawned, they continue about those places as their feeding ground, there being large quantities of lants there, which they feed upon, and consequently become fat.

"As the season advances, about the month of October the fish begin to make their way to the southward, and continue to do so until the latter part of November. The practice of taking mackerel with the hook and line has not been long in operation in Nova Scotia, and I believe there never has been a voyage made with the hook and line on the southern coast of Nova Scotia except at Sable island, where there have been some good voyages made. The fish which resort here are of a different quality from those which go to the Bay de Chaleurs, being much larger and fatter. In 1850 the fish were plenty and took the hook well, but in 1851 the fish appeared at times to be abundant, but would not take the hook. Mackerel here feed in shallow water, within the bars or shoal edges of sand which extend in different places near the island. The vessels, when employed in the mackerel fishery here, lie at anchor in about six or seven fathoms water, and I am informed that mackerel have been discovered from the mast-heads of these vessels, lying within the ridges of sand. They are chiefly taken in boats or flats, which go over the ridges, when they sometimes appear to be lying on the bottom. Was there a light-house erected on the northwest end of the island, I think it would be of great service to those who tend the mackerel fishery, as they often have to cross the northwest bar when they cannot ascertain the distance from the island. As the season advances the weather becomes changeable, and the bars being dangerous to cross in rough weather, our vessels mostly leave after the last of September. The American vessels which fit out for the hook fisheries are of a superior class to those in Nova Scotia. Their tonnage is generally from sixty to one hundred and thirty tons, very sharp built, well fitted in every respect; those they term the Sharp-shooters are very superior sailing vessels. This enables them to reach the fishing ground and procure their cargo while those of Nova Scotia are actually carrying sail to reach the fishing ground. Those vessels are likewise well manned, carrying from twelve to twenty-four men; making an average, probably, of about fifteen or sixteen men to each vessel. In 1851 I was informed there were about one thousand sail of American vessels, which, with an average of fifteen men, would give fifteen thousand. Some of these vessels, I heard, made three trips in Chaleurs bay for mackerel. Some, after having made one or two trips or fares of codfish, proceed to the Bay Chaleurs, well fitted, taking sufficient barrels to cure their fish in. These are partly filled with menhaden and clams, which are considered the best bait for mackerel; others are filled with salt and water, which make ballast. When required for use, they are emptied of their contents and filled with mackerel; this keeps their vessels in good ballast. They generally commence their fishing about Bradelle Bank, Shippegan, and follow the fish northerly, until the season advances, when they return to the north side of Prince Edward Island, and Cape Breton."

relates, under date of 1639, that there "was such a store of exceeding large and fat mackerel upon our coasts this season, as was a great benefit to all our plantations," and that "one boat, with three men, would take in a week ten hogsheads, which were sold at Connecticut for £3 12s. the hogshead." And it seems, from equally authentic sources, that similar "stores" relieved the "plantations," occasionally, at subsequent periods. In Maine, we have an account of a boat fishery previous to the year 1648. During the first half of the last century, there are statements which show that a single vessel, fishing in Massachusetts bay, often took eight hundred barrels in a season. In our own day it has happened, on the sudden appearance of a *scool*, after a lapse of years, that landsmen, women, and children, abandoned their accustomed employments to *fish* with pans, baskets, trays, pitchforks, and the like, and to prove how true it is that "necessity is the mother of invention." So, too, our fishermen, professionally equipped, even to the *ile-sute* and *sou'-wester*, recall many an exciting scene between, and off, the capes of Massachusetts, within the last twenty-five years. Thus, in 1826, one hundred and fifty vessels and boats sailed from Gloucester in one day, to hook, seine, or gaff, as circumstances should require, the mass of fish that appeared near the harbor of that port; in 1831, one hundred thousand barrels were caught in fifteen days; in 1845, large quantities were secured from wharves and rocks, in boats and on rafts, in nets and cloths, by dipping and spearing; in 1847, "a store, exceeding large and fat," were seen at sea, off Cape Cod, where boats could not safely follow, and, in the absence of a considerable part of the vessels at the Bay Chaleurs, most were suffered to escape; in 1848, a fleet of six hundred vessels and boats caught twelve thousand barrels in one day, and fifty thousand barrels in twelve days; and in 1849, the success of a smaller number of vessels, though much less, was yet sufficient to retrieve the losses of other and more distant fishing grounds in the early part of that season.

Serious depressions and ruinous losses in the mackerel fishery are not uncommon. Success does not depend on skill and industry alone. The best masters make "broken voyages," for the obvious reason that the mackerel does not always appear in sufficient numbers in any of the seas or bays of New England, or of British America. The fishery fails one year at home, a second in the Bay of Chaleurs, and a third everywhere. Seasons occur when those engaged in it lose the use and outfits of their vessels, and the wages of their men. Sometimes the quality of the fish is so poor, that an average "catch" affords no profit; at others, the success of the British colonists gluts our markets. Meantime, the most enterprising masters and owners, discouraged by repeated disappointments and losses, abandon the business, and suffer their wharves and packing-houses to go to decay.

In 1851 the fishermen were fortunate. The number of vessels employed in Massachusetts was eight hundred and fifty-three. The fishery in our own waters, and in the colonial bays, was alike successful; and these vessels, with eighty-seven others, owned in other States, but whose fish were inspected in Massachusetts, caught three hundred and twenty-nine thousand barrels.

The following statistical information, which relates to these nine hundred and forty vessels, is derived from returns made to the inspector general of fish:

Where owned.	Number of vessels.	Tonnage.	Number men and boys.
Boston.....	7	596	85
Beverly.....	12	761	97
Barnstable.....	28	1,918	339
Brewster.....	4	259	47
Charlestown.....	2	74	14
Chatham.....	19	1,346	230
Cohasset.....	44	2,885	561
Dartmouth.....	1	117	16
Dennis.....	47	3,096	585
Eastham.....	3	170	23
Essex.....	1	71	10
Gloucester.....	241	13,639	2,326
Harwick.....	48	3,231	577
Hingham.....	37	2,492	491
Lynn.....	4	161	33
Manchester.....	1	45	3
Marblehead.....	1	30	5
Martha's Vineyard.....	6	420	65
Nantucket.....	3	168	30
Newburyport.....	67	4,343	707
Orleans.....	5	336	54
Plymouth.....	6	561	65
Provincetown.....	60	4,332	688
Rockport.....	43	1,527	283
Salem.....	1	80	9
Scituate.....	13	715	119
Salisbury.....	4	305	48
Truro.....	52	3,626	581
Wellfleet.....	79	5,411	852
Yarmouth.....	14	990	169
	853	53,705	9,112
Maine.....	47	3,019	446
New Hampshire.....	8	515	84
Rhode Island.....	7	479	71
Connecticut.....	23	1,551	255
Maryland.....	2	141	25
	940	59,410	9,993

It will be seen, that while more than one half of the Massachusetts vessels, in 1851, were owned in four towns, more than one quarter belonged to the single port of Gloucester. At present, Gloucester is the great mackerel market of the country, and the merchants of many of the principal cities have agents there to purchase and ship for them. Twenty years ago, Gloucester employed but about sixty vessels in the fishery; and such are the uncertainties and fluctuations of the business, that its decline *may* be as rapid as has been its increase.

*Statistics of the mackerel fishery of the United States.*

Years.	Tonnage employed.	Mackerel inspected.		
		In Massachu- setts.	In N. Hamp- shire.	In Maine.
		<i>Barrels.</i>	<i>Barrels.</i>	<i>Barrels.</i>
1804		8,079		
1805		8,936		
1806		8,473		
1807		10,904		
1808		7,738		
1809		8,865		
1810		13,058		
1811		19,632		
1812		5,018		
1813		3,832		
1814		1,349		
1815		16,394		
1816		30,021		
1817		37,982		
1818		47,210		
1819		105,433		
1820		236,243		
1821		111,009		
1822		160,294		
1823		145,006		
1824		191,650		
1825		254,381		33,065
1826		158,740		
1827		190,310		
1828		237,324		
1829		225,882		
1830		308,462	20,3000	
1831		383,559	21,450	
1832		212,452	21,700	
1833	48,725	212,946	19,375	
1834		252,884	18,200	40,661
1835		194,450	15,300	
1836		176,931	9,450	25,228
1837	46,811	138,157	5,225	22,462
1838	56,649	108,538	3,420	24,312
1839		73,018	700	
1840	28,269	50,992	630	
1841	11,324	55,537	1,100	
1842	16,096	75,543	1,050	
1843	11,775	64,451	1,175	
1844	16,170	86,181	1,240	
1845	21,413	202,302	1,075	
1846	36,463	174,064	1,369	
1847	31,451	232,581	2,608	
1848	43,558	300,130	2,400	
1849	42,942	231,856	2,867	
1850	58,112		3,125	
1851	* 50,539	329,242	3,073	31,472
1852		197,768	2,140	

\* Maine, 9,858; New Hampshire, 481; Massachusetts 39,416; Rhode Island, 190; Connecticut, 594. Total, 50,539.

*Annual return of the number of barrels, halves, quarters, and eighths of barrels of mackerel and other pickled fish, estimated in barrels, inspected in Massachusetts, for the year ending December 31, 1852, as per the returns of the deputy inspectors now in the office of the inspector general.*

Where inspected.	Number of barrels.
Boston.....	39, 891 $\frac{3}{4}$
Gloucester.....	43, 012 $\frac{3}{4}$
Beverly.....	366 $\frac{3}{8}$
Rockport.....	5, 345 $\frac{1}{2}$
Newburyport.....	11, 806
Provincetown.....	17, 640
Truro.....	2, 540 $\frac{3}{8}$
Wellfleet.....	11, 367 $\frac{1}{2}$
Chatham.....	5, 769 $\frac{1}{4}$
Harwich.....	9, 147 $\frac{3}{8}$
Dennis.....	10, 290 $\frac{1}{2}$
Yarmouth.....	3, 235
Barnstable.....	3, 198 $\frac{3}{8}$
Hingham.....	13, 133 $\frac{3}{8}$
Cohasset.....	11, 616 $\frac{3}{8}$
Plymouth.....	67
Salem.....	14
	196, 768 $\frac{1}{2}$
The above includes all except two returns from Provincetown and one from Scituate, estimated at.....	1, 000
Total, 1852.....	197, 768 $\frac{1}{2}$
Reinspected at Boston.....	19, 771 $\frac{1}{8}$
	317, 540 $\frac{3}{8}$
All other kinds of pickled fish.....	9, 254
Total amount of mackerel inspected in 1852.....	197, 768 $\frac{1}{2}$
Total amount of mackerel inspected in 1851.....	329, 278
Decrease of 1852 from 1851.....	131, 509 $\frac{1}{2}$

*Statistics of foreign mackerel imported into and exported from the United States, and of dried codfish imported into the same.*

Year.	Mackerel.		Codfish.	
	Imported into the United States.	Exported from the United States.	Imported.	
	Barrels.	Barrels.	Quintals.	Value.
1821	7	None.		
1822	387	do.		
1823	67	do.		
1824	790	do.		
1825	242	do.		
1826	87	do.		
1827	39	do.		
1828	38	do.		
1829	95	do.		
1830	391	do.		
1831	4,552	do.		
1832	32	do.		
1833	20	do.		
1834	223			
1835	8,153	850		
1836	6,037	937		
1837	1,256	850		
1838	182			
1839	7,046		4,295	\$24,393 00
1840	11,823		4,061	19,355 00
1841	10,887		2,433	19,262 00
1842				
1843				
1844				
1845				
1846				
1847				
1848				
1849	138,565	23,295	22,520	43,709 00
1850	75,491	13,577	25,115	45,961 00
1851	102,638	18,240	14,705	27,769 00

THE HERRING FISHERY.

*From its commencement to the year 1852.*

We hear of this fishery among the Pilgrims.\* In 1641 they rented

\* In the reign of James I, of Scotland, we find mention of the custom or duty on the exportation of herrings—a proof that the fishery had then attained to importance in Great Britain. We learn, too, that the English, thinking it disgraceful that the Dutch, their rivals in commerce, should derive so much wealth from the coasts of England, set about prosecuting the herring fishery, and in the year 1580 raised the sum of £80,000 by a joint stock company.

In 1760, there were employed on the coast of Yarmouth, England, 205 vessels of from thirty to one hundred tons. In 1826, the shore herring fishery of England and Scotland employed

the herring *wear* at Plymouth for three years to three men, "who were to deliver the shares of fish, and receive one and sixpence per thousand for their trouble." We hear of it on the coast of Maine, also, a few years afterwards. Josselyn says that the "herrin" were "so numerous, they take of them all summer long." In 1670, he continues, "they were driven into Black Point harbor, by other great fish that prey upon them, so near the shore that they threw themselves (it being high water) upon dry land in such infinite numbers that we might have gone half way the leg amongst them for near a quarter of a mile." He repeats the account in his "Chronological Observations of America," where he states that so "wonderful" was the quantity, that "they were half-leg deep for a *mile* together." Of the manner of cooking at that period he remarks, that "we used to qualify a pickled herrin by boiling of him in milk." These incidents are sufficient to show the early origin.

From the fragmentary notices of the fishery which are to be met with, it seems probable that, for a long time, as the *scools* of herrings came to our coasts, the inhabitants on the sea and rivers, from Maine to the Carolinas, generally secured sufficient for consumption fresh; that the more careful provided themselves with salt to cure quantities for future use; and that some, becoming regular fishermen, caught and cured the fish for sale to their neighbors of the interior. And that the practice was continued, substantially, without interruption, until the waters resorted to by the herring for the deposit of its spawn were obstructed by dams and mills, is hardly to be doubted. It is certainly true that, on some of the rivers, where the fishery is now nearly extinct, the supply at the revolutionary era was considered inexhaustible; and that farmers and fishermen were in the constant habit of filling wagons and boats at pleasure with scoop-nets and other simple implements. Since the peace of 1783, the herring has abandoned many of its old haunts, but is still caught in wears, seines, and nets, in various parts of

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10,365 boats and upwards of 44,000 fishermen; while the number of other persons connected with it exceeded 31,000 persons. The quantity of herrings cured in that year was 379,233 barrels. In 1831, the quantity cured was 439,370 barrels. Two years later, the number of barrels was 329,557, of which 181,654 barrels were exported. In 1837, the quantity was 451,531 barrels, and the largest catch known; while the export was 272,093 barrels. The fishery, at this time, employed 11,284 *boats*; 49,212 fishermen and boys; 1,925 coopers; and 23,972 men, women and children, in gibbing, packing, and other labor. The quantity of nets in use was more than one million square yards.

Yarmouth is a great herring mart. The vessels employed in the fishery cost about five thousand dollars. The nets form a large item in the expenses of the outfit. The fishing voyage is short, not often occupying more than a week or ten days.

The commissioners of the British herring fishery, in their report, 1839, state that in 1810, when the board of commissioners was instituted, the whole number of barrels of herrings cured was only about 90,000; whereas the number in the first mentioned year was 555,559 barrels. They state, further, that this fishery, as a nursery for seamen, is invaluable; that it employs 50,000 fishermen, (men and boys,) and 11,357 boats, and that "*many of the best of our sailors*" were drawn from it during the wars in which England had been recently engaged.

The herring fishery of Sweden, three centuries ago, was extensive. Gottenburgh was its principal seat. The fish finally disappeared from the coast, as is said, and did not again appear for a long time. About the year 1660 the business was nearly extinct; but the catch was large during the fifteen succeeding years. From 1675 to 1747 the herring disappeared. From the last mentioned year to 1770, fish were abundant, the produce of the fishery averaging, probably, 150,000 barrels. In 1833, upwards of 48,000 barrels of herrings were imported into Sweden; and in 1840 the Gottenburgh fishery was declared to be at an end.

the United States. Notice of the fishery in particular towns and neighborhoods is not necessary, and our attention will be confined to such places as will serve to give a general view of it as prosecuted on both rivers and seas.

Washington, in describing his Mount Vernon estate to Arthur Young, remarked that its margin was "washed by more than ten miles of tide-water;" that "several valuable fisheries appertained to it;" and that "the whole shore, in short, was one entire fishery." A shad or herring fishery appurtenant to an estate on the Potomac adds much to its value at the present time. As elsewhere, the herring sometimes fails to appear in this river, and the disappointment of the planters and their servants is extreme. There are years of great success. In 1831, fifty, and even one hundred thousand fish were frequently taken at a haul. In 1836 no less than three hundred wagons were at one place at one time, each teamster "waiting his turn." On the other hand, the fishery in 1843 was unprofitable and disastrous; the outfit was large, and many new landings were opened, but the fishermen cut out their seines at the close of the season unrewarded and in sadness. Better results followed in 1844, and the business of catching, buying, counting, dressing, washing, and salting, was animated at most of the principal landings on both sides of the river, from Alexandria to the vicinity of the Capes. In 1851, fourteen, twenty-five, and in one case ninety-five thousand herrings were taken at a haul, and those engaged in the fishery were fairly rewarded for their capital and labor.

The *sea* fishery in Maine, from the Penobscot to the frontier, and in the Bay of Fundy, is the most important. The herring in this region is cured by salting and smoking, and by salting and pickling. When by the first method, it is packed in boxes; when by the latter, in barrels. They were caught for many years by means, principally, of lighted torches, made of the outer bark of the white birch. The practice was, and, to some extent, still is, to place a light of this description in the bow of a small boat, about the favorite resorts of the herring, on very dark nights, and to bail in, with a dip-net, all that were attracted to the surface of the water. A boat requires four men; one to dip, two to row, and one to steer. While in pursuit, the boat moves with great velocity, that the fish may be induced to follow the light, and that they may be kept within reach of the man with the net, who stands in the bow. The islanders in the Bay of Passamaquoddy have a story that the discovery of the attracting properties of light was accidental. They relate that a fisherman who lived on Campo Bello,\* and who chanced one night to be on the side of one of its little harbors opposite to his own house, on remembering that he had no fire at home, took some chips and coals in a skillet to carry across; that, during the passage, the chips took fire and blazed up; and, on his landing, he found that a large number of herrings had followed him to the shore; and that this circumstance induced experiments, which resulted in abandoning the former practice of using "set-nets" and "wears." But whatever the origin of the torch-lights, they afford to the inhabitants of the frontier

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\* An island opposite Eastport, and on the British side of the bay, and owned by Admiral Owen, of the royal navy.

towns of Maine, and to the sojourners among them, an attractive scene. To watch, from the head-lands and beaches, the movements of the "herring-drivers," has been a recreation there, of some, for years. The spectator sees a spacious harbor, and the coves and indentations in its neighborhood, most beautifully lighted up, as with hundreds of lamps, and each light heaving and falling with the motion of the sea. Far in the offing the torches, no larger to the eye than a candle's flame, move and dance, approach and cross each other, and then vanish away; while nearer, and perhaps within a stone's throw of the position which he occupies, their red flare will reveal every act of the fishermen, as, time after time, the fish are bailed into the boat. On ship-board, too, when entering or leaving the Passamaquoddy, these lights, seen in all directions, serve to relieve loneliness, and to excite interesting imaginings. Set-nets and wears are becoming favorites again, and it is not impossible that in a few years the torch-lights will be completely extinguished in some of the harbors, and be very much diminished in all.

The herrings intended for smoking are washed soon after they are caught, and the scales of all that are fat enough to shed them are forced off by friction, when they are salted away in casks. As soon as they are sufficiently "struck" with the salt, they are again washed, spitted or strung upon small round sticks, and hung up in the smoke-house. In spitting, as well as in hanging them up, great care is necessary to prevent the fish from touching each other. They are placed, tier above tier, upon wooden fixtures supported by joists until the house is full. The distance from the lower tier to the floor is commonly about seven feet. Fires of wood are now lighted; and the great art is to manage these fires in a proper manner, inasmuch as they must neither be too quick nor too slow, and at times they require to be extinguished. Rock-maple wood is best; but any kind of fuel green from the forest is preferable to the old and water-soaked wood sometimes used, to the serious injury both of the color and the flavor of the fish. The smoking occupies several weeks. To cure herrings well, good weather is quite as necessary as good fuel and carefully-tended fires. After being sufficiently smoked, the fires are allowed to go out; and as soon as the house has become cool the fish are taken down, slipped from the sticks, sorted into three qualities, and packed in boxes. The houses in which the smoking is done are mere huts, without floors, and without other finish than rough-board walls, and roofs of the same, battened with slabs. In some cases, however, a wiser use is made of money, and sufficient expense is incurred to erect durable buildings. The upper part and the roof are always intended to be tight, both to retain the smoke and to exclude the rain and damp. These houses are of various sizes—some being large enough to hold one thousand boxes of the fish on the sticks, while others will contain no more than a fourth part of that quantity. The largest and best finished are the most economical. The business of smoking herrings is confined mainly to the region of which we are now speaking. The price in the markets to which they are usually sent is sometimes ruinously low, and the fishermen are often deprived of adequate recompense for their labor. The quantity exported from the eastern part of Maine often exceeds eighty thousand boxes in a year, while the average of ten years may be estimated at

three fourths of that quantity. Besides these, some thousands of barrels are annually pickled. The kind known among dealers as the *gibbed herring*, when properly dressed and cured, is a good article of food, and a substitute for the second quality of mackerel.

Another *sea* fishery is that at the Magdalene islands, in which our citizens are allowed to participate by treaty stipulation. It has been thought to be of considerable value as a means of employing vessels (too small for carrying freight with profit) in the early part of the season. It has been prosecuted with various success. Our vessels visit these islands in "spawning time," when the herrings are poor, and the quality, if well cured, is not such to command a high price. Formerly, so little time and care were bestowed upon them that many were unfit for human food. Salted in *bulk*, as it is termed, they remained in the hold of the vessel until her arrival in port, where they were packed without being washed, and sweltering in all their impurity. Some masters and owners, to their credit, have always been at the labor and expense of curing them in a proper and wholesome manner. Of late, *smoking* has been found preferable to pickling; and whenever the fishery is successful, many thousand boxes are sent to market. The seine\* is in common use at the Magdalene islands. The kind best adapted to the fishery is large, requires some twenty or thirty men to manage it, and is capable of enclosing and bringing to the shore several hundred barrels at a haul. Captain R. Fair, in command of her Majesty's ship-of-war the *Champion*, visited these islands officially in May, 1839, and after the commencement of the fishery. He found the "quantity of herrings very great, exceeding that of any former year; and the expertness and perseverance of the American fishermen" to be "far beyond that of the" colonists. "About one hundred and forty-six sail of American fishing schooners, of from sixty to eighty tons, and each carrying seven or eight men," were engaged in it, he continues, and caught "nearly seven hundred barrels each;" making for the number stated "a presumed product of one hundred thousand barrels, of the value of one hundred thousand pounds sterling; the tonnage about ten thousand, and the number of men about one thousand." Whatever the statistics of the year in question, the average quantity of herrings caught by our vessels is not probably forty thousand barrels; while the price—a *pound sterling the barrel*—is quite fifty per cent., I suppose, above that

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\* The machine for the manufacture of "bobbinet" is connected sufficiently with our general subject to justify brief reference to it. The first machine was perfected in the year 1839. From a minute account of the invention the following facts are obtained. A workman of Nottingham, England, employed in making machinery for the manufacture of fishing-nets, seized upon a hint furnished by a child at play, and discovered by that means a mode of forming the bobbin and carriage, as now used in the bobbinet machine. At first, the invention was confined to the manufacture of fishing-nets, but was finally, and after many failures, extended to the making of lace. The value of lace made by machinery thus introduced is now immense. By reference to the statistics of 1831, it appears that, in seven towns and cities in England, thirty-one thousand persons are employed in making, and one hundred thousand women and children obtain a considerable portion of their subsistence by embroidering it. The quantity of cotton required yearly is 2,400,000 pounds, the annual manufacture is 30,771,000 square yards, and the annual value is £1,850,650, and the permanent capital employed about £2,000,000. Nor is this all; the manufacture has been extended to the continent, and 10,000,000 yards, or about one-third of the quantity made in Great Britain, it is estimated, is produced there.

generally received in any market in the United States for the article of "Magdalene herrings."

Herrings fatten as the season advances; hence those taken occasionally by vessels employed in the cod-fishery on the coast of Labrador are as unlike those just mentioned as possible. It is to be regretted that so few fat and well-flavored herrings are procured for consumption at home, inasmuch as a more abundant supply of the *gibbed* fish, caught in the Bay of Fundy and more distant regions in autumn, would doubtless lead to the disuse of the inferior kinds of dried fish, and render poorer and badly cured herrings entirely unsaleable.

In America this fishery has ever occupied a subordinate place. But some of the cities of Europe owe much of their present commerce and importance to the wealth acquired in its prosecution. To persons who are familiar with the character and rank of the mass of herring-catchers of our day, an account of the mania on this subject in England two centuries ago seems almost incredible.\* Without space for details, or even to relate incidents to show how vast were the projects, and how magnificently rich were the joint stock associations, which were formed by noblemen and princes of the blood—to *catch herrings*—I can only remark that the "operators" in timber lands and corner lots of cities

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\* Fishing manias in Great Britain have been frequent. We will briefly notice several of them. To commence no earlier, there was one in 1677, when the Duke of York, and other personages of rank, were incorporated into a body entitled the "Company of the Royal Fishery of England." This company seems to have exhausted its capital in fitting out "busses," or vessels built in Holland, and manned with Dutch herring-catchers, and to have been ruined by the capture of a large part of their vessels in a war with France.

A second was in 1720, when two thousand of the principal gentlemen of Scotland formed a company for the prosecution of the herring fishery. This was a time noted for speculations; and the Scotch Company—a mere bubble—soon burst, leaving the shareholders to mourn over their folly.

A third occurred in 1750, when a company was incorporated with a capital of £500,000, of which the Prince of Wales was president, or governor. His associates were among the first men in the kingdom. General James Oglethorpe, the founder of the State of Georgia, was a prominent member, and, on delivering the Prince the act of incorporation, made a speech, which was published. The public excitement was intense; the stock was subscribed for immediately; vessels were built and equipped with the utmost rapidity, and artifices were resorted to in order to ascertain the Dutch method of curing the herring. But the project failed—as the Earl of Winchelsea and some other peers predicted it would—at the outset. The suspension of this company was very injurious to the British herring-fishery generally for a considerable period.

Men have been ruined in our own times for indulging in the same visionary schemes.

In 1803, some English theorists of rank and influence recommended a national fishery on a vast scale. The plan was plausible, but too complicated. These gentlemen proposed "that there should be a grand national corporation, under the immediate protection and superintendence of Parliament," with a capital stock of —, which was to be raised in shares by the seaport towns and corporations, proportioned to the advantages of locality and the amount of their trade and tonnage, and an annual dividend of 5 per cent. was to be guaranteed on the capital. 'Conveniences for shipping, storehouses, sheds,' &c., were to be 'constructed in places contiguous to the best fishing-grounds.' 'A free use of salt' was to be granted to 'the managers without any interference of the revenue officers.' 'The fish taken and cured,' were 'to be exempt from all duties whatever,' and, 'on the other hand, no bounties' were 'to be given.' 'Fishermen, disabled by accident, age, or infirmity, and the widows and children of fishermen,' were 'to be provided for.' Finally, 'the corporation' was 'to be authorized to propose rules for the regulation and discipline of the fishery.'

As late as the year 1825 we have similar projects, (though of private companies;) since, among the immense joint-stock concerns which burst during the commercial revulsion of that period, we find three fishing companies whose aggregate capital (nominally) amounted to the enormous sum of £1,600,000, or nearly eight millions of dollars.

under water, of 1834, were more sensible, as well as more successful, than these speculators of former days.

#### THE HALIBUT FISHERY.

The halibut fishery on George's Bank is a new enterprise. It was commenced within a few years by the adventurous fishermen of Cape Ann. Pursued in mid-winter, it is as hazardous an employment as can well be imagined.

While the fishery was confined to the coast, the consumption of the fish was very limited. In April, 1843, the Norfolk Herald announced that "Our market, yesterday morning, was enriched with a delicacy from the northern waters, the halibut—a *strange fish in these parts, known only to epicures and naturalists.*"

The New Orleans Picayune, in May of the same year, contained a similar paragraph. At present, the fish, packed in boxes with ice, is sent sound and sweet, by railroads and vessels, to the most distant sections of the country.

Vessels employed on the bank are absent from port from six to fourteen days. The average catch of halibut is perhaps two hundred to a vessel, though some obtain double that number. The weight of the fish is from fifty to two hundred pounds.

For some time, dealers in Boston purchased, packed, and shipped the fish almost exclusively; but a company was finally formed at Gloucester for the purpose of transacting this part of the business, as well as the other. The fishermen, however, resort again to Boston; for this company, after losing a considerable part of their capital, relinquished their design.

The growth of the fishery has been rapid. The number of vessels employed in it, owned at Gloucester, was thirty in 1844; sixty-three in 1848; and about seventy-five in April, 1852. The present fleet contains many new, well-modelled, and fast-sailing vessels. The value of the halibut caught in 1851 was upwards of sixty thousand dollars.

The earnings of the vessels sent to the bank are generally ample; but the fishery is not profitable, in consequence of the extraordinary wear and tear of sails and rigging, and the frequent loss of cables and anchors. More than all, hardly a season passes without appalling disasters. Whenever a vessel is lost on George's, all on board perish.

An American citizen may contend, if he will, for the repeal of our bounty laws; he may favor a low duty, or no duty whatever, on foreign fish; but he is bound to honor the courage and the perseverance of the halibut catchers of Cape Ann, who, mid the storms and gales of a northern winter, procure for him the luscious *napes* and *kins* which garish his board.

## CONCLUSION.

## PUBLIC SERVICES AND CHARACTER OF FISHERMEN.

The interval in our annals between the discovery and the settlement of North America is often regarded as a mere blank; and the opinion is prevalent that our fisheries have no history, but such as relates to the quantity and quality of food which they annually produce. It may be hoped that something has been done in this report to correct these errors, as well as others which exist with regard to our subject generally. We have seen that fishermen were the pioneers of British and of French civilization in America; that by their severe toils they taught other adventurers to the New World to rest their hopes of success on regular and useful employments; that the intercourse which they maintained between the two continents kept alive desires which otherwise might have become extinct; that they persevered when all others were defeated or discouraged; and that the arrival upon our coast, for nearly or quite a century, of hundreds of fishing vessels, gave rise to events of momentous consequence.

In the course of our inquiries, we have ascertained that France was directly indebted to her fishermen for the immense domains which she acquired in this hemisphere; and that the failure of several attempts to found English colonies at Newfoundland hastened permanent settlements in more genial regions. We have seen that long before an Englishman had a home in America, a law was passed to correct abuses on our fishing grounds; and that, contemporaneous with the founding of New England, Parliament, after an excited debate, broke down the company of court favorites who claimed the monopoly of our seas, and asserted the principle of "free fishing with all its incidents" as the right of every subject. We have seen, too, that the strong and repeated declarations of Smith, the father of Virginia, that the waters of New England were richer and its soil and climate were better adapted to husbandry than were those of Newfoundland, were known to the Puritans who came to Plymouth and to those who came to Massachusetts proper, and had a controlling influence with other Englishmen whose thoughts were turned, by persecution or the love of adventure, to the northerly part of America; while it has also appeared that the founders and proprietors of New Hampshire, Maine, and Maryland, before obtaining these possessions, were interested in the fisheries of Newfoundland.

We have seen that the founders of Venice, and of the cities of Amsterdam and Rotterdam, were fishermen; that the same humble class of men gave the first impulse to the commerce of Holland and Denmark, and an immense increase to that of England; that, previous to the development of other resources, the fisheries were the life-blood of our own commerce, not only with the mother country, but with every other people with whom we had lawful or illicit trade. We have seen, that through all the wars and territorial and maritime disputes between France and England, touching their respective possessions in America; through all the changes and chances of our colonial submission, from its commencement to its termination; through the war of the Revolu-

tion, and the negotiations for peace; in the convention that framed, and in the State conventions that considered, the constitution of the United States; in the first Congress; and in the negotiations at the close of the war of 1812, the fisheries occupy a prominent place, and were often the hinge on which turned questions of vast importance.

We have seen, that once, entire communities seemed to believe that no way to wealth was so sure and so rapid as adventures for herrings and codfish; and that men of the highest rank, and of the most shining talents, accordingly, set their hopes and fortunes on the cast of the net and the line. We have found that eminent writers on matters of commerce and navigation, and statesmen of world-wide fame, have declared that "the English navy became formidable alone by the discovery of the inexpressibly rich fishing banks of Newfoundland;" that writers of acknowledged judgment have observed, that "by the codfishery in America, the navy of France became formidable to all Europe;" that our own statesmen of the revolutionary era considered that we also must look to our fishermen to man *our* navy; and that a French minister of the present time expressed the opinion, in 1836, "that without the resources which were found in the sailors engaged in the fisheries, the expedition to Algiers\* could not have taken place."

The grateful duty of speaking of the patriotism and public services of American fishermen remains to be performed, and will now occupy our attention. That, during the whole period of our colonial vassalage, they were ever among the foremost to enter the ships and armies furnished by the colonies to aid England in her struggles with France; that they were engaged in every strife in French America; that they lie buried on every battle-ground in Canada and Nova Scotia; and that their remains were committed to every sea, are facts which have already appeared.† I would not magnify their exploits in the war for freedom; for, as we all know, "the mailed hand of *that* war was thrust into the easements of our fathers' houses, his blood-stained footsteps were in the streets, over the fields, upon the thresholds, and at the hearths of our mothers;" but I may still say, that the fishermen were driven from their employment; that they were absent as soldiers in the army, and as seamen on board of the public and private armed ships commissioned by Congress; that their vessels were stripped naked to the masts, and rotted at the wharves and on the beaches; and that their families, deprived of their usual means of support, were reduced to despair.

The people of Plymouth depended almost entirely for subsistence

\* Algiers was conquered by the French in 1830, when Abd'el Kader, who, next to Mehemed Ali, is "the most remarkable individual in the existing Mohammedan world," commenced his public career.

† Fishermen fought the battles of their country in remote ages. Four hundred years before the Christian era, and in the time of Nieias, Plutarch relates, that in an engagement between the Syracusans and Athenians, "Not only the men from the ships, but the very boys from the fishing-boats and small barks, challenged the Athenians to come out, and offered them every kind of insult. One of these boys, named Heraclides, who was of one of the best families in Syracuse, advancing too far, was pursued by an Athenian vessel, and came very near being taken. His uncle, Pollichus, seeing his danger, made up with ten galleys which were under his command; and others, in fear for Pollichus, advanced to support him. A sharp conflict ensued, in which the Syracusans were victorious, and Eurymedon and numbers were killed."

upon the seventy-five vessels which they employed in the cod-fishery; and though the difficulties with the mother country, if civil war ensued, threatened them with ruin, they espoused the Whig cause with alacrity. When the tidings of the bloodshed at Lexington reached them, sixty of these vessels were in their harbor; the fishermen, supplying themselves with arms, marched to meet the royal troops, and by the time they arrived at Marshfield, their number, by acquisitions from different towns, was nearly one thousand men. The people of Salem and Beverly were like zealous: from the opening to the close of the contest, they were extensively engaged in fitting out and manning privateers; and in a single season, despatched to sea, to prey upon British commerce, fifty-two vessels,\* which mounted about seven hundred and fifty guns, and carried crews of nearly four thousand men.

At the revolutionary era, Gloucester was a place of inconsiderable note; yet sixty-five men for the Whig army at Cambridge were enlisted there in four days, and two companies of Gloucester fishermen shared in the glories of Bunker's Hill. Upon the ocean they were even more numerous; and thirty married men, belonging to that town, perished in the wreck of a single privateer.

The privateers owned in Boston, Salem, Marblehead, Beverly, and Newburyport, and other ports in Massachusetts, in the single port of New Hampshire, in Rhode Island, and elsewhere in New England, were among the most efficient instruments employed to harass the enemy, and their success had no inconsiderable influence upon the result of the struggle. It is stated that the private armed vessels of the Whigs captured more than fifty thousand tons of British shipping in the year 1777, alone; while Curwen, a Salem loyalist, who fled to England, mentions in his journal, that Lloyd's coffee-house books show, that from May, 1776, to February, 1778, the American privateers (one hundred and seventy-three in number) made prize of seven hundred and thirty-three British vessels, which, with their cargoes, were worth more than twenty-five millions of dollars, after deducting the value of the property retaken and restored. Omitting details, it may be stated, on the authority of other accounts, that from the commencement to the termination of the war of the Revolution, quite two hundred thousand tons of British shipping were captured and destroyed; that such were the losses, and such was the terror of the "rebel privateers," that the underwriters finally demanded, and the merchants paid, premiums of thirty, forty, and even fifty per cent., to insure ships and cargoes from England to America; and that the mercantile interest became, at last, so clamorous as to render the war unpopular, and to embarrass the ministry in their measures to continue it.

The services of the people of Marblehead are entitled to particular notice. They were invaluable upon the sea and upon the land. When, in 1774, the port of Boston was shut by act of Parliament, they tendered to their suffering brethren of the capital the use of their wharves and store houses free of charge. The first actual *avowal* of offensive hostility against England which is to be found in the revolutionary annals, is an act passed by the *Provincial Congress* of Massachusetts

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\* "Chiefly owned in Salem and Beverly."

in November, 1775. It was framed by Elbridge Gerry, a merchant of Marblehead, whose business depended upon the fisheries. *It authorized captures upon the sea.* With "its preamble, it was printed in the London Magazine as a political curiosity;" and John Adams calls it "one of the most important documents in the history of the Revolution." Who "hoisted the first American flag?" and to whom "the first British flag was struck?" are questions in dispute between the friends of different claimants; but Mr. Adams confers both honors upon John Manly,\* of Marblehead, who captured a transport having on board a mortar, which, transferred to Dorchester heights, "drove the English army from Boston, and the navy from the harbor." The fishermen of this town appear to be entitled to the same precedence in naval affairs under commissions authorized by the *Continental Congress*, since it is stated that John Selman and Nicholas Broughton were the first commanders appointed by Washington after he assumed the direction of affairs. Another commander of merit was Mugford, who took a powder ship early in the war, and perished in the enterprise. And still another was Samuel Tucker, who, successful beyond his compeers, is said to have captured more British guns and British seamen than Paul Jones, or any other captain in the service of the thirteen States.† Of the exploits of individuals of humbler rank, two examples must suffice. In 1783 "three lads" were put on board of a brig at Quebec to be sent prisoners to England; on the passage they gained possession of the vessel and carried her safely to Marblehead, their native town. The same year, three other young fishermen—all minors—prisoners in the British armed ship *Lively*, conceived the plan of capturing her; and, inducing ten other prisoners to join them, were successful; and conducting their prize to Havana, made sale of her for a large sum.

For service in the field, Marblehead raised one entire regiment. It has been remarked of these "fishermen soldiers" that, inured to fatigue and hardship, they were not reduced by sickness or camp diseases during the war. This regiment composed a part of the force of the illustrious commander-in-chief in his retreat through New Jersey, and in the crisis of the Whig cause. The American army, composed of regulars and militia, hardly three thousand in number, almost destitute of tents and utensils for cooking, badly armed, nearly naked and barefooted, dispirited by losses, and worn down by sufferings, were pursued, in November and December, to the northerly bank of the

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\* Capt. John Manly received a naval commission from Washington, October, 1775. His first command was the schooner *Lee*. He was subsequently in command of the frigates *Hancock* and *Hague*. He died in Boston in 1793, and was buried with distinction.

† Captain Tucker took John Adams to Europe in 1779. On the passage he fell in with an enemy. It was agreed to fight her, and also that Mr. Adams should retire below; but Tucker soon observed him, with a gun, fighting as a common marine, and in tones of authority ordered him to leave the deck. Mr. Adams, however, continued at his post, when, at last, Tucker seized him and forced him away, exclaiming as he did so, "*I am commanded by the Continental Congress to carry you in safety to Europe, and I will do it!*" It is believed that Tucker was as brave a man as ever lived. After the Revolution, he removed to the "Ancient Penmaquid," or Bristol, Maine, where for some years he was interested in his old avocation. He died at Bristol in 1833. The government, in their tardy justice, granted him a pension of \$600 per annum a few months previous to his death. He was much respected, and received several gratifying tokens of regard from the people of Maine.

Delaware, by the well-appointed army of the enemy, flushed by success, and panting for a last decisive victory. For a moment, the destruction of Washington, either from the waters in front or from the royal troops in rear, seemed certain. The heroic daring of the men who, perhaps, saved him, and with him their country, is nowhere related in history. But Henry Knox,\* the chief of artillery, whose own services on the occasion will ever be remembered and excite admiration, has done them justice. After the peace, and while Gen. Knox was a member of the legislature of Massachusetts, an application was made by citizens of Marblehead for the charter of a bank. Their petition was opposed. He rose and stated their claims. "I am surprised," he said, "that Marblehead should ask so small a privilege as that of banking, and that there should be opposition to it. Sir, I wish the members of this body knew the people of Marblehead as well as I do. I could wish that they had stood on the banks of the Delaware river in 1777, in that bitter night when the commander-in-chief had drawn up his little army to cross it, and had seen the powerful current bearing onward the floating masses of ice which threatened destruction to whosoever should venture upon its bosom. I wish, that when this occurrence threatened to defeat the enterprise, they could have heard that distinguished warrior demand, '*WHO WILL LEAD US ON?*' and seen the men of Marblehead, and Marblehead alone, stand forward to lead the army along the perilous path to unfading glories and honors in the achievements of Trenton. There, sir, went the fishermen of Marblehead, alike at home upon land or water, alike ardent, patriotic, and unflinching, whenever they unfurled the flag of the country."<sup>†</sup>

To remark now, that, in 1772, the tonnage of Marblehead was upwards of twelve thousand, and the number of polls was twelve hundred and three; that in 1780 the polls were but five hundred and forty-four; and that the tonnage at the peace was only fifteen hundred and nine; to state that nearly every able-bodied citizen was abroad, engaged in the public service, either "upon land or water;" to show from a document presented to the general court of Massachusetts, that, at the close of the contest, there were within the borders of this single town four hundred and fifty-eight widows, and nine hundred and sixty-six fatherless children—is to sum up its sufferings in the cause of freedom, and to prove that, as has been averred, "it was a mere wreck and ruin," when we emerged from the war. No other town in the United States, of the same population and property, lost so large a proportion of both, probably, as Marblehead.

It is related that Nelson, on his return to England after the attack on Copenhagen, visited his wounded in the hospital, and that, as he stopped opposite to a bed on which lay a sailor who had lost an arm,

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\* General Henry Knox was a native of Boston. In the Revolution he was chief of artillery. He held the office of Secretary at War after the peace, under the Confederation, and the same place under the administration of Washington. His wife was of a loyalist family, whose property was confiscated. The "Waldo patent," in Maine, formed a part of her father's estate, and the General, purchasing a large part of it, settled upon it, at Thomaston, where he built an elegant mansion, and where he died in 1806, at the age of 56.

† From a speech of Hon. John Davis, of Massachusetts, in the Senate of the United States, January 24, 1839.

he looked at his own empty sleeve, and exclaimed, "Well, Jack, you and I are spoiled for fishermen!" How many men of Marblehead, of Beverly, Salem, Newburyport, Plymouth, and of the towns on the two capes of Massachusetts, of Portsmouth and the Isles of Shoals, and of the fishing towns and islands of Maine, who served in the war of 1812, returned home with an "empty sleeve," and "spoiled" for their former avocation! I regard it as strictly true to say, that without our fishermen we could hardly have manned a frigate, or captured one, from the beginning of that war to its end. Fishermen composed a large part of the crew of "Old Ironsides" in her two earliest victories; and I believe that the number was not much diminished when that favorite ship passed into the hands of Stewart and won her last battle. Without going into details, it may be said that the men of Marblehead,\* and of other places engaged in the same pursuits, were in almost every national or private-armed ship that bore our flag.

At present it is affirmed, the official tables show that the number of our fishermen in the national service in case of war would be small. I admit it; and were it not so, and were not further decrease to be apprehended, much of my labor might be spared. It is hard, first to wound an important branch of industry, and then to accuse it of inefficiency; to fill our ships, public and private, with foreign seamen, and then tauntingly show figures to prove how contemptible the fisheries are as a means of supply. But I contend that official statistics (erroneous or unsatisfactory quite often) do not, in this matter, convey the whole truth. The fact is, that hundreds, nay, thousands, who first learned to "rough it," in *pinkies*, *pogies*, and *jiggers*, on the coast, or in the larger class of vessels that visit Labrador and Newfoundland, have abandoned such craft, and are now either masters, mates, or seamen, of merchant vessels. Many others, retired wholly from the sea, are to be found quietly settled as traders in small towns along the sea-board, or are to be met with daily on 'Change in our principal cities. The reasons for these changes are obvious. The more ambitious and intelligent seek to better their condition, while all perceive that their employment is of but questionable repute, and of uncertain rewards. It may be urged with force that an avocation in which men are educated to become masters of merchant vessels, is entitled to protection on this account alone, since every good mariner is a source of strength and wealth to the country. To preserve the *school*—so to speak—in which the business character of such men is formed, is an object of national concern, to say nothing of the immense benefits to be derived from an abundant supply of common seamen, both in peace and in war.

The question may be argued still further. Every American citizen desires a wife, and a home. Marriage conduces to morality, and wise rulers in every age and country have endeavored to promote it. In this regard, then, let us inquire what are the just hopes of fishermen—who reflect—as determined by experience and by ascertained facts. A distinguished statesman, in advocating the repeal of the "bounty

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\*It is believed that five hundred men who belonged to Marblehead alone, were released from Dartmoor prison at the peace.

system," a few years ago, estimated that the common fishermen shared three hundred and thirty dollars each, in addition to the bounty, for three and a half months' labor. He was mistaken. A gentleman of Gloucester, who had been engaged in the fisheries for a considerable period, made an accurate calculation, by which it appeared that the average earnings was only *one hundred and fifty-seven dollars for a man, and seventy-nine dollars for a boy, for five and a half months' service in the cod-fishery, and three and a half months' in the mackerel fishery, or for the whole working year of nine months.* By adding the bounty to the earnings, the share, per man, was increased to one hundred and seventy-five dollars. In the proceedings of a public meeting of citizens of the same town, subsequently, it is stated that the *average earnings for the ten previous years had hardly been ONE HUNDRED AND FORTY DOLLARS in a season, for each man.*

In the "Memorial of citizens of Marblehead against the repeal of the fishing bounty," &c., presented to the Senate of the United States, March, 1846, the misrepresentations made on the subject of the amount earned by fishermen are thus answered: "And though it has been stated before your honorable body, in support of an effort to repeal the aid and protection which the present laws afford, that the poor fisherman earns his five hundred dollars for what is called "his three and a half months' labor," yet your memorialists well know that there is no truth in the assertion. 'The fishermen of this town, engaged in the bank cod-fishery, are usually employed from March to November and December, from the time they begin the labor of fitting the vessel for sea, until they return to their winter quarters, being a period of eight months on an average; and your memorialists aver, *from their own personal knowledge, that it is no uncommon occurrence for fishermen to be thus constantly toiling through the working portion of the year, and not earn a single dollar (bounty and all included) over and above their outfit, expenses, and the advances during their absence.\** And it is thus that, in seasons of scarcity, it often happens that crews cannot be obtained by vessels engaged in the business, except the owner will first guaranty that they shall make *something* (a sum to be first agreed on) in return for their labor, over and above their shares of fish, after deducting the outfits of the voyage." "It is true," continue these memorialists, "that in seasons when fish happen to be plenty, and a good market is obtained for them, that in such cases both owners and fishermen realize a remunerating profit for their capital and their labor. But this state of things is rare rather than otherwise; and such is the uncertainty, and, as it were, lottery nature of the business, that, *in looking around among those who have been*

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\* Fishermen sometimes pursue their avocation when of very advanced age. A remarkable instance occurred in 1842, when the schooner Elizabeth Rebecca arrived at Beverly with a full fare of fish; her master, Isaac Preston, being seventy-two, and one of the crew upwards of eighty years old. The late Captain Andrew Harrington, of Eastport, Maine, an excellent man, used the hook and line without intermission for half a century.

There was a jubilee at Ghent in 1841, in honor of a fisherman who had followed his avocation for fifty years; his companions repaired to his house, accompanied with twenty violin and trumpet players, and after greeting the old man partook of a plentiful feast.

In Wade's History of England there is an account of one Henry Jenkins, a poor fisherman of Yorkshire, who, born in the year 1500, lived in the reigns of eight kings and queens, and died in 1670, at the age of one hundred and seventy years. Wade speaks also of John Chambers, an English fisherman, who died in 1752, aged ninety-nine years.

*engaged in it all their lives, they cannot point out a solitary owner who has become wealthy from the profits of the fishing business alone, nor a single fisherman, with a family depending upon him for support, who has been able to lay up, from the earnings of the business, a surplus for his old age."*

In 1848 many crews of fishing vessels owned in Newburyport, on settling with their owners, for six and seven months' hard toil at sea, received only about ten dollars per month; and on this miserable pittance they were to eke out the year. They had obtained good fares of fish, but were sufferers from the depressed state of the market.

With facts like these before us, can we wonder that the more ambitious young men abandon the employment at every opportunity? Should we not wonder, rather, that *any* who seek to marry and to have homes, and who are anxious to "lay up a surplus for old age," remain in it? As a class, their condition has been without change. Sixty years ago Fisher Ames said, in the first Congress, that "the fishermen are too poor to remain, too poor to remove."\*

\* The report of a select committee of Parliament in 1833, on the British channel fisheries, contains many interesting facts touching the same point. This committee was appointed in consequence of the petitions of British fishermen, who complained of their distressful condition. The committee, after inquiries, which embraced the whole coast between Yarmouth and Land's End, reported that the channel fisheries, and the interests which were connected with them, were in a declining state; that "they appear to have been gradually sinking since the peace of 1815, and more rapidly during the ten years immediately preceding the investigation; that the capital employed in them did not yield a profitable return; that the number of vessels and boats, as well as of men and boys, was much diminished; and that the fishermen's families, who formerly paid rates and taxes, were then, in a greater or less degree, dependent upon the poor rates."

The causes assigned by the committee for this deplorable state of things were three: first, the interference of French fishermen; second, the quantity of foreign-caught fish sold in London; third, the decrease and scarcity of fish in the channel. With regard to the first, they had evidence that, for a long period, large fleets of French fishermen had frequented the coasts of Kent and Sussex, and that they had greatly increased in number since 1815, inasmuch as there were no less than three hundred sailing out of Boulogne alone. The French vessels were declared, indeed, to be more numerous than the English vessels, to be of larger size, and to carry, frequently, double the number of men, as well as to use better nets and other fishing gear. The committee remarked, further, that so disastrous to British fishermen had been French interference, that while many were unable to earn a livelihood, some had been quite ruined, or had withdrawn from the business.

Such statements, it might seem, were sufficiently humiliating; but the committee averred that the French had been in the habit of meeting at sea boats from the Thames and elsewhere, which took the foreign-caught fish to the London market, where, it is to be inferred, they were sold as of the produce of the British fisheries. This practice they condemned in strong terms. Of the third cause of distress, the committee expressed the opinion, that the scarcity of fish in the channel was occasioned by the great destruction of spawn, contrary to existing laws on the subject.

To remedy these several evils, they suggested that foreigners should not be allowed to come within a certain distance to be prescribed; that such fishermen be required to conform to defined and rigid rules; and that officers of the revenue, and vessels cruising upon the coast, should be instructed to enforce whatever regulations might be adopted. They suggested, also, the revision of the statutes relative to the destruction of spawn and young fish, and to the use of particular kinds of nets, and the repeal of other laws not specially relating to coasts which they mentioned.

The story of "aggressions," whether made by British subjects on this side of the Atlantic, or on the other, is always to be examined before it is received as truth. In the case before us, as in the many tales related by the committees of the colonial assemblies, there is something to be allowed; for it appears that the English were "aggressors," also, on the fishing-grounds of France at the very moment that this report was under the consideration of Parliament. In 1834, says a British writer of authority, "A rencontre took place between *some Jersey fishing-boats which had in the night trespassed within the restricted limits of eight miles off the French coast, and a French armed cutter. One boat was taken, and the master of another shot.*" The

Again: The fearful disasters and loss of human life are not to be overlooked in this connexion. Our time is too limited for general details; and a few examples will serve to show why, in addition to the causes already mentioned, "official statistics" furnish so few arguments in favor of protection to the fisheries as "a nursery for seamen."

In 1837 seventy-eight men perished, who belonged to the fishing-towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, Chatham, Harwich, Brewster, Dennis, Yarmouth, Barnstable, Falmouth, and Sandwich; and in these thirteen towns nine hundred and fourteen widows were ascertained to be then living.

In the great gale of October, 1841, the town of Truro alone lost fifty-seven men, whose homes were within a circuit of two miles; twenty-seven of them were married, and only eight were more than thirty years

two governments, soon after this affray, concluded a convention, in which provision is made to avoid similar difficulties.

In this connexion, we may barely glance at the condition of things across the channel. The sea-fisheries of Ireland are not of great importance; but the river and lake-fisheries are lucrative to the owners of the soil. The herring and the pilchard might be caught in many places on the coast in abundance, but the catch of neither is large.

As late as 1847, a debate occurred in Parliament on the subject of encouragement to the Irish sea-fisheries, when the following facts were elicited:

"Sir Henry Winston Barron moved for a select committee 'to inquire into the means of improving the fisheries in Ireland, and thereby affording profitable employment.'

"In the ten years ending 1835, Parliament granted £143,791 to stimulate Scotch fisheries; only £12,000 for Irish fisheries. The Scotch fisheries are the most prosperous in Europe; and it is a melancholy fact, that Scotch fish to the value of £60,000 is annually imported for the consumption of the poor Irish. Government has established six curing-houses and two depots; there ought to be at least a hundred curing-houses on the coasts.

"Mr. Labouchere agreed as to the necessity of encouraging fisheries in Ireland, but opposed the motion:

"It is a mistake to suppose that official encouragement has been the chief cause of the prosperity in Scotland. Private enterprise is the real cause. There are two modes in which government may advantageously interfere—by constructing piers, and by establishing curing-stations. The late government granted £50,000—the present has proposed £40,000—as loans for the construction of piers. Curing-stations have been established at a cost of £5,000, with such good results that Irish fish is fast driving Scotch ling out of the market, and private speculators even from England are beginning to turn their attention to the Irish fisheries. The increase of railroads and steam navigation will afford a further encouragement. As to inquiry, Mr. Labouchere objected, that a committee could only reproduce the information which is already in their possession.

The motion was supported by Lord George Bentinck, Mr. Hume, Mr. Montague Gore, and Mr. Hudson.

"Sir Henry Barron said, that after Mr. Labouchere's statement, he thought that he should do injury rather than good by pressing his motion; and he therefore begged to withdraw it.

"This led to a fracas. Several of the opposition members met the hint at withdrawal by loud objections. The gallery was cleared for a division, but none took place; and when Mr. Agligny urged gentlemen to suffer the withdrawal, Mr. Disraeli replied by a disclosure. Sir Henry Barron had sent to Lord George Bentinck, privately, to request support for the motion, as a personal favor; and, accordingly, Lord George Bentinck's friends had taken care to 'keep a House.' This assertion was disputed; some members averring that during Sir Henry Barron's speech only twenty-three members were present. Mr. Disraeli afterwards recurred to the charge, accusing the Irish members of interrupting real and serious discussion of other subjects by a 'flashy demonstration.' Mr. Labouchere imputed Mr. Disraeli's heat to disappointment at not having been able to practise a little trick upon the government, and so to place it in a minority. Apparently more angry than ever, Lord George Bentinck declared that the good wishes for Ireland entertained by his party were thwarted by the Irish members. Nothing had really been gained by this 'sham attempt' to obtain a committee. Sir Henry Barron denied that it was a 'sham attempt.' His object was to develop the opinion of the House, not to bring about a party division; and when he saw it turning to a party question, he owned that he shrank from it. (Ironical cheers from the Opposition.) Eventually, the House divided, and the motion was negatived by 73 to 22.

of age. The population of Truro at that time was about nineteen hundred; the number of widows, one hundred and five.

Twenty-eight men who belonged to Dennis were lost in the same gale; of whom but six were past thirty years old, and nine left families. In one day, immediately after this storm, nearly or quite one hundred bodies were taken up and buried on Cape Cod.

In a gale September, 1846, eleven vessels owned at Marblehead were wrecked or foundered, and sixty-five men and boys perished in them. By this calamity the number of widows in that town was increased forty-three, and the number of orphan children one hundred and fifty-one. In the same year sixty fishing skiffs were totally wrecked at Trinity Bay, Newfoundland, and the loss of life and property along the shores of that island was appalling.

Between 1837 and October, 1852, my record (which is probably imperfect) shows that the single town of Gloucester lost thirty-one vessels, and one hundred and ninety-four men. In many cases every person on board perished.

After the memorable gale of October, 1851, on the coast of Prince Edward Island and in the Gulf of St. Lawrence, the beaches were strewn with the wrecks of American and British vessels, and with the bodies of men. The exact number of those of both flags who lost their lives is hardly to be ascertained. But it is known that fifty bodies floated on shore within about twenty hours from the cessation of the storm, in a distance of twenty miles; that ninety-seven persons, belonging to thirteen American vessels, were found on different parts of the coast; that upwards of eighty of our vessels were driven on shore; and that the aggregate number of American fishermen who perished was more than one hundred and fifty.\*

It remains, in conclusion, to speak of the character of the fisherman. It is said that he "is credulous and superstitious." Admit that "Kidd's money" has been dug for in every dark nook of the coast, or talked about in every *cuddy*, for a century and a half, and that horse-shoes are nailed upon the masts of fishing-vessels to keep off witches; what then? Is *he* the *only* one who has been, or still is, guilty of the same follies? †

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\* Among the fishermen of Europe similar disasters occur. In 1836, six fishing vessels belonging to a village on the Bay of Biscay, France, foundered in a violent storm, and all on board, seventy-three in number, perished. An affecting ceremony for the repose of their souls was performed under the direction of the late Cardinal Cheverus.

The *Galway Vindicator*, 1842, contained an account of the loss of thirty-five fishing boats, with crews of from five to six persons each, making a total loss of more than one hundred and seventy fishermen in a single gale.

An English paper, 1843, details the destruction of human life on the coast of Ireland, in January of that year; from which it appears that forty-six fishermen perished at one place, and twenty-seven at another; that sixteen women were made widows; that eleven women, who had previously lost their husbands, were deprived of support by the loss of sons and other relatives; and that fifty-eight children were left fatherless. In December of the last mentioned year, says a London newspaper, "On Sunday week sixty-nine fishermen, who had been saved from shipwreck during the awful storm of the 28th ultimo, publicly returned thanks to Almighty God, in Cromer church, Norfolk. They all rose when their names were called over by the officiating minister, and then, on their knees, joined in the beautiful form of thanksgiving in the church service."

† In 1825 the Duchess de Berri visited a watering place in France, and indulged in sea-bathing. Sea-water and fish which were afterwards taken from the spot were articles of im-

It is said that he "is ignorant." What then? If ignorance be necessarily despicable, then those who were called eighteen hundred years ago to be "fishers of men," were proper objects of contempt. But he is not always destitute of knowledge, and sometimes retorts upon his accusers. The poor fisher-boy Jones acquired in his boat, and before he reached the age of twenty years, the Greek, the Hebrew, Latin, French, and Italian languages; and read the Iliad, and many works of a similar description, in the original tongue. In a word, his astonishing attainments in the darkest recesses of ancient learning were a kingdom's wonder. When asked his opinion of the celebrated Dr. Parr—who, in a long conversation, had attempted to sound the depth and accuracy of his acquirements—he answered that this great scholar was only "less ignorant than most men!"

The fisherman is called "wasteful and improvident." What then? If to mis-spend the mere pittance of one's own earnings be a crime worthy of rebuke, what shall be thought of those who, born to wealth and polished life, sport with whole patrimonies, waste large estates, die sots, and in penury?

His rank is humble; but sometimes he inscribes his name on the page of history. Beukels, who invented the process of preserving the fish of Holland in pickle, and who, according to the sneer, caused the "Dutchmen's bodies to be built of pickled herrings," was a benefactor to his race; and the Emperor Charles the Fifth, accompanied by his sister Margaret, of Hungary, visited his grave and ordered a magnificent monument to be erected to his memory.

Massaniello, the young fisherman of Naples, led his countrymen in their revolt against Spanish rule, and rose to supreme power more rapidly than mortal had ever done before him; but, shot down at last without trial, and like a dog, was dragged by the rabble set on by the nobles, through the ditches of the city. In American annals, Phipps and Pepperell rose to the highest rank to which colonial subjects ever attained, and were envied and traduced in consequence of the honors bestowed upon them. In our own day, a Spanish fisherman of the name of Jep-del Estango joined the party of Don Carlos as a simple volunteer; but, promoted step by step, was finally appointed to the command of an army of eighty thousand men. So, too, the Count de Morello, whose father was of the same humble occupation, and who himself commenced life as a pauper-student, became, by the force of his talents and the circumstances of a civil war, the second general in the Carlist army.\*

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mense value, and sold at enormous prices. Indeed, those persons who could not purchase a whole fish, gladly possessed themselves of a few *scales*, or a *fin!* The water where the "royal person" had been washed, when bottled and offered for sale, was known as "*Berri brine.*" Have fishermen, in any age, been guilty of greater folly than these fashionable people of France?

\* In 1750, the clerk of the company of fishmongers of London, in addressing Frederick, Prince of Wales, made the remarkable statement, that, "This company, sir, is famous for having had near three score lord mayors of the city of London, besides many of the most considerable merchants and eminent citizens of it."

It appears from another source that the fishmongers' company is one of the oldest in the realm, and that six of the lord mayors spoken of were appointed in the space of twenty-four years.

Died, in 1797, Solomon Southwick, aged 66 years. He was a native of Newport, R. I.

The fisherman is a privileged man. In the colonization of Massachusetts, when every arm and every purse were needed for the public defence, he was relieved from the performance of military duty and the payment of taxes. In the time of William of Orange, when the avenue to the royal palace of Holland was supported by a toll of every passenger, he was excused and exempted. In war, and in the midst of hostile fleets, he has been allowed to pursue his avocation unharmed.

He is a grateful man. In the war of the Revolution he was the prisoner of Nelson, on the coast of Massachusetts. Released by the young hero, whose crew were sick and dying of the scurvy, he conveyed refreshments on board of the royal ship at the peril of his own life.

He is a patriotic man. His services, as a countryman of ours, and in the navies of England and France, have been related. In the recent struggle for liberty in Greece, he fled from the continent to the isles, where he was foremost in resisting the oppressors of his country. True to the end of the contest, he gave his boats and vessels freely, and without recompense, to be converted into war and fire ships.

He relieves distress. Mungo Park, during his travels in Africa, passed through many fishing villages, and was kindly treated. At one the chief magistrate was rude and surly. Park was worn and weary. A fisherman kindly relieved him from the difficulties which surrounded him, by transporting him to a distance from the inhospitable ruler, in a canoe.

He is moved at the sorrows of others. Within the recollection of many persons now living, Major Campbell, of the British army, slew a brother officer in a duel. The story is a long and a sad one. Suffice it to say here, that the extraordinary circumstances of the case seemed to place the Major on a level with common murderers; that he was tried and condemned to die; and that great exertions were made on the part of his friends to save him. The agony of his wife was for a time intense. By wonderful exertions she recovered sufficient fortitude to enable her to leave Ireland and to set out for London, to throw herself at the feet of majesty and implore her husband's life. No steamers then crossed the channel; and a gale of unusual violence interrupted her progress, for all the packet-vessels were on the opposite side. "The days of the being whom she loved best on earth were numbered. The storm was at its height; a mountainous sea broke into the harbor while a crowd anxiously watched the progress of a fishing-boat, which, under close-reefed canvass, was struggling to beat up to

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His father was a fisherman, and, following the same business, he assisted in the sale of fish in the market place. While thus employed, he attracted the attention of Henry Collins, a wealthy and philanthropic citizen of Newport, who, pleased with his activity, handsome person, and sprightliness, took him from the fish stand and provided for his education, and finally established him in commercial business. But as a merchant Mr. Southwick was unfortunate, and became a bankrupt. He retrieved his fortune, however, by marrying a daughter of Col. John Gardiner, who had been governor of Rhode Island. In the Revolution he was a whig, and performed good service to his country. A sufferer by continental money, his fortune was impaired a second time, and his latter days were embittered with poverty and many infirmities. He was a man of decided character and talents. His son, Solomon Southwick, of New York, has borne a distinguished part in the politics of that State.

the anchorage." The hardy crew triumphed over the wind and the sea; and, mid the cheers of the throng and the caresses of their wives, they disembarked. "At this moment the sorrow of the lady attracted the notice of the crowd, and it was whispered that she was wife to the unhappy convict whose fate, even in that remote region, had excited unusual sympathy. An aged fisherman stood near; she asked "if the weather was likely to moderate?" The mariner looked at the sky attentively and shook his head. "Oh God! he will be lost," she murmured; "could I but cross that angry sea, he might be saved." Her words were heard by the crew of the fishing-boat, who were securing its moorings. With one consent they offered to carry her across. "It is madness," said the old man; "no boat can live in yonder broken sea." But the courage of the noble-hearted fishermen was unshaken. She embarked; they set part of a single sail, and reached the shore of England in safety. She would have paid them generously: they refused her money, and invoked blessings on her mission.

He is true to the laws. Though his distresses were as great as could be borne, at the time of "Shay's insurrection" he was not tainted with the spirit of disaffection; and in some of the fishing towns there was not a solitary individual of his calling who countenanced rebellion or armed combinations to obtain redress for the real or supposed grievances of the period. After the adoption of the present constitution of the United States, he caused the apprehension of Bird, the first murderer and pirate, who was tried and executed.\*

His wife may not be fitted to adorn the higher walks of life; but she is a woman in her affections and sympathies, for all that. It was a "fish-woman" who carried Chateaubriand to a hut, who waited upon his wants, and to whom he owed his life, when sick, destitute, and about to perish. So, when Gifford, the critic, whose unsparing severity will not soon be forgotten or forgiven, was forlorn and in rags, and, in his misery, had ceased to hope, almost to wish, for a change, the pity of fishermen's wives, and their continual rehearsal of the story of his sufferings to others, caused his removal from a vessel to a school, and thus laid the foundation of his subsequent fame as a scholar. And who has not been touched at reading of the custom of the fish wives of Venice, who, repairing to the shores of the Adriatic sea, as evening approaches, chant a melody, and listen until they hear an answer from their husbands, who are guided by the sounds to their own village?

Last of all, and more than all, the fisherman is loyal to duty "Jesus of Nazareth reigned in the fishing-boat from which he taught." The faithless one who betrayed him was not among the disciples who had cast their nets in the sea of Galilee: he who took the thirty pieces of silver was neither Andrew, the first chosen one, nor Peter his brother, nor Thomas, nor James, nor that disciple who, ever present with his beloved master, has come down to us as the one whom Jesus loved.†

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\* In Maine. Bird's counsel, as this was the *first* case, endeavored to move the clemency of the President on that account. Washington was inexorable.

† The lake of Gennesareth was the chief scene of the miracles and preaching of our Saviour. It abounds in fish of several kinds peculiar to its waters. In the time of Vespasian

The same fidelity is found in profane history. Caius Marius, as he fled from the court of Hiempsel of Numidia, uttered the prophetic words, "Go, say to the Roman governor that thou hast seen the exile Marius sitting on the ruins of Carthage," and, embarking in a fishing-boat, was borne beyond the reach of his enemies and pursuers. The illustrious Pompey was overthrown on the plains of Pharsalia: sheltered in the hut of a fisherman the night which followed his ruin, he set sail on the morrow to meet his wife, Cornelia—and to perish.

The beautiful Mary of Scotland suffered a decisive defeat from her rebel lords: adopting the resolution of throwing herself on the protection of Elizabeth of England, she crossed the Frith of Solway in a fishing-bark, and was safe from her own subjects; but the act was fatal to herself, and gave a new and a strange coloring to the subsequent part of Elizabeth's life and reign. The battle of Worcester was lost to the second Charles, and he fled for his life; and who was more true to him in his hour of need than the fisherman Tattersal, who, as he bore the fallen monarch from the shores of England, exclaimed, "By the grace of God, I will venture my life and all for him, and set him safe in France, if I can!" So, too, the battle of Culloden sealed the fate of Prince Charles Edward, the Pretender, and he also fled: thirty thousand pounds was the price which tempted men to betray him; but he sought the huts and boats of the "ignorant, the superstitious, and the improvident class of men" who had been faithful to his dynasty, and eluded the vigilance of his enemies.\*

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it became the seat of war. The poor Galileans in their light fishing boats could not withstand the heavy barks of the Romans, and were overcome, and were slaughtered by thousands. "The blue waters of the whole lake," says a historian of the Jews, "were tinged with blood, and its clear surface exhaled for several days a fœtid steam. The shores were strewn with the wrecks of boats and swollen bodies that lay rotting in the sun, and infected the air till the conquerors themselves shrunk from the effects of their own barbarities."

Sir Thomas Browne, an English physician of great fame in his time, who died in 1682, wrote a tract entitled "A letter on the fishes eaten by our Saviour with his disciples after his resurrection from the dead." But this treatise, remarks his biographer, "is unsatisfactory in its result, as all the information that diligence or learning could supply consists in an enumeration of the fishes produced in the waters of Judea."

The travels of modern times contain some information which relates to our subject. "In the dirty town of Tiberias," says Elliott, in 1838, "where Christians and Jews are banished to a distance from their mussulman lords, a church, with an arched stone roof in the form of a tent upside down, perpetuates the memory of the house occupied by St. Peter; or, as others maintain, of the spot where the disciples conveyed to the shores the miraculous draught of fishes." Again, says the same traveller, on the shore of Galilee is the village of Majdal, which gave its name to Mary Magdalene, and was the spot whither our Saviour retired after the miracle of the loaves and fishes." On the northern extremity of the lake he came to a "mass of ruins called Tabghoorah, which mark the site of an ancient town. The only indications of life are a mill and a few huts made of rushes, occupied by two or three fishermen. Its position points it out as an eligible fishing place; and such is the import of the word Bethsaida, which city, if not situate on this spot, could not have been very far off. Here we halted, and requested the tenant of one of the huts to throw in his line and let us taste the produce of the sea. In a few minutes each of us was presented with a fish broiled on a plate of iron, according to the custom of the country, and wrapped in a large flat wafer-like cake, a foot in diameter, of which one was spread as a table-cloth, and two others served as napkins. Thus we made a repast, on the banks of the sea of Tiberias, of what was almost literally 'five loaves and two small fishes.'"

From the villages of Mount Lebanon, and from points far above the bed of the sea, Elliott procured fossil shell-fish, and a box of fish found imbedded in lime.

\* The fishermen, as a class, were, I suppose, loyal to the Stuarts. Readers of English history, and particularly of diaries and letters of the seventeenth century, arrive, probably, at the same conclusion.

It was said in 1660, after the Restoration, by the royalists, that during the time of "*Red-*

My task is finished. I have traced, with a rapid hand, the outlines of the civil, statistical, political, and diplomatic history of the principal American sea fisheries, from their origin to the present time. I have endeavored to be careful in my authorities, and accurate in my statements. That, however, I have sometimes arrived at erroneous conclusions, is probable; and that I have occasionally misapprehended facts, is almost certain. In the performance of such a duty, some mistakes are unavoidable. I have spoken earnestly, and, permit me to add, honestly, in behalf of a great branch of national industry.

My case is so like that of the renowned "John Smith, Admiral," that I cannot forbear once more to quote his words. "But because," said he, "I speak so much of fishing, if any take me for such a devout fisher as I dream of nought else, they mistake me. I know a ring of gold from a grain of barley as well as a goldsmith; and nothing is here to be had which fishing doth hinder, but further us to obtain."

*nosed Noll*," as Cromwell was called, the *fish* forsook the seas in very disgust at his wicked rule, and one of them, in rejoicing over the return of Charles, declares that "our mischiefs began with tumult and sedition, and we are restored to our former felicity with *miracles*; that the sea-coast, famous for fishery, was *barren* since his Majesty went from Scotland to Worcester, insomuch that the poor men who subsisted by the trade were reduced to go a begging; but that now, blessed be God, since his Majesty's return, the seas are so plentiful that in some places" sole were even used to dress the land; "an argument," continued the pious monarchist, "sufficient to stop the black mouths of those wretches that would have persuaded the people that curses were entailed upon the royal family."

## PART IV.

## HISTORICAL VIEW OF THE CONTROVERSY AS TO THE INTENT AND MEANING OF THE FIRST ARTICLE OF THE CONVENTION OF 1813.

The documents\* submitted by the President, in answer to the resolution of the Senate of July 23, 1852, embracing as they do the able and spirited defence of our rights, by Mr. Everett, never before published, as well as several other papers of interest, afford much valuable information. But yet, it is apparent that our archives are singularly deficient in documentary evidence to show both sides of the controversy as it really exists. We have already seen that the loyalists, or "tories," opposed *any* stipulations whatever, at the peace of 1783, and we are now to find that the principal cause of our difficulties since that time—whether past or present—on the question of the fisheries, is to be traced to the same source.

At the close of the Revolution, justice and good policy both required of our fathers a general amnesty, and the revocation of the laws of disability and banishment; so that *all* adherents of the crown who desired, might become American citizens. Instead of this, however, the State legislatures, generally, continued in a course of hostile action, and treated the conscientious and the pure, and the unprincipled and corrupt, with the same indiscrimination as they had done during the struggle. The tories were ruined and humbled men. Most of them would have easily fallen into respect for the new state of things, old friendships and intimacies would have been revived, and long before this time all would have mingled in one mass; but in some parts of the United States there seems to have been a determination to drive them from the country at all hazards, as men undeserving of human sympathy. Eventually, popular indignation diminished; the statute-book was divested of its most objectionable enactments, and numbers were permitted to occupy their old homes, and to recover the whole or a part of their property; but by far the greater part of the loyalists, who quitted the thirteen States at the commencement of or during the war, never returned; and of the many thousands who abandoned their native land at the peace, and while these enactments were in force, few, comparatively, had the wish, or even the means, to revisit the country from which they were expelled. It cannot be denied, and we of this generation should admit, that our fathers dealt harshly with many, and unjustly with some, of their opponents. Indeed, whoever visits the British colonies will be convinced that persons were doomed to misery who were as true in heart and hope as was Washington himself; that, in the divisions of families which everywhere occurred, and which formed one of the most distressing circumstances of the conflict, there were wives and daughters who, although bound to loyalists by the holiest ties, had given their sympathies to the whigs from the be-

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\* Executive Document, No. 100.

ginning, and who, in the triumph of the cause which had had their prayers, went meekly—as woman ever meets a sorrowful lot—into hopeless, interminable exile. It is to be lamented that better counsels did not prevail. Had New York, Massachusetts, and Virginia especially, been either merciful or just, transactions which, in ages to come, will be very likely to put us on our defence, would not stain our annals. The example of South Carolina should have been followed by all. As it was, whigs whose gallantry in the field, whose prudence in the cabinet, and whose exertions in diplomatic stations abroad, had contributed essentially to the success of the conflict, were regarded with enmity on account of their attempts to produce a better state of feeling and more humane legislation.

As a matter of expediency, how unwise was it to continue to perpetuate the opponents of the Revolution, and to keep them a distinct class, for a time, and for harm yet unknown! How ill-judged the measures that caused them to settle the hitherto neglected possessions of the British crown! Nova Scotia had been won and lost, and lost and won, in the wars between France and England, and the blood of New England had been poured upon its soil like water; but when we drove thousands and tens of thousands of our countrymen to seek a refuge there, what was it? Before the war, the fisheries of its coast—for the prosecution of which Halifax itself was founded—comprised, in public estimation, its chief value; and though Great Britain had quietly possessed it for about seventy years, the emigration to it of loyalists from the United States, in a single year, more than doubled its population. By causing the expatriation, then, of the adherents of the British crown, among whom were the well-educated, the ambitious, and the well-versed in politics, we became the founders of two British colonies, for it is to be remembered that New Brunswick formed a part of Nova Scotia until 1784, and that the necessity of the division then made was of our own creation. In like manner, we became the founders of Upper Canada. The loyalists of our Revolution were the first settlers of the territory thus denominated by the act of 1791;\* and the principal object of the line of division of Canada, as established by Mr. Pitt's act, was to place them, as a body, by themselves, and to allow them to be governed by laws more congenial than those which were deemed requisite for the subordination of the French on the St. Lawrence. The government for which they had become exiles was liberal to them; it gave them lands, tools, materials for buildings, and means of subsistence for two years, and to each of their children (at the age of twenty-one) two hundred acres of land. And besides this, of the offices created by the organization of a new colonial government, they were the chief recipients.

Should it be replied that Nova Scotia, New Brunswick, and Canada West, without accessions from the United States, would have risen to importance ere this, I answer, that there is good reason to doubt it;

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\* It was in a debate on this bill, that Fox and Burke severed the ties of friendship which had existed between them for a long period. The scene was one of the most interesting that had ever occurred in the House of Commons. Fox, overcome by his emotions, wept aloud. Burke's previous course with regard to the French revolution had rendered a rupture at some time probable, perhaps certain.

because, in the first place, of the many thousands who annually come from Europe to America, but a small proportion land on the shores of these colonies, and because the most of those who do, soon leave for "the States," notwithstanding the inducements held out to emigrants by the colonial and home governments to settle on the territories of the crown. But were it otherwise, the force of the remark is in no degree diminished, for the obvious reason, that, had we pursued a wise course at the peace of '83, people of American origin would not have become our rivals in ship-building, in the carriage of our great staples to Europe, in the prosecution of the fisheries, and in the production of wheat and other breadstuffs. Nor is this all. We should not have had the hatred, the influence, and the talents of persons of loyalist descent, to contend against, in the long and vexed controversy relative to our northeastern boundary, nor continual difficulty about, and upon, the fishing grounds. It is to be observed, moreover, that the operation of these causes has been, and will continue to be, no slight obstacle in the way of adjusting such questions, since the children and kinsmen of the loyalists have no inconsiderable share in determining colonial councils, and in the shaping of remonstrances and representations to the British ministry. And whoever takes into view the fact that the sufferings and sacrifices of the fathers are well remembered by the descendants, and that, under the monarchical form, hereditary descent of official station is very common, will agree with me in the belief, that evils from this source are far from being at an end. There are still those in the colonies, who, remembering only that they are descended from the exiled losers in the revolutionary strife, would keep alive, and perpetuate for generations to come, the dissensions of the past; but their number, we may hope, is rapidly diminishing. To extend and strengthen the sympathies of human brotherhood is a Christian duty; and to unite kinsmen, who were severed by events which dismembered an empire, is a work in which all may *now* engage, without incurring the reproach of disloyalty on the one hand, or of the want of patriotism on the other.

These remarks explain, and account for, the pertinacity of the colonists, and serve to indicate that *they*, and not the British government, are the real party opposed to us in this controversy. As we progress in our inquiries, we shall find abundant evidence to show, that England has moved with great, with avowed reluctance, against us; and that while the colonies of Canada, Prince Edward Island, and New Brunswick, have remained almost indifferent, down to a very recent day, Nova Scotia, on the contrary, has pressed the subject of "American aggressions" upon the attention of the ministry, with hardly an intermission, for a term of years. The last named colony, it may be pertinent to observe, maintains extreme opinions upon *all* political questions, demanding concessions and privileges entirely inconsistent with colonial dependence, and asserting and insisting on doctrines which no whig of our Revolution, in his loftiest mood, even so much as wrote or spoke to his most cherished friend; as the letters of the Hon. Joseph Howe to Lord John Russell, in 1846, and the course of the "Liberals," generally, prove beyond dispute.

Some well-informed persons have expressed the opinion, that, until

within a few years, our fishermen have had no cause to complain of their colonial competitors. It is not so. Those who consult our state papers will find, that, as early as 1806, the inhabitants of the counties of Barnstable and Plymouth, Massachusetts, who stated that they procured their livelihood by fishing, memorialised Congress on the subject of existing grievances, and desired redress. They represented that they were much injured in the sale of their fish in consequence of the American market being glutted with English fish; that they were fired upon and brought to by English cruisers when falling in with them in going to, and coming from, the fishing grounds; that they were imposed upon; that they were compelled to pay light-money if they passed through the Strait of Canso; that their men were imprisoned; and that if they anchored in the colonial harbors, they were compelled to pay anchorage money. Thus the complaints in 1806 were nearly identical with those in 1852.

In the year 1807 the colonists appealed to the British government on the subject of the fisheries within colonial jurisdiction, and the "aggressions" of their republican neighbors. Looking with jealous eyes upon the extent of our adventures to their waters, they employed a watchman to count the number of American vessels which passed through the Strait of Canso in a season. This watchman reported that he saw nine hundred and thirty-eight. As many passed in fogs, and in the night-time, and were unseen by him, the whole number was not less, probably, than thirteen hundred. Without enumerating other acts of the colonists which show their hostile feelings towards us, I will barely add that many of them preferred that the difficulties then pending between England and the United States should terminate in a war; for, as was believed and said, a war would put an end to our rights of fishing in British America, inasmuch as it would annul the stipulations of the treaty of 1783.\*

The event which so many of our banished countrymen anticipated with complacency, occurred in 1812. In the year following, a determination was manifested to exclude us from the colonial fishing-grounds on the return of peace. It was represented in memorials, that the American fishermen abused their privileges to the injury of his Majesty's subjects; that the existence of Great Britain as a power of the first rank, depended mainly upon her sovereignty of the seas; and that sound policy required the exclusion of both France and the United States from any participation in the fisheries. It was, furthermore, insisted

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\* A highly respectable gentleman, of loyalist descent, related to me the following incident, which will serve to illustrate the temper of the time: "I went," said he, "to see my uncle, who, as I entered the house, accosted me thus, in great glee: 'Well, Willie, there'll be war, and I shall die on the old farm after all.' 'How so?' rejoined my informant. 'How does it follow that, if a war really occurs, you will die on the old farm?' 'How!' petulantly replied the uncle; '*why, won't England whip the blasted rebels, and shan't we all get our lands back again?*'" This loyal old gentleman is now dead. He was a native of New York, and lost his property—the "old farm"—under the Confiscation act of that State. At the close of the Revolution he settled on the British side of the St. Croix, where many persons of his lineage still live. This is by no means a solitary instance of the hopes entertained as to the result of a conflict between the two nations. In 1807 many of our banished countrymen were not only alive, but in full vigor; and the expectation was common among them that, in the event of hostilities, their interest would be promoted, either by stipulations in their favor in the treaty of peace, or by the abrogation of our fishing rights, as stated in the text.

that fifteen hundred American vessels had been engaged in the Labrador fishery alone, in a single season; that these vessels carried and dealt out teas, coffee, spirits, and other articles, on which no duty was paid; that these smugglers and interlopers exercised a ruinous influence upon the British fishery and the morals of British fishermen; that men, provisions, and outfits were cheaper in the United States than elsewhere, and that of consequence British fishermen on the coast could buy what they needed on better terms of the American vessels than of the colonial merchants; and hence the memorialists expressed the hope that foreigners would no longer be permitted to visit the colonial waters for the purpose of fishing. These representations created a sensation in Massachusetts, and were the topic of comment there and in other parts of the country. The Boston Centinel pithily said, that they were "*alarmingly interesting*;" and as far south as Baltimore the New England sentiment of "*no peace without the fisheries*," was echoed and approved.

In 1814, Mr. Canning, in the British Parliament, urged upon the government the necessity of giving due consideration to the question of the fisheries, in the adjustment of terms of peace. In our treaty of 1783, said he, "we gave away more than we ought; and we never now hear of that treaty but as a trophy of victory on the one hand, or the monument of degradation and shame on the other. We ought to refer, in questions with America, to the state in which we now stand, rather than that in which we once stood."

The principle asserted by the American commissioners at Ghent, Mr. Russell alone excepted, has been stated and need not be repeated here. It was assumed in England, and in the colonies, that that principle was in contravention of public law, and British statesmen and British colonists claimed to exclude our vessels from the fishing-grounds, and even to seize them when found there. The government of Nova Scotia was especially zealous and prompt in protecting her supposed interests, and in proclaiming the penalty of confiscation to American intruders upon her coasts. In 1815 the commander of his Majesty's ship-of-war the *Jasseur*, heeding the clamors of the colonists more than the qualified instructions of the admiralty, commenced the seizure of our fishing vessels; and in one day in June of that year, sent no less than eight into the port of Halifax as lawful prizes. This outrage, and the right assumed by the commander of this ship to warn our fishermen not to come within sixty miles of the coast, (as elsewhere remarked,) led to negotiations and to the convention of 1818. Mr. Baker, the British chargé d'affaires, in reply to Mr. Monroe's note of July 18, 1815, declared that the commander of the *Jasseur* had transcended his authority, and gave the assurance that orders had been transmitted to the naval officers on the Halifax and Newfoundland stations, which would "prevent the recurrence of any similar interruption;" but the schooner *Nabby* was seized by his Majesty's ship *Saracen*, Captain Gore, and proceedings in the admiralty court of Nova Scotia were instituted against her in August, 1818, only two months before the convention was concluded. Eleven other American vessels were seized by Captain Chambers, under orders from Admiral Milne, for alleged violations of British maritime jurisdiction. That some of these vessels were captured for good cause, is quite probable; but yet,

the comity between nations, aside from the assurance of the British chargé d'affaires, required that while negotiations were pending, the officers of the British navy on the American station should have been instructed to suspend captures, and to have merely warned off such vessels as were found infringing upon what were held to be British rights; for it is to be recollected that, claiming, as we did, to fish under the treaty of 1783, we were entitled essentially to exercise *all* the privileges of *catching* enjoyed by British subjects, until the differences between the two cabinets were adjusted.

On the 14th of June, 1819, Parliament passed "An act to enable his Majesty to make regulations with respect to the taking and curing fish on certain parts of the coasts of Newfoundland, Labrador, and his Majesty's other possessions in *North America*, according to a convention made between his Majesty and the United States of America."

It is now pretended that this law asserts the recent construction of the convention, as relates to our exclusion from the great "*bays*." That pretension will be examined in due time. The act, after reciting the first article of the convention, provides, first, that "it shall and may be lawful for his Majesty, by and with the advice of his Majesty's privy council, by any order, or order 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*, or to any officer or officers on that station, or to any other person or persons, whomsoever, as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of the said convention, with relation to the taking, drying, and curing of fish by inhabitants of the United States of *America*, in common with *British* subjects, within the limits set forth in the said article of the said convention, and hereinbefore recited; any act or acts of Parliament, or any law, custom, or usage, to the contrary in any wise notwithstanding."

Second, that "it shall not be lawful for any person or persons, not being a natural-born subject of his Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of *Great Britain* and *Ireland*, to fish for or take, dry, or cure, any fish of any kind whatever, within three marine miles of any coasts, bays, creeks, or harbors whatever, in any port of his Majesty's dominions in *America*, not included within the limits specified and described in the first article of the said convention, and hereinbefore recited; and that if any such foreign ship, vessel, or boat, or any persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks, or harbors, within such parts of his Majesty's dominions in *America*, out of the said limits as aforesaid, all such ships, vessels, and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited."

Third, that "it shall and may be lawful for any fisherman of the said United States to enter into any such bays or harbors of his Britannic Majesty's dominions in *America* as are last mentioned, for the purpose of shelter and repairing damages therein, and of purchasing wood and

of obtaining water, and for no other purpose whatever—subject, nevertheless, to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying or curing fish in the said bays or harbors, or in any other manner whatever abusing the said privileges by the said treaty and by this act reserved to them, and as shall for that purpose be imposed by any order or orders to be from time to time made by his Majesty in council, under the authority of this act, and by any regulations which shall be issued by the governor, or person exercising the office of governor, in any such parts of his Majesty's dominions in *America*, under or in pursuance of any such order in council, as aforesaid."

Fourth, that "if any person or persons, upon requisition made by the governor of Newfoundland, or the person exercising the office of governor, or by any governor, or person exercising the office of governor, in any other parts of his Majesty's dominions in *America* as aforesaid, or by any officer or officers acting under such governor, or person exercising the office of governor, in the execution of any orders and instructions from his Majesty in council, shall refuse to depart from such bays or harbors; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this act; every such person so refusing or otherwise offending against this act shall forfeit the sum of two hundred pounds."

Reserving comments upon this statute for another place, we proceed with our narrative. The four years succeeding the ratification of the convention, were years of comparative quiet and security. But in 1823, the ships-of-war *Argus*\* and *Sparrow-hawk* spread alarm among our fishermen who were employed in the Bay of Fundy, and elsewhere in the waters of Nova Scotia and New Brunswick. They molested some, and ruined the voyages of others; but the *Charles* of York, Maine—a prize to the *Argus*—is believed to be the only vessel captured and sent into port for trial.

In 1824, Captain Hoare, of his Majesty's brig *Dotterel*, seized nine vessels.† The conduct of this gentleman caused much excitement and indignation. I personally witnessed many of his proceedings. However censurable his general course, it is not remembered that he disturbed the humble men who fish in small open boats in the Bay of Passamaquoddy, and in waters always considered free and common to the people of the two flags. Of the vessels which he captured, one was retaken by her crew, assisted by one of his own men; and two others were rescued by their crews, aided by an armed party from Eastport.

In September, three memorials, signed by citizens of Maine who were aggrieved by the acts of Captain Hoare, were transmitted to the President. These papers, with the accompanying protests and depositions as to the wrongs complained of, formed the subject of a correspondence between the Acting Secretary of State and the British chargé d'affaires. No results followed. Our countrymen demanded

\* Formerly of the United States navy, and captured in the war of 1812.

† The documents submitted to the Senate by the President, August, 1852, contain several papers connected with matters in the Bay of Fundy at this period.

indemnity and reparation. The British functionary required, on the other hand, "the punishment of the transgressors for the act of violence perpetrated on persons bearing his Majesty's commission while engaged in the discharge of their public duties." Meantime, the President directed Ether Shepley,\* the attorney of the United States for Maine, to proceed to the frontier and make inquiry into the circumstances of the matters in dispute, and especially those attending the recapture of the three vessels just referred to. That Captain Hoare was sometimes unjustly reproached by our fishermen, was admitted by the calm and considerate in 1824; and this fact, in common fairness, ought to be stated in this brief record of the troubles which are connected with his command of the *Dotterel*, and which will not soon be forgotten by those who live on the eastern border of Maine. The charge preferred against him that he converted the vessels which he seized into tenders for assisting him in his operations "prior to their adjudication in the courts," he denied in the most explicit terms. It was never proved to be true. It may be said, also, that the capture of seven of his prizes was held to be justifiable by the British chargé d'affaires in his correspondence with Mr. Adams. The accuracy of this opinion, however, we shall have occasion to dispute.

The excitement occasioned by the zeal with which Captain Hoare "guarded the coasts from the intrusion of foreign fishermen and smugglers," did not suddenly cease. In 1825, his conduct, on motion of the Hon. Jeremiah O'Brien, who represented the frontier district of Maine, became a subject of inquiry in Congress; and the United States schooner *Porpoise*, under the command of Lieutenant Parker, was despatched to the Bay of Fundy for the protection of our flag.

Early in 1826, the *Dotterel* was again the terror of our fishermen. The presence of the United States sloop-of-war *Lexington*, Captain Shubrick, under orders to cruise upon the fishing grounds, relieved their fears; and the season passed away without any serious disturbance. But there had been no adjustment of the difficulties which occurred in 1824. The note of the British chargé d'affaires to our government, relative to the recapture of two of the *Dotterel's* prizes, had not, in fact, been answered. Meantime, Mr. Adams had passed from the Department of State to the Executive Mansion. Mr. Clay had succeeded him; and a new British minister had arrived in the United States to treat with the new administration. To have delayed a reply to that note for a year and a half, was equivalent to a refusal; and it could hardly be hoped by Mr. Vaughan, that Mr. Adams would permit, as President, what he had declined as Secretary of State. Yet, on the 29th of April,† that functionary called the attention of Mr. Clay to the fact that his predecessor, on the fifth of October, 1824, had informed our government "that an outrage had been committed by some armed citizens of the State of Maine, in forcibly rescuing, off Eastport, two American vessels, the *Reindeer* and *Ruby*, which had been captured by his Majesty's cruisers while fishing in the Bay of Fundy in places where the United States had by treaty renounced the right so

\* The present chief justice of the supreme court of Maine.

† Executive Document 100, pages 54, 55.

to do;" and in renewing the request "for an acknowledgment of the improper conduct of the persons engaged in" the enterprise, he remarked that "the British government was disposed to waive all demand for the punishment of the offenders, as the act resulted apparently from unpremeditated violence."

It does not appear that Mr. Clay ever replied to this letter, or that the required "acknowledgment" was ever made in any form.

The naval and diplomatic officers of his Majesty attached far more importance to this affair than it deserved. Admiral Lake stated, and the British chargé d'affaires repeated to Mr. Adams, that the Reindeer and Ruby were rescued "by two schooners and an open boat, under American colors, full of armed men, with muskets and fixed bayonets, amounting to about one hundred, headed by a Mr. Howard,\* of Eastport, who is said to be a captain in the United States militia." But the truth is, that "Mr. Howard" was a mere stripling, and a merchant's apprentice. I was a witness to the whole affair. The two vessels in question were partly owned by young Howard's employers. As they hove in sight under charge of Captain Hoare's prize-masters, a party of some thirty persons, many of whom were boys, and without "muskets" or weapons of any sort, were hastily collected and embarked. The deed was bravely done, and at the moment won the plaudits of grave men. Persons of mature years who deliberately arm themselves to expound treaty stipulations, are not to be justified; but the acts of generous, impulsive youth, admit of apology and extenuation.

The period of quiet which followed the transactions last noticed indicates that Captain Hoare was too zealous, or that his successors were remiss in the performance of their duty, or that the masters of our fishing vessels suddenly reformed their practices, and conformed to the provisions of the convention. In January, 1836, Mr. Bankhead, the British chargé d'affaires, at the instance of the colonial authorities, called the attention of Mr. Forsyth, Secretary of State,† to "repeated acts of irregularity committed by fishermen of the United States;" but the papers which accompanied his note specify the encroachments of a *single* vessel only—namely, the schooner Bethel, of Provincetown, Massachusetts. Still, the President, "without waiting for an examination of the general complaint," or that of the solitary instance cited, "directed the Secretary of the Treasury to instruct the collectors to inform the masters, owners, and others engaged in the fisheries, that complaints have been made, and to enjoin upon those persons a strict observance of the limits assigned for taking, drying, and curing fish by the American fishermen, under the convention of 1818."

In March, of the same year, an act was passed by Nova Scotia of extreme, and, in some of its provisions, of inexcusable severity. It provides (among other things not material to our present purpose)—

That "officers of the colonial revenue, sheriffs, magistrates, and any

\* William A. Howard, subsequently a midshipman in the United States navy, and a captain in the revenue service. He was in command of the steam cutter *McLane* at the attack on Vera Cruz, during the late war with Mexico.

† Executive Document, 100, p. 55.

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 she may remain within such place or distance."

That "if such vessel or boat be bound elsewhere, and shall continue within such harbor or so hovering for twenty-four hours after the master shall have been required to depart, any one of the officers above mentioned may bring such vessel or boat into port and search her cargo, and also examine the master upon oath, and if the master or person in command shall not truly answer the questions demanded of him in such examination, he shall forfeit one hundred pounds; and if there be any prohibited goods on board, then such vessel or boat, and the cargo thereof, shall be forfeited."

That "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 to have been fishing, within three marine miles of such coasts or harbors, such vessel or boat and the cargo shall be forfeited."

That "if any seizure take place and a dispute arise, the proof touching the illegality thereof shall be upon the owner or claimant."

That "no person shall enter a claim to anything seized until security shall have been given, in a penalty not exceeding sixty pounds, to answer and pay costs occasioned by such claim; and in default of such security, the things seized shall be adjudged forfeited and shall be condemned."

That "no writ shall be sued out against any officer or other person authorized to seize for anything done until one month after notice in writing, delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent, in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent; and no evidence of any cause of action shall be produced, except such as shall be contained in such notice."

That "every such action shall be brought within three months after the cause thereof has arisen."

That "if on any information or suit brought to trial on account of any seizure, judgment shall be given for the claimant, and the judge or court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the judge or court shall certify that there was probable cause for the seizure, then the plaintiff, besides the thing seized or its value, shall not recover more than twopence damages, nor any costs of suit, nor shall the defendant be fined more than one shilling."

That "the seizing officer may, within one month after notice of action received, tender amends to the party complaining, or his attorney or agent, and plead such tender."

That "all actions for the recovery of penalties or forfeitures imposed must be commenced within three years after the offence committed."

And that "no appeal shall be prosecuted from any decree or sentence of any court in this province touching any penalty or forfeiture, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced."

The next measure of Nova Scotia was in 1837, when an elaborate report on the subject of the fisheries was submitted to the House of Assembly, which embraced a plan of protection by the employment of steamers on the part of the home government, and of a preventive force on the part of the government of the colony. The latter recommendation was adopted.

But the design of committing the ministry to the plans of political leaders in this *loyal* possession of the British crown was not abandoned. Early in 1838 a joint address of the Legislative Council and House of Assembly was transmitted to the Queen, complaining of the habitual violation of the convention of 1818 by American citizens, and praying for an additional naval force to put an end to these aggressions. In November, of that year, Lord Glenelg, the colonial secretary, in a despatch to Lieutenant General Sir Colin Campbell, lieutenant governor of Nova Scotia, remarked, in reply to this address, that—

"In obedience to her Majesty's commands, this subject has engaged the serious attention of her Majesty's government, and it has been determined for the future to station, during the fishing season, an armed force on the coast of Nova Scotia to enforce a more strict observance of the provisions of the treaty by American citizens, and her Majesty's minister at Washington has been instructed to invite the friendly co-operation of the American government for that purpose.

"The necessary directions having been conveyed to the lords commissioners of the admiralty, their lordships have issued orders to the naval commander-in-chief on the West Indian and North American station to detach, as soon as the fishing season shall commence, a small vessel to the coast of Nova Scotia, and another to Prince Edward Island, to protect the fisheries. The commanders of these vessels will be cautioned to take care that, while supporting the rights of British subjects, they do not themselves overstep the bounds of the treaty. You will of course afford them every information and assistance which they may require for the correct execution of this duty. I trust that measures will prove satisfactory to the legislature of Nova Scotia."

In March, 1839, the consul of the United States at Pictou addressed a letter to Mr. Forsyth, Secretary of State, in which, after referring to the seizure of several of our fishing vessels during the previous year, he said that—

"The British government has decided to send out two armed vessels, to be stationed during the fishing season on these coasts, for the purpose of preventing any infringements of the treaty; and although I am well aware that *much* of the outcry which has been made on this subject has had its origin in the disappointed feelings of Nova Scotia fishermen, on seeing themselves so far outstripped in the successful pursuits of so valuable a branch of commerce by superior perseverance and skill of their enterprising neighbors, yet I know that, within my consular district, a tempting shoal of fish is sometimes, either from ignorance or the excitement of the moment, followed across the prescribed

limits; and I suppose that during the ensuing season the greatest vigilance will be displayed in looking after offenders."

The seizures in the course of the year were numerous. The Java, Battelle, Mayflower, Charles, Eliza, Shetland, Hyder Ally, Independence, Hart, Ocean, Director, Atlas, Magnolia, Amazon, and Three Brothers, were among the number; whether for justifiable cause, will form the subject of inquiry in another place. Her Majesty's cruisers spread consternation on the fishing-grounds throughout the season. The Hon. Keith Stewart, in command of the Ringdove, was as much dreaded by our fishermen in the Bay of Fundy as Captain Hoare had been, in the Dotterel, in the year 1824. In July, a gentleman of one of the frontier ports of Maine informed an official personage at Washington that four or five hundred American fishing vessels were then in that bay; that the complaints of the colonists of the island of Grand Menan had caused the commanders of the British cruisers to refuse shelter to our flag even in stormy weather; that nearly one hundred of our vessels, which had been driven from positions secured to them by the treaty, had fled for refuge to a single harbor on the American side of the line; and that our fishermen were generally armed, and would not bear the indignities to which they were exposed. He added that "they can furnish some thousands of as fearless men as can be found anywhere, at short notice; and, unless our government send an armed vessel without delay, you will shortly hear of bloodshed." Such was the condition of things, now well remembered, at and near the border. Elsewhere there was so much difficulty and excitement that the masters of our vessels, whether at sea or at anchor, felt themselves unsafe; and, molested along the entire coast of Nova Scotia, many of them adjusted their affairs at the close of the season without reward for their toil and exposure, and in sadness of spirit as to the future. In a word, there seemed to persons of calm judgment a determination on the part of colonial politicians to drive our countrymen to extremities. To exclude us from the Bays of Fundy and Chaleurs, and other large bays, by lines drawn from headland to headland; to deny to us resort to the colonial ports and harbors for shelter and to procure wood and water, except in cases of actual distress; to dispute our right to fish on the *shores* of the Magdalene islands, and thus to render the treaty stipulation valueless; and to close against us the Strait of Canso, and of consequence to compel us to make the dangerous voyage round the island of Cape Breton, when bound to or from the Gulf of St. Lawrence, are among the pretensions of Nova Scotia seriously asserted in the memorable year 1839. The seizures of our vessels, and the other proceedings which we have briefly noticed, attracted the attention of our government, and the United States schooner Grampus, under the command of Lieutenant John S. Paine, was despatched to the scene of alarm and commotion. Lieutenant Paine informed himself of the matters in dispute, and performed his duty with zeal and efficiency. In his official report to Mr. Forsyth, Secretary of State, he observes that "the injustice and annoyance suffered by our fishermen had so irritated

them, that there was ground to believe that violence would be resorted to, unless some understanding should be had before another season."\*

In March, 1840, the Assembly of Nova Scotia passed another address to the Queen, in which her Majesty was again reminded of the grievances of her subjects of that colony. Our government in the following month, and, as now appears, for the first time, communicated with our minister at the Court of St. James on the subject of the fisheries, but yet without instructions to make a statement of our wrongs to the government to which he was accredited.

The early part of the year 1841 is fruitful of events which show the progress of the controversy, and the development of colonial plans and pretensions. On the 20th of February, Mr. Forsyth, Secretary of State, addressed Mr. Stevenson, at London, a letter of definitive instructions, in which he reviewed the points in dispute, and stated that he was directed by the President to convey his desire that a representation should be made to her Majesty's government, immediately on receipt of the despatch, earnestly remonstrating "against the illegal and vexatious proceedings of the authorities of Nova Scotia towards our fishermen," and requesting of the ministry "that measures be forthwith adopted" to remedy "the evils arising out of this misconception on the part of the provincial" government, "and to prevent the possibility of the recurrence of similar acts." Mr. Stevenson's attention to the representations of Mr. Forsyth was prompt. On the 27th of March he wrote to Lord Palmerston as follows:\*

"The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honor to acquaint Lord Viscount Palmerston, her Majesty's Principal Secretary of State for Foreign Affairs, that he has been instructed to bring to the notice of her Majesty's government, without delay, certain proceedings of the colonial authorities of Nova Scotia, in relation to the seizure and interruption of the vessels and citizens of the United States engaged in intercourse with the ports of Nova Scotia and the prosecution of the fisheries on its neighboring coasts, and which, in the opinion of the American government, demand the prompt interposition of her Majesty's government. For this purpose the undersigned takes leave to submit to Lord Palmerston the following representation:

"By the first article of the convention between Great Britain and the United States, signed at London on the 20th October, 1818, it is provided:

"1st. That the inhabitants of the United States shall have forever, in common with the subjects of Great Britain, 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 northern coast of Newfoundland, from the said Cape Ray to the Quirpon islands, on the shores of the Magdalene 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 Bellisle, and thence

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\* Executive Document 100, page 113.

northwardly indefinitely along the coast, without prejudice, however, to the exclusive rights of the Hudson Bay Company.

"2d. That the Americans shall also have liberty, forever, to dry and cure fish in any part of the unsettled bays, harbors, and creeks, of the southern portion of the coast of Newfoundland before described, and of the coast of Labrador, the United States renouncing any liberty before enjoyed by their citizens to take the fish within three miles of any coasts, bays, creeks, or harbors of the British dominions in America, not included within the above limits, *i. e.*, Newfoundland and Labrador.

"3d. That American fishermen shall also be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, and also of purchasing wood and obtaining water, under such restrictions only as might be *necessary to prevent their taking, drying or curing fish therein, or abusing the privileges reserved to them.* Such are the stipulations of the treaty, and they are believed to be too plain and explicit to leave room for doubt or misapprehension, or render the discussion of the respective rights of the two countries at this time necessary. Indeed, it does not appear that any conflicting question of right between them has as yet arisen out of the differences of opinion regarding the true intent and meaning of the treaty. It appears, however, that in the actual application of the provisions of the convention, (committed on the part of Great Britain to the hands of subordinate agents, subject to and controlled by local legislation,) difficulties, growing out of individual acts, have unfortunately sprung up, among the most important of which have been recent seizures of American vessels for supposed violations of the treaty. These have been made, it is believed, under color of a provincial law, (6th Wm. 4, chap. 8, 1836,) passed, doubtless, with a view to restrict vigorously, if not intended to aim a fatal blow at the fisheries of the United States on the coast of Newfoundland.

"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 weigh and leave harbor whenever the provincial custom-house or British naval officer 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 to land*, and have the 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 conveniences afforded by the neighboring coasts of British settlements as might be reconcilable with 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 highly important branch of American industry, which could not for a moment be admitted by the government of the United States. The undersigned has also been instructed to acquaint Lord Palmerston that the American government has received information, that in the House of Assembly in Nova Scotia, during the session of 1839-'40, an address to her Majesty was voted, suggesting the extension to adjoining British colonies of rules and regulations relating to the fisheries, similar to those in actual operation in that province, and which have proved so onerous to the fishermen of the United States; and that efforts, it is understood, are still making to induce the other colonies to unite with Nova Scotia in this restrictive system. Some of the provisions of her code are of the most extraordinary character. Among these is one which declares that any foreign vessel *preparing* to fish within three miles of the coast of any of her Majesty's dominions in America, shall, together with the cargo, be forfeited; that in all cases of seizure, the owner or claimant of the vessel, &c., shall be held to prove his innocence or pay treble costs; that he shall be forced to try his action within three months, and give one month's notice, at least to the seizing officer, containing everything to be proved against him, before any suit can be instituted; and also prove that the notice has been given. The seizing officer, moreover, is almost wholly irresponsible, inasmuch as he is liable to no prosecution, if the judge certifies that there is probable cause; and the plaintiff, if successful in his suit, is only to be entitled to *two pence* damages, without costs, and the defendant fined not more than *one shilling*. In short, some of these rules and regulations are violations of well established principles of the common law of England, and of the principles of the just laws of all civilized nations, and would seem to have been designed to enable her Majesty's authorities to seize and confiscate with impunity American vessels, and embezzle, indiscriminately, the property of American citizens employed in the fisheries on the coasts of the British provinces. It may be proper, also, on this occasion, to bring to the notice of her Majesty's government the assertion of the provincial legislature, 'that the Gut or Strait of Canso is a narrow strip of water completely within and dividing several counties of the province,' and that the use of it by the vessels and citizens of the United States is in violation of the treaty of 1818. This strait separates Nova Scotia from the island of Cape Breton, which was not annexed to the province until the year 1820. Prior to that, in 1818, Cape Breton was enjoying a government of its own entirely distinct from Nova Scotia, the strait forming the line of demarcation between them, and being then, as now, a thoroughfare for vessels passing into and out of the Gulf of St. Lawrence. The union of the two colonies cannot, therefore, be admitted as vesting in

the province the right to close a passage which has been freely and indisputably used by the citizens of the United States since the year 1783. It is impossible, moreover, to conceive how the use on the part of the United States, common, it is believed, to all other nations, can in any manner conflict with the letter or spirit of the existing treaty stipulations. The undersigned would, therefore, fain hope that her Majesty's government would be disposed to meet, as far as practicable, the wishes of the American government in the accomplishing, in the fullest and most liberal manner, the objects which both governments had in view in entering into the conventional arrangement of 1818. He has accordingly been instructed to bring the whole subject under the consideration of the British government, and to remonstrate on the part of this government against the illegal and vexatious proceedings of the authorities of Nova Scotia against the citizens of the United States engaged in the fisheries, and to request that measures may be forthwith adopted by the British government to remedy the evil arising out of the misconstruction, on the part of the provincial authorities, of their conventional engagements, and prevent the possibility of the recurrence of similar acts. The undersigned renews to Lord Palmerston, &c.

"A. STEVENSON"

"32, UPPER GROSVENOR STREET,  
"March 27, 1841."

This despatch was transmitted to the Secretary for the Colonies on the 2d of April, and (seven days later) a copy of it was sent to Lord Falkland, Lieutenant Governor of Nova Scotia, with a request that his lordship would make immediate inquiry into the allegations contained in it, and furnish the Colonial Office with a detailed report on the subject, for the information of her Majesty's government. On the 28th of the same month, Lord Falkland wrote to Lord John Russell, that "The greatest anxiety is felt by the inhabitants of this province that the convention with the Americans, signed at London on the 20th October, 1818, should be strictly enforced; and it is hoped that the consideration of the report may induce your lordship to exert your influence in such a manner as to lead to the augmentation of the force (a single vessel) now engaged in protecting the fisheries on the Banks of Newfoundland, and the south shore of Labrador, and the employment, in addition, of one or two steamers for that purpose.

"The people of this colony have not been wanting in efforts to repress the incursions of the natives of the United States upon their fishing grounds, but have fitted out with good effect some small armed vessels, adapted to follow trespassers into shoal water, or chase them on the seas;" and that, "finding their own means inadequate to the suppression of this evil, the Nova Scotians earnestly entreat the further intervention and protection of the mother country."

His lordship's letter enclosed a copy of a report of a committee on the fisheries of Nova Scotia, which had been adopted by the House of Assembly, and a "case" stated, at the request of that body, "for the purpose of obtaining the opinion of the law officers of the crown in England." The preamble of the latter document recites the rights

stipulated in the treaty of 1783; the fact of the war between England and the United States in 1812; the first article of the convention of 1818; and refers to the act of Parliament of 1819, passed to meet the conditions of the convention, and also to the act of Nova Scotia of 1836; and concludes with submitting to the consideration of the Queen's advocate, and her Majesty's attorney general, the following seven queries:

1. Whether the treaty of 1783 was annulled by the war of 1812, and whether citizens of the United States possess any right of fishery in the waters of the lower provinces other than ceded to them by the convention of 1818; and if so, what right?

2. Have American citizens the right, under that convention, to enter any of the bays of this province to take fish, if, after they have so entered, they prosecute the fishery more than three marine miles from the shores of such bays; or should the prescribed distance of three marine miles be measured from the headlands, at the entrance of such bays, so as to exclude them?

3. Is the distance of three marine miles to be computed from the indents of the coasts of British America, or from the extreme headlands, and what is to be considered a headland?

4. Have American vessels, fitted out for a fishery, a right to pass through the Gut of Canso, which they cannot do without coming within the prescribed limits, or to anchor there or to fish there; and is casting bait to lure fish in the track of the vessels fishing, within the meaning of the convention?

5. Have American citizens a right to land on the Magdalene islands, and conduct the fishery from the shores thereof, by using nets and seines; or what right of fishery do they possess on the shores of those islands, and what is meant by the term shore?

6. Have American fishermen the right to enter the bays and harbors of this province for the purpose of purchasing wood or obtaining water, having provided neither of these articles at the commencement of their voyages, in their own country; or have they the right only of entering such bays and harbors in cases of distress, or to purchase wood and obtain water, after the usual stock of those articles for the voyage of such fishing craft has been exhausted or destroyed?

7. Under existing treaties, what rights of fishery are ceded to the citizens of the United States of America, and what reserved for the exclusive enjoyment of British subjects?

These queries were sent to the law officers of the crown on the 8th of June, and on the 30th of August they communicated their reply to Lord Palmerston. They state that, in answer to the *first* query—

“We have the honor to report that we are of opinion that the treaty of 1783 was annulled by the war of 1812; and we are also of opinion that the rights of fishery of the citizens of the United States must now be considered as defined and regulated by the convention of 1818; and with respect to the general question, *‘if so, what right?’* we can only refer to the terms of the convention as explained and elucidated by the observations which will occur in answering the other specific queries.

"2. Except within certain defined limits, to which the query put to us does not apply, we are of opinion that, by the terms of the treaty, American citizens are excluded from the right of fishing within three miles of the coast of British America; and that 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 fishing, 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 the land we have before mentioned, excluding the interior of the bays and the inlets of the coasts.

"4. By the treaty of 1818 it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence, within certain defined limits, in common with British subjects; and such treaty does not contain any words negating the right to navigate the passage of the Gut of Canso, and therefore it may be conceded that such right of navigation is not taken away by that convention; but we have now attentively considered the course of navigation to the gulf by Cape Breton, and likewise the capacity and situation of the passage of Canso, and of the British dominions on either side, and we are of opinion that, independently of treaty, no foreign country has the right to use or navigate the passage of Canso; and attending to the terms of the convention relating to the liberty of fishery to be enjoyed by the Americans, we are also of opinion that that convention did not either expressly or by implication concede any such right of using or navigating the passage in question. We are also of opinion that casting bait to lure fish in the track of any American vessels navigating the passage would constitute a fishing within the negative terms of the convention.

"5. With reference to the claim of a right to land on the Magdalene islands, and to fish from the shores thereof, it must be observed that by the treaty the liberty of drying and curing fish (purposes which could only be accomplished by landing) in any of the unsettled bays, &c., of the southern part of Newfoundland, and of the coast of Labrador, is specifically provided for; but such liberty is distinctly negated in any settled bay, &c.; and it must therefore be inferred that if the liberty of landing on the shores of the Magdalene islands had been intended to be conceded, such an important concession would have been the subject of express stipulation, and would necessarily have been accompanied with a description of the inland extent of the shore over which such liberty was to be exercised, and whether in settled or unsettled parts; but neither of these important particulars is provided for, even by implication; and that, among other considerations, leads us to the conclusion that American citizens have no right to land or conduct the fishery from the shores of the Magdalene islands. The word 'shore' does not appear to be used in the convention in any other than the general or ordinary sense of the word, and must be construed with reference to the liberty to be exercised upon it, and would there-

fore compromise the land covered with water as far as could be available for the due enjoyment of the liberty granted.

"6. By the convention, the liberty of entering the bays and harbors of Nova Scotia for the purpose of purchasing wood and obtaining water is conceded in general terms, unrestricted by any condition expressed or implied, limiting it to vessels duly provided at the commencement of the voyage; and we are of opinion that no such condition can be attached to the enjoyment of the liberty.

"7. The rights of fishery ceded to the citizens of the United States, and those reserved for the exclusive enjoyment of British subjects, depend altogether upon the convention of 1818, the only existing treaty on this subject between the two countries, and the material points arising thereon have been specifically answered in our replies to the preceding queries.

"We have, &c.,

"J. DODSON.

"THOS. WILDE.

"Viscount PALMERSTON, *K. B.*, &c., &c."

Fifteen months elapsed before Lord Stanley,\* who, as the Earl of Derby, is the present prime minister of England, sent the answer of the crown lawyers to Lord Falkland. That it was communicated with reluctance, even in November, 1842, is apparent. The subject to which it relates, said he, "has frequently engaged the attention of myself and my colleagues, with the view of adopting further measures, if necessary, for the protection of British interests in accordance with the law as laid down" by these functionaries. "We have, however, on full consideration, come to the conclusion, as regards the fisheries of Nova Scotia, that the precautions taken by the provincial legislature appear adequate to the purpose; and that *being practically acquiesced in by the Americans, no further measures are required.*" (The closing declaration, which I have placed in italics, will not fail to attract notice.)

Meantime (between August, 1841, and November, 1842,) Lord Falkland had forwarded to the colonial secretary two additional reports made by committees of the House of Assembly, "complaining of the encroachments of American citizens on the fisheries of British North America, and praying the establishment of a general code of regulations for their protection. A change had occurred in the ministry of England, and Mr. Everett had succeeded Mr. Stevenson as our envoy at the court of St. James.

The colonists were not tardy in acting up to the suggestion of Lord Stanley, that our government had "*practically acquiesced*" in the construction of the convention of 1818, presented in Lord Falkland's "CASE," and affirmed by the crown lawyers. Early in 1843, the subject was considered at a meeting of the chamber of commerce of Halifax; and the opinion of the Queen's advocate, and her Majesty's attorney general, was received with great satisfaction by the merchants of that city. Henceforth, in the judgment of some, competition between the colonial fishermen and our countrymen was at an end. The

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\* The successor of Lord John Russell as Secretary for the Colonies.

latter, excluded from the great bays by lines drawn from headland to headland, refused passage through the Strait of Canso, and deprived of the right of landing on the *shores* of the Magdalene islands, were, in effect, to be confined to the Newfoundland and Labrador fisheries. Assuming, as the colonial authorities did, that *we* were bound by a private and ex parte opinion, of which our government had no official knowledge, the schooner Washington, of Newburyport, was seized for no reason, as appears, other than "fishing broad" (to use a term of fishermen) in the Bay of Fundy. The fact was communicated to Mr. Upshur, Secretary of State, who, on the 30th June, 1843, addressed Mr. Everett in the following terms:\*

"SIR: I have the honor to transmit to you, herewith, copies of a letter and accompanying papers, relating to the seizure, on the 10th of May last, on the coast of Nova Scotia, by an officer of the provincial customs, of the American fishing schooner Washington, of Newburyport, Massachusetts, Cheney, master, for an alleged infraction of the stipulations of the convention of October 20, 1818, between the United States and Great Britain.

"Upon a reference to the files of the legation at London, you will find that this complaint is not the first of a similar character which has arisen out of the proceedings of the authorities of Nova Scotia under their construction of the convention, and that representations upon the subject have heretofore been made to the British government on behalf of American citizens, but, so far as this department is advised, without leading to a satisfactory result.

"For a full understanding of the whole question involved, I would particularly point your attention to the instructions of this department to Mr. Stevenson, Nos. 71 and 89, of the respective dates of April 17, 1840, and February 20, 1841, and to the several despatches addressed by that minister to the Secretary of State, numbered 97, 99, 108, 120, and 124, during the years 1840 and 1841.

"I need not remark upon the importance to the negotiating interests of the United States of having a proper construction put upon the first article of the convention of 1818 by the parties to it. That which has hitherto obtained is believed to be the correct one. The obvious necessity of an authoritative intervention to put an end to proceedings on the part of the British colonial authorities, alike conflicting with their conventional obligations, and ruinous to the fortunes and subversive of the rights of an enterprising and deserving class of our fellow-citizens, is too apparent to allow this government to doubt that the government of her Britannic Majesty will take efficient steps for the purpose. The President's confident expectation of an early and satisfactory adjustment of these difficulties is grounded upon his reliance on the sense of justice of the Queen's government, and on the fact that from the year 1818, the date of the convention, until some years after the enactment of the provincial law out of which these troubles have arisen, a *practical* construction has been given to the first article of that instrument which is firmly relied on as settling its meaning in favor of the rights of American citizens as claimed by the United States.

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\* Executive Document 100, p. 117.

"I have, therefore, to request that you will present this subject again to the consideration of her Majesty's government by addressing a note to the British Secretary of State for Foreign Affairs, reminding him that the letter of Mr. Stevenson to Lord Palmerston remains unanswered, and informing him of the anxious desire of the President that proper means should be taken to prevent the possibility of a recurrence of any like cause of complaint."

Mr. Everett, on the 10th of August of the same year, thus ably and clearly stated his views :\*

"The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honor to transmit to the Earl of Aberdeen, her Majesty's Principal Secretary of State for Foreign Affairs, the accompanying papers relating to the seizure on the 10th of May last, on the coast of Nova Scotia, by an officer of the provincial customs, of the American fishing schooner Washington, of Newburyport, in the State of Massachusetts, for an alleged infraction of the stipulations of the convention of the 20th of October, 1818, between the United States and Great Britain.

"It appears from the deposition of William Bragg, a seaman on board the Washington, that at the time of her seizure she was not within ten miles of the coast of Nova Scotia. By the first article of the convention above alluded to, the United States renounce any liberty heretofore enjoyed or claimed by their inhabitants to take, dry, or cure fish on or within three marine miles of any of the coasts of her Majesty's dominions in America, for which express provision is not made in the said article. This renunciation is the only limitation existing on the right of fishing upon the coasts of her Majesty's dominions in America, secured to the people of the United States by the third article of the treaty of 1783.

"The right, therefore, of fishing on any part of the coast of Nova Scotia, at a greater distance than three miles, is so plain, that it would be difficult to conceive on what ground it could be drawn in question, had not attempts been already made by the provincial authorities of her Majesty's colonies to interfere with its exercise. These attempts have formed the subject of repeated complaints on the part of the government of the United States, as will appear from several notes addressed by the predecessor of the undersigned to Lord Palmerston.

"From the construction attempted to be placed, on former occasions, upon the first article of the treaty of 1818, by the colonial authorities, the undersigned supposes that the 'Washington' was seized because she was found fishing in the Bay of Fundy, and on the ground that the lines within which American vessels are forbidden to fish are to run from headland to headland, and not to follow the shore. It is plain, however, that neither the words nor the spirit of the convention admit of any such construction; nor, it is believed, was it set up by the provincial authorities for several years after the negotiation of that instrument. A glance at the map will show Lord Aberdeen that there is, perhaps, no part of the great extent of the seacoasts of her Majesty's possessions in America in which the right of an American vessel to

fish can be subject to less doubt than that in which the 'Washington' was seized.

"For a full statement of the nature of the complaints which have, from time to time, been made by the government of the United States against the proceedings of the colonial authorities of Great Britain, the undersigned invites the attention of Lord Aberdeen to a note of Mr. Stevenson, addressed to Lord Palmerston on the 27th of March, 1841. The receipt of this note was acknowledged by Lord Palmerston on the 2d of April, and Mr. Stevenson was informed that the subject was referred by his lordship to the Secretary of State for the colonial department.

"On the 28th of the same month Mr. Stevenson was further informed by Lord Palmerston, that he had received a letter from the colonial department, acquainting his lordship that Mr. Stevenson's communication would be forwarded to Lord Falkland, with instructions to inquire into the allegations contained therein, and to furnish a detailed report upon the subject. The undersigned does not find on the files of this legation any further communication from Lord Palmerston in reply to Mr. Stevenson's letter of the 27th March, 1841, and he believes that letter still remains unanswered.

"In reference to the case of the 'Washington,' and those of a similar nature which have formerly occurred, the undersigned cannot but remark upon the impropriety of the conduct of the colonial authorities in undertaking, without directions from her Majesty's government, to set up a new construction of a treaty between the United States and England, and in proceeding to act upon it by the forcible seizure of American vessels.

"Such a summary procedure could only be justified by a case of extreme necessity, and where some grave and impending mischief required to be averted without delay. To proceed to the capture of vessels of a friendly power for taking a few fish within limits alleged to be forbidden, although allowed by the express terms of the treaty, must be regarded as a very objectionable stretch of provincial authority. The case is obviously one for the consideration of the two governments, and in which no disturbance of a right exercised without question for fifty years from the treaty of 1783 ought to be attempted by any subordinate authority. Even her Majesty's government, the undersigned is convinced, would not proceed in such a case to violent measures of suppression without some understanding with the government of the United States, or, in the failure of an attempt to come to an understanding, without due notice given of the course intended to be pursued.

"The undersigned need not urge upon Lord Aberdeen the desirableness of an authoritative intervention on the part of her Majesty's government to put an end to the proceedings complained of. The President of the United States entertains a confident expectation of an early and equitable adjustment of the difficulties which have been now for so long a time under the consideration of her Majesty's government. This expectation is the result of the President's reliance upon the sense of justice of her Majesty's government, and of the fact that from the year 1818, the date of the convention, until some years after the attempts of the provincial authorities to restrict the rights of American

vessels by colonial legislation, a *practical* construction was given to the first article of the convention, in accordance with the obvious purport of its terms, and settling its meaning as understood by the United States.

“The undersigned avails himself of this opportunity to tender to Lord Aberdeen the assurance of his distinguished consideration.”

Lord Aberdeen did not reply to Mr. Everett's letter until the 15th of April, 1844. In his answer of that date, which follows, it will be seen that his lordship declined to enter into a defence of the course adopted by Nova Scotia; and that he confined himself to the seizure of the *Washington*, and to an argument upon the term “bay” as used in the convention. It will be seen, also, that he justified the detention of the *Washington* on the ground, solely, that she “was found fishing within the Bay of Fundy.” He says:\*

“The note which Mr. Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, addressed to the undersigned, her Majesty's Principal Secretary of State for Foreign Affairs, on the 10th of August last, respecting the seizure of the American fishing vessel *Washington*, by the officers of Nova Scotia, having been duly referred to the Colonial Office, and by that office to the governor of Nova Scotia, the undersigned has now the honor to communicate to Mr. Everett the result of those references.

“The complaint which Mr. Everett submits to her Majesty's government is, that, contrary to the express stipulations of the convention concluded on the 20th of October, 1818, between Great Britain and the United States, an American fishing vessel was seized by the British authorities for fishing in the Bay of Fundy, where Mr. Everett affirms that, by the treaty, American vessels have a right to fish, provided they are at a greater distance than three marine miles from the coast.

“Mr. Everett, in submitting this case, does not cite the words of the treaty, but states, in general terms, that by the first article of said treaty the United States renounce any liberty heretofore enjoyed or claimed by their inhabitants, to take, dry, or cure fish, on or within three miles of any of the coasts of any Majesty's dominions in America. Upon reference, however, to the words of the treaty, it will be seen that American vessels have no right to fish, and indeed are expressly debarred from fishing, in any bay on the coast of Nova Scotia.

“The words of the treaty of October, 1818, article 1, run thus: ‘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, [that is, Newfoundland, Labrador, and other parts separate from Nova Scotia:] provided, however, that the American fishermen shall be *admitted to enter* such bays or harbors for the purpose of shelter,’ &c.

“It is thus clearly provided that American fishermen shall not take fish within three marine miles of any bay of Nova Scotia, &c. If the

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\* Executive Document 100, page 122.

treaty was intended to stipulate simply that American fishermen should not take fish within three miles of the coast of Nova Scotia, &c., there was no occasion for using the word 'bay' at all. But the proviso at the end of the article shows that the word 'bay' was used designedly; for it is expressly stated in that proviso, that under certain circumstances the American fishermen may enter *bays*, by which it is evidently meant that they may, under those circumstances, pass the sea-line which forms the entrance of the bay. The undersigned apprehends that this construction will be admitted by Mr. Everett.

"That the *Washington* was found fishing within the Bay of Fundy, is, the undersigned believes, an admitted fact, and she was seized accordingly."

It is possible that the contents of Lord Aberdeen's letter were immediately communicated to Lord Falkland, since the latter, a few weeks after its date, issued a proclamation charging all officers of the customs, the sheriffs, and other officials of Nova Scotia, to be vigilant in enforcing the provision of several recited acts of the imperial and provincial legislatures, and the stipulations of the convention with the United States, relative to illicit fishing within certain distance of the coasts, *bays*, and harbors of British America. Mr. Everett again addressed the British minister on the 25th May, 1844, in a state paper which, for spirit, dignity, and force of argument, is a model.\* It is here inserted entire :

"The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, had the honor duly to receive the note of the 15th of April, addressed to him by the Earl of Aberdeen, her Majesty's Principal Secretary of State for Foreign Affairs, in reply to the note of the undersigned of the 10th of August last, relative to the seizure of the American vessel the *Washington*, for having been found fishing within the limits of the Bay of Fundy.

"The note of the undersigned of the 10th of August last, although its immediate occasion was the seizure of the *Washington*, contained a reference to the correspondence between Mr. Stevenson and Viscount Palmerston on the subject of former complaints of the American government of the manner in which the fishing vessels of the United States had, in several ways, been interfered with by the provincial authorities, in contravention, as is believed, of the treaty of October, 1818, between the two countries. Lord Aberdeen's attention was particularly invited to the fact that no answer as yet had been returned to Mr. Stevenson's note to Lord Palmerston, of 27th March, 1841, the receipt of which, and its reference to the Colonial Department, were announced by a note of Lord Palmerston of the 2d of April. The undersigned further observed that, on the 28th of the same month, Lord Palmerston acquainted Mr. Stevenson that his lordship had been advised from the Colonial Office that 'copies of the papers received from Mr. Stevenson would be furnished to Lord Falkland, with instructions to inquire into the allegations contained therein, and to furnish a detailed report on the subject;' but that there was not found on the files of this legation any further communication from Lord Palmerston on the subject.

“The note of Lord Aberdeen of the 15th of April last is confined exclusively to the case of the *Washington*; and it accordingly becomes the duty of the undersigned again to invite his lordship's attention to the correspondence above referred to between Mr. Stevenson and Lord Palmerston, and to request that inquiry may be made, without unnecessary delay, into all the causes of complaint which have been made by the American government against the improper interference of the British colonial authorities with the fishing vessels of the United States.

“In reference to the case of the *Washington*, Lord Aberdeen, in his note of the 15th of April, justifies her seizure by an armed provincial vessel, on the assumed fact that, as she was found fishing in the Bay of Fundy, she was within the limits from which the fishing vessels of the United States are excluded by the provisions of the convention between the two countries of October, 1818.

“The undersigned had remarked, in his note of the 10th of August last, on the impropriety of the conduct of the colonial authorities in proceeding in reference to a question of construction of a treaty pending between the two countries, to decide the question in their own favor, and in virtue of that decision to order the capture of the vessels of a friendly State. A summary exercise of power of this kind, the undersigned is sure, would never be resorted to by her Majesty's government, except in an extreme case, while a negotiation was in train on the point at issue. Such a procedure, on the part of a local colonial authority, is, of course, highly objectionable, and the undersigned cannot but again invite the attention of Lord Aberdeen to this view of the subject.

“With respect to the main question of the right of American vessels to fish within the acknowledged limits of the Bay of Fundy, it is necessary, for a clear understanding of the case, to go back to the treaty of 1783.

“By this treaty it was provided that the citizens of the United States should be allowed ‘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, Magdalene 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 the said fishermen to dry or cure fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of that ground.’

“These privileges and conditions were in reference to a country of which a considerable portion was then unsettled, likely to be attended with differences of opinion as to what should, in the progress of time, be accounted a settlement from which American fishermen might be excluded. These differences in fact arose, and by the year 1818 the state of things was so far changed that her Majesty's government thought it necessary, in negotiating the convention of that year, entirely to except the province of Nova Scotia from the number of the places which might be frequented by Americans as being in part unsettled, and to provide that

the fishermen of the United States should not pursue their occupation within three miles of the shores, bays, creeks, and harbors of that and other parts of her Majesty's possessions similarly situated. The privilege reserved to American fishermen by the treaty of 1783, of taking fish in all the waters, and drying them on all the unsettled portions of the coast of these possessions, was accordingly, by the convention of 1818, restricted as follows :

“ ‘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 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 sheltering and repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever.’

“The existing doubt as to the construction of the provision arises from the fact that a broad arm of the sea runs up to the northeast, between the provinces of New Brunswick and Nova Scotia. This arm of the sea being commonly called the Bay of Fundy, though not in reality possessing all the characters usually implied by the term ‘bay,’ has of late years been claimed by the provincial authorities of Nova Scotia to be included among ‘the coasts, bays, creeks, and harbors’ forbidden to American fishermen.

“An examination of the map is sufficient to show the doubtful nature of this construction. It was notoriously the object of the article of the treaty in question to put an end to the difficulties which had grown out of the operations of the fishermen from the United States along the coasts and upon the shores of the settled portions of the country, and for that purpose to remove their vessels to a distance not exceeding three miles from the same. In estimating this distance, the undersigned admits it to be the intent of the treaty, as it is itself reasonable, to have regard to the general line of the coast ; and to consider its bays, creeks, and harbors—that is, the indentations usually so accounted—as included within that line. But the undersigned cannot admit it to be reasonable, instead of thus following the general directions of the coast, to draw a line from the southwesternmost point of Nova Scotia to the termination of the northeastern boundary between the United States and New Brunswick, and to consider the arms of the sea which will thus be cut off, and which cannot, on that line, be less than sixty miles wide, as one of the bays on the coast from which American vessels are excluded. By this interpretation the fishermen of the United States would be shut out from the waters distant, not three, but thirty miles from any part of the colonial coast. The undersigned cannot perceive that any assignable object of the restriction imposed by the convention of 1818 on the fishing privilege accorded to the citizens of the United States by the treaty of 1783, requires such a latitude of construction.

“It is obvious that (by the terms of the treaty) the farthest distance to which fishing vessels of the United States are obliged to hold themselves from the colonial coasts and bays, is three miles. But, owing to the peculiar configuration of these coasts, there is a succession of bays indenting the shores both of New Brunswick and Nova Scotia, within the

Bay of Fundy. The vessels of the United States have a general right to approach all the bays in her Majesty's colonial dominions, within any distance not less than three miles—a privilege from the enjoyment of which they will be wholly excluded—in this part of the coast, if the broad arm of the sea which flows up between New Brunswick and Nova Scotia is itself to be considered one of the forbidden bays.

“Lastly—and this consideration seems to put the matter beyond doubt—the construction set up by her Majesty's colonial authorities, would altogether nullify another, and that a most important stipulation of the treaty, about which there is no controversy, viz: the privilege reserved to American fishing vessels of taking shelter and repairing damages in the bays within which they are forbidden to fish. There is, of course, no shelter nor means of repairing damages for a vessel entering the Bay of Fundy, in itself considered. It is necessary, before relief or succor of any kind can be had, to traverse that broad arm of the sea and reach the bays and harbors, properly so called, which indent the coast, and which are no doubt the bays and harbors referred to in the convention of 1818. The privilege of entering the latter in extremity of weather, reserved by the treaty, is of the utmost importance. It enables the fisherman, whose equipage is always very slender, (that of the Washington was four men all told,) to pursue his laborious occupation with comparative safety, in the assurance that in one of the sudden and dangerous changes of weather so frequent and so terrible on this iron-bound coast, he can take shelter in a *neighboring* and friendly port. To forbid him to approach within thirty miles of that port, except for shelter in extremity of weather, is to forbid him to resort there for that purpose. It is keeping him at such a distance at sea as wholly to destroy the value of the privilege expressly reserved.

“In fact it would follow, if the construction contended for by the British colonial authorities were sustained, that two entirely different limitations would exist in reference to the right of shelter reserved to American vessels on the shores of her Majesty's colonial possessions. They would be allowed to fish within three miles of the place of shelter along the greater part of the coast; while in reference to the entire extent of shore within the Bay of Fundy, they would be wholly prohibited from fishing along the coast, and would be kept at a distance of twenty or thirty miles from any place of refuge in case of extremity. There are certainly no obvious principles which render such a construction probable.

“The undersigned flatters himself that these considerations will go far to satisfy Lord Aberdeen of the correctness of the American understanding of the words ‘Bay of Fundy,’ arguing on the terms of the treaties of 1783 and 1818. When it is admitted that, as the undersigned is advised, there has been no attempt till late years to give them any other construction than that for which the American government now contends, the point would seem to be placed beyond doubt.

“Meantime Lord Aberdeen will allow that this is a question, however doubtful, to be settled exclusively by her Majesty's government and that of the United States. No disposition has been evinced by the latter to anticipate the decision of the question; and the undersigned must again represent it to the Earl of Aberdeen as a matter of just complaint

and surprise on the part of his government, that the opposite course has been pursued by her Majesty's colonial authorities, who have proceeded (the undersigned is confident without instructions from London) to capture and detain an American vessel on a construction of the treaty which is a matter of discussion between the two governments, and while the undersigned is actually awaiting a communication on the subject promised to his predecessor.

"This course of conduct, it may be added, objectionable under any circumstances, finds no excuse in any supposed urgency of the case. The Washington was not within three times the limit admitted to be prescribed in reference to the approach of American vessels to all other parts of the coast, and in taking a few fish, out of the abundance which exists in those seas, she certainly was inflicting no injury on the interests of the colonial population which required this summary and violent measure of redress.

"The undersigned trusts that the Earl of Aberdeen, on giving a renewed consideration to the case, will order the restoration of the Washington, if still detained, and direct the colonial authorities to abstain from the further capture of the fishing vessels of the United States under similar circumstances, till it has been decided between the two governments whether the Bay of Fundy is included among 'the coasts, bays, creeks, and harbors,' which American vessels are not permitted to approach within three miles.

"The undersigned requests Lord Aberdeen to accept the assurances of his distinguished consideration."

On the 6th September, 1844, Mr. Calhoun\* (who had succeeded Mr. Upshur as Secretary of State) called the attention of Mr. Everett to the seizure of the American fishing schooner Argus, by the British cutter Sylph, off the coast of Cape Breton. From the representation which accompanied the Secretary's despatch, it appears that the Argus, when captured, was at a distance of "fifteen miles from any land." This was the second case of seizure under the *new* construction of the convention of 1818. Mr. Everett, in presenting the matter to Lord Aberdeen, on the 9th of October of that year, stated† that "The grounds assigned for the capture of this vessel are not stated with great distinctness. They appear to be connected partly by the construction set up by her Majesty's provincial authorities in America, that the line within which vessels of the United States are forbidden to fish is to be drawn from headland to headland, and not to follow the indentations of the coast, and partly with the regulations established by those authorities, in consequence of the annexation of Cape Breton to Nova Scotia." That, "with respect to the former point, the undersigned deems it unnecessary, on this occasion, to add anything to the observations contained in his note to Lord Aberdeen, of the 25th of May, on the subject of limitations of the right secured to American fishing vessels by the treaty of 1783 and the convention of 1818, in reply to the note of his lordship of the 15th of April on the same subject. As far as the capture of the Argus was made under the authority of the act annexing

\* Executive Document 100, page 128.

† Executive Document 100, page 131.

Cape Breton to Nova Scotia, the undersigned would observe that he is under the impression that the question of the legality of that measure is still pending before the judicial committee of her Majesty's privy council. It would be very doubtful whether rights secured to American vessels under public compacts could, under any circumstances, be impaired by acts of subsequent domestic legislation; but to proceed to capture American vessels, in virtue of such acts, while their legality is drawn in question by the home government, seems to be a measure as unjust as it is harsh."

And he remarked, further, that "it is stated by the captain of the 'Argus' that the commander of the Nova Scotia schooner, by which he was captured, said that he was within three miles of the line beyond which, 'on their construction of the treaty, we were a lawful prize, and that he seized us to settle the question.'

"The undersigned again feels it his duty, on behalf of his government, formally to protest against an act of this description. American vessels of trifling size, and pursuing a branch of industry of the most harmless description, which, however beneficial to themselves, occasions no detriment to others, instead of being turned off the debatable fishing ground—a remedy fully adequate to the alleged evil—are proceeded against as if engaged in the most undoubted infractions of municipal law or the law of nations, captured and sent into port, their crews deprived of their clothing and personal effects, and the vessels subjected to a mode of procedure in the courts which amounts in many cases to confiscation; and this is done to settle the construction of a treaty.

"A course so violent and unnecessarily harsh would be regarded by any government as a just cause of complaint against any other with whom it might differ in the construction of a national compact. But when it is considered that these are the acts of a provincial government, with whom that of the United States has and can have no intercourse, and that they continue and are repeated while the United States and Great Britain, the only parties to the treaty, the purport of whose provisions is called in question, are amicably discussing the matter, with every wish, on both sides, to bring it to a reasonable settlement, Lord Aberdeen will perceive that it becomes a subject of complaint of the most serious kind.

"As such, the undersigned is instructed again to bring it to Lord Aberdeen's notice, and to express the confident hope that such measures of redress as the urgency of the case requires will, at the instance of his lordship, be promptly resorted to."

The events of 1845 were highly interesting and important. The colonists had, apparently, accomplished their long-cherished plans. The opinion of the crown lawyers in 1841; the declaration of Lord Stanley in 1842, that our government "*practically acquiesced*" in the *new* construction of the convention; and the capture of the Washington in 1843, for an infringement of that construction, and for no other offence whatever, were all calculated to impress them with the belief that the contest was at an end. Such, I confess, was the inclination of my own mind. My home was on the frontier; I was a dealer in the products of the sea, and was in the daily transaction of business with fishermen of New Brunswick and Nova Scotia, and was well advised of

the measures which were adopted by the colonists, from time to time, to induce the ministry at home to sustain their pretensions. The zeal which was manifested by those who managed the British side of the case, and the seeming apathy of the American press and the American people; the rumors from the Government House at Halifax, and the want of all information from the White House at Washington, gave rise to much alarm. Official silence on our part was at last broken; and such of our citizens as were engaged in the fisheries, or were otherwise involved in the issue of the controversy, were astounded, in June, at the following paragraph which appeared in the "Union," a newspaper supposed to enjoy the confidence of our government, and said, in the popular sentiment, to be its "organ." "We are gratified," said that paper, "to be now enabled to state, that a despatch has been recently received at the Department of State from Mr. Everett, our minister at London, with which he transmits a note from Lord Aberdeen, containing the satisfactory intelligence that, after a reconsideration of the subject, although the Queen's government adhere to the construction of the convention which they have always maintained, they have still come to the determination of relaxing from it, so far as to allow American fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach—except in the cases specified in the treaty of 1818—within three miles of the *entrance* of any bay on the coast of Nova Scotia or New Brunswick.

"This is an important concession, not merely as removing an occasion of frequent and unpleasant disagreement between the two governments, but as reopening to our citizens those valuable fishing grounds within the Bay of Fundy which they enjoyed before the war of 1812, but from which, as the British government has since maintained, they were excluded by the convention of 1818."

The assertion, from *such* a source, that the British government had "*always maintained*" the construction of the convention contended for in the "case" submitted to the crown lawyers by Lord Falkland, in 1841; the annunciation that our vessels were no longer to fish "*within three miles of the ENTRANCE of any bay on the coast of Nova Scotia or New Brunswick,*" the Bay of Fundy alone excepted; the further declaration that the fishing grounds of that bay "enjoyed before the war of 1812," and lost to us by that event, were now "reopened" to us by "an important concession"—excited the liveliest sensibility, and were regarded in the fishing towns of Maine and Massachusetts with dismay. The colonists had pushed their claims so secretly and so adroitly, that the crowning acts of their policy were hardly known to our countrymen who resorted to their seas; and the fact that the Bay of Fundy was in *dispute*, was first ascertained by many of them on the seizure of the "Washington" for fishing there. It was expected that some more definite annunciation would be made, or that the correspondence between Mr. Everett and the British government, which preceded and led to the "concession," would follow the article just quoted from the "Union;" but the precise terms of the arrangement of 1845 were never stated, either in that paper or elsewhere, and the citizens whose property was exposed to capture by British cruisers and colonial cutters were left to pursue their business in apprehension and doubt. Under these circum-

stances, the writer of this report assumed the task of attempting to impress the public mind with the probable state of affairs. He wrote for the periodical and for the newspaper press; he addressed letters to persons interested in enterprises to the British colonial seas, and to persons in official employments; he continued his labors, in various other ways, for quite a year: he was unsupported, and abandoned the design finally in despair.

The American people remained in ignorance of the tenor of the correspondence referred to above until August, 1852, when it was embraced in the documents submitted by the President to the Senate, in answer to a resolution of that body.\* Lord Aberdeen's letter of March 10, 1845,† consenting to admit our fishermen into the Bay of Fundy, "*as the concession of a privilege,*" and in relaxation of the new construction of the convention, and Mr. Everett's reply, of the 25th of the same month,‡ accepting the same as the continuation of "a right" always enjoyed, and never impaired, are properly inserted in this connexion. The letter of our minister, it is to be observed, was among his last official acts, as he was recalled almost immediately after communicating to our government the conditions which, in opposition to the remonstrances of the colonists, and the alleged "practical acquiescence" of our own cabinet in the opinion of the crown lawyers, he had been able to secure; it closed the correspondence. In ability, it is in no respect inferior to his letter of May 25th, 1844, already copied, and is among the most valuable state papers in our archives, inasmuch as it is the only one which we can cite to show our dissent to the British claim to the Bay of Fundy, "*as a bay within the meaning of the treaty of 1818.*"

His lordship said:

"The undersigned, her Majesty's Principal Secretary of State for Foreign Affairs, duly referred to the colonial department the note which Mr. Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, did him the honor to address to him on the 25th of May last, respecting the case of the 'Washington,' fishing vessel, and on the general question of the right of United States fishermen to pursue their calling in the Bay of Fundy; and having shortly since received the answer of that department, the undersigned is now enabled to make a reply to Mr. Everett's communication, which he trusts will be found satisfactory.

"In acquitting himself of this duty, the undersigned will not think it necessary to enter into a lengthened argument in reply to the observations which have at different times been submitted to her Majesty's government by Mr. Stevenson and Mr. Everett, on the subject of the right of fishing in the Bay of Fundy, as claimed in behalf of the United States citizens. The undersigned will confine himself to stating that after the most deliberate reconsideration of the subject, and with every desire to do full justice to the United States, and to view the claims put forward on behalf of United States citizens in the most favorable light, her Majesty's government are nevertheless still constrained to deny the right of United States citizens, under the treaty of 1818, to fish in that part of the Bay of Fundy which, from its geographical

\* Ex. Doc. 100.

† Ex. Doc. 100, p. 135.

‡ Ex. Doc. 100, p. 136.

position, may properly be considered as included within the British possessions.

“Her Majesty’s government must still maintain—and in this view they are fortified by high legal authority—that the Bay of Fundy is rightfully claimed by Great Britain, as a bay within the meaning of the treaty of 1818. And they equally maintain the position which was laid down in the note of the undersigned, dated the 15th of April last, that, with regard to the other bays on the British American coasts, no United States fisherman has, under that convention, the right to fish within three miles of the *entrance* of such bays as designated by a line drawn from headland to headland at that entrance.

“But while her Majesty’s government still feel themselves bound to maintain these positions as a matter of right, they are nevertheless not insensible to the advantages which would accrue to both countries from a relaxation of the exercise of that right; to the United States as conferring a material benefit on their fishing trade; and to Great Britain and the United States, conjointly and equally, by the removal of a fertile source of disagreement between them.

“Her Majesty’s government are also anxious, at the same time that they uphold the just claims of the British crown, to evince by every reasonable concession their desire to act liberally and amicably towards the United States.

“The undersigned has accordingly much pleasure in announcing to Mr. Everett the determination to which her Majesty’s government have come, to relax in favor of the United States fishermen that right which Great Britain has hitherto exercised, of excluding those fishermen from the British portion of the Bay of Fundy, and they are prepared to direct their colonial authorities to allow henceforward the United States fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach, except in the cases specified in the treaty of 1818, within three miles of the *entrance* of any bay on the coast of Nova Scotia or New Brunswick.

“In thus communicating to Mr. Everett the liberal intentions of her Majesty’s government, the undersigned desires to call Mr. Everett’s attention to the fact that the produce of the labor of the British colonial fishermen is at the present moment excluded by prohibitory duties on the part of the United States from the markets of that country; and the undersigned would submit to Mr. Everett that the moment at which the British government are making a liberal concession to United States trade, might well be deemed favorable for a counter concession on the part of the United States to British trade, by the reduction of the duties which operate so prejudicially to the interest of the British colonial fishermen.

“The undersigned has the honor to renew to Mr. Everett the assurances of his high consideration.”

Mr. Everett rejoined:

“The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honor to acknowledge the receipt of a note of the 10th instant from the Earl of Aberdeen, her Majesty’s Principal Secretary of State for Foreign Affairs, in reply to

the communication of the undersigned of the 15th of May last, on the case of the 'Washington,' and the construction given by the government of the United States to the convention of 1818, relative to the right of fishing on the coasts of Nova Scotia and New Brunswick.

"Lord Aberdeen acquaints the undersigned, that, after the most deliberate reconsideration of the subject, and with every desire to do full justice to the United States and to view the claims put forward on behalf of their citizens in the most favorable light, her Majesty's government are nevertheless still constrained to deny the right of citizens of the United States, under the treaty of 1818, to fish in that part of the Bay of Fundy which from its geographical position may properly be considered as included within the British possessions; and also to maintain that, with regard to the other bays on the British American coasts, no United States fisherman has, under that convention, the right to fish within three miles of the *entrance* of such bay, as designated by a line drawn from headland to headland at that entrance.

"Lord Aberdeen, however, informs the undersigned that, although continuing to maintain these positions as a matter of right, her Majesty's government are not insensible to the advantages which might accrue to both countries from a relaxation in its exercise; that they are anxious, while upholding the just claims of the British crown, to evince by every reasonable concession their desire to act liberally and amicably towards the United States; and that her Majesty's government have accordingly come to the determination 'to relax in favor of the United States fishermen the right which Great Britain has hitherto exercised of excluding those fishermen from the British portion of the Bay of Fundy, and are prepared to direct their colonial authorities to allow, henceforward, the United States fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach, except in the cases specified in the treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick.'

"The undersigned receives with great satisfaction this communication from Lord Aberdeen, which promises the permanent removal of a fruitful cause of disagreement between the two countries, in reference to a valuable portion of the fisheries in question. The government of the United States, the undersigned is persuaded, will duly appreciate the friendly motives which have led to the determination on the part of her Majesty's government announced in Lord Aberdeen's note, and which he doubts not will have the natural effect of acts of liberality between powerful states, of producing benefits to both parties, beyond any immediate interest which may be favorably affected.

"While he desires, however, without reserve, to express his sense of the amicable disposition evinced by her Majesty's government on this occasion in relaxing in favor of the United States the exercise of what, after deliberate consideration, fortified by high legal authority, is deemed an unquestioned right of her Majesty's government, the undersigned would be unfaithful to his duty did he omit to remark to Lord Aberdeen that no arguments have at any time been adduced to shake the confidence of the government of the United States in their own construction of the treaty. While they have ever been prepared

to admit, that in the letter of one expression of that instrument there is some reason for claiming a right to exclude United States fishermen from the Bay of Fundy, (it being difficult to deny to that arm of the sea the name of 'bay,' which long geographical usage has assigned to it,) they have ever strenuously maintained that it is only on their own construction of the entire article that its known design in reference to the regulation of the fisheries admits of being carried into effect.

"The undersigned does not make this observation for the sake of detracting from the liberality evinced by her Majesty's government in relaxing from what they regard as their right; but it would be placing his own government in a false position to accept as mere favor that for which they have so long and strenuously contended as due to them under the convention.

"It becomes the more necessary to make this observation, in consequence of some doubt as to the extent of the proposed relaxation. Lord Aberdeen, after stating that her Majesty's government felt themselves constrained to adhere to the right of excluding the United States fishermen from the Bay of Fundy, and also with regard to other bays on the British American coasts, to maintain the position that no United States fisherman has, under that convention, the right to fish within three miles of the *entrance* of such bays, as designated by a line drawn from headland to headland at that entrance, adds, that 'while her Majesty's government still feel themselves bound to maintain these positions as a matter of right, they are not insensible to the advantages which would accrue to both countries from the relaxation of that right.'

"This form of expression might seem to indicate that the relaxation proposed had reference to both positions; but when Lord Aberdeen proceeds to state more particularly its nature and extent, he confines it to a permission to be granted to 'the United States fishermen to pursue their avocations in any part of the Bay of Fundy, provided they do not approach, except in the cases specified in the treaty of 1818, within three miles of the *entrance* of any bay on the coast of Nova Scotia and New Brunswick,' which entrance is defined, in another part of Lord Aberdeen's note, as being designated by a line drawn from headland to headland.

"In the case of the 'Washington,' which formed the subject of the note of the undersigned of the 25th May, 1844, to which the present communication of Lord Aberdeen is a reply, the capture complained of was in the waters of the Bay of Fundy: the principal portion of the argument of the undersigned was addressed to that part of the subject; and he is certainly under the impression that it is the point of greatest interest in the discussions which have been hitherto carried on between the two governments, in reference to the United States' right of fishery on the Anglo-American coasts.

"In the case, however, of the 'Argus,' which was treated in the note of the undersigned of the 9th of October, the capture was in the waters which wash the northeastern coast of Cape Breton, a portion of the Atlantic ocean intercepted indeed between a straight line drawn from Cape North to the northern head of Cow bay, but possessing none of the characters of a bay, (far less so than the Bay of Fundy,) and not called a 'bay' on any map which the undersigned has seen.

The aforesaid line is a degree of latitude in length; and as far as reliance can be placed on the only maps (English ones) in the possession of the undersigned on which this coast is distinctly laid down, it would exclude vessels from fishing grounds which might be thirty miles from the shore.

“Lord Aberdeen, in his note of the 10th instant, on the case of the ‘Argus,’ observes that, ‘as the point of the construction of the convention of 1818, in reference to the right of fishing in the Anglo-American dependencies by citizens of the United States, is treated in another note of the undersigned of this date, relative to the case of the ‘Washington,’ the undersigned abstains from again touching on that subject.’

“This expression taken by itself, would seem to authorize the expectation that the waters where these two vessels respectively were captured would be held subject to the same principles, whether of restriction or relaxation, as indeed all the considerations which occur to the undersigned as having probably led her Majesty’s government to the relaxation in reference to the Bay of Fundy exist in full and even superior force in reference to the waters on the northeastern coast of Cape Breton, where the ‘Argus’ was seized. But if her Majesty’s provincial authorities are permitted to regard as a ‘bay,’ any portion of the sea which can be cut off by a direct line connecting two points of the coast, however destitute in other respects of the character usually implied by that name, not only will the waters on the northeastern coast of Cape Breton, but on many other parts of the shores of the Anglo-American dependencies, where such exclusion has not yet been thought of, be prohibited to American fishermen. In fact, the waters which wash the entire southeastern coast of Nova Scotia, from Cape Sable to Cape Canso, a distance on a straight line of rather less than three hundred miles, would in this way constitute a bay, from which United States fishermen would be excluded.

“The undersigned, however, forbears to dwell on this subject, being far from certain, on a comparison of all that is said in the two notes of Lord Aberdeen of the 10th instant, as to the relaxation proposed by her Majesty’s government, that it is not intended to embrace the waters of the northeastern coasts of Cape Breton, as well as the Bay of Fundy.

“Lord Aberdeen, towards the close of the note in which the purpose of her Majesty’s government is communicated, invites the attention of the undersigned to the fact that British colonial fish is, at the present time, excluded by prohibitory duties from the markets of the United States, and suggests that the moment at which the British government are making a liberal concession to United States trade, might be deemed favorable for a counter concession on the part of the United States to British trade, by the reduction of duties which operate so prejudicially to the interests of British colonial fishermen.

“The undersigned is of course without instructions which enable him to make any definite reply to this suggestion. It is no doubt true that the British colonial fish, as far as duties are concerned, enters the United States market, if at all, to some disadvantage. The government of the United States, he is persuaded, would gladly make any reduction in these duties which would not seriously injure the native fishermen; but Lord Aberdeen is aware that the encouragement of this class of

the seafaring community has ever been considered, as well in the United States as Great Britain, as resting on peculiar grounds of expediency. It is the great school not only of the commercial but of the public marine, and the highest considerations of national policy require it to be fostered.

“The British colonial fishermen possess considerable advantages over those of the United States. The remoter fisheries of Newfoundland and Labrador are considerably more accessible to the colonial than to the United States fishermen. The fishing grounds on the coasts of New Brunswick and Nova Scotia, abounding in cod, mackerel and herring, lie at the doors of the former; he is therefore able to pursue his avocation in a smaller class of vessels, and requires a smaller outfit; he is able to use the net and the seine to great advantage in the small bays and inlets along the coast, from which the fishermen of the United States, under any construction of the treaty, are excluded. All, or nearly all the materials of ship-building, timber, iron, cordage and canvass, are cheaper in the colonies than in the United States, as are salt, hooks and lines. There is also great advantage enjoyed in the former in reference to the supply of bait and curing the fish. These, and other causes, have enabled the colonial fishermen to drive those of the United States out of many foreign markets, and might do so at home but for the protection afforded by the duties.

“It may be added that the highest duty on the kinds of fish that would be sent to the American market is less than a half-penny per pound, which cannot do more than counterbalance the numerous advantages possessed by the colonial fishermen.

“The undersigned supposes, though he has no particular information to that effect, that equal or higher duties exist in the colonies on the importation of fish from the United States.

“The undersigned requests the Earl of Aberdeen to accept the assurance of his high consideration.”

At the date of these letters, Mr. Everett seems to have believed that “the negotiation was in the most favorable state for a full and satisfactory adjustment” of every question in dispute. This is evident from his despatch of April 23d, 1845, to Mr. Buchanan,\* who had succeeded Mr. Calhoun as Secretary of State, and from other sources which are equally authentic. The opening of the Bay of Fundy, considered in itself alone, “though nominally confirming the interpretation of the treaty which the colonial authorities had set up, was,” in fact, “a practical abandonment of it;” and we have the highest assurance that the British government “contemplated the further extension of the same policy by the adoption of a general regulation that American fishermen should be allowed freely to enter *all* bays of which the mouths were more than six miles wide.” This intention was communicated to Lord Falkland by Lord Stanley in a despatch of May 19, 1845. The former, in his reply, dated June 17, requested that, as the plan had reference to matters deeply affecting the interests of Nova

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\* Executive Document 100, page 152.

Scotia, and involved so many considerations to the elucidation of which local knowledge and information were essentially necessary, the negotiation might be suspended until he should have an opportunity of addressing the colonial secretary again. In a second despatch, written on the 2d of July, Lord Falkland observed that in previous communications he had very fully explained the reasons why he should deeply lament any relaxation of the construction of the treaty which would admit of the American fishing vessels carrying on their operations within three miles of a line drawn from headland to headland of the various bays on the coast of Nova Scotia, and that he did not then retract the opinions he had expressed on these occasions. He said, further, that, as much technical knowledge and verbal accuracy were required in treating the subject, he had directed the attorney general of the colony to prepare a report, which he enclosed, and to which he desired Lord Stanley's particular attention; and he remarked, in conclusion, that "he was convinced such relaxation of the treaty of 1818, as was apparently contemplated by Lord Aberdeen, would, if carried into effect, produce very deep-rooted dissatisfaction both in his own colony and in New Brunswick, and cause much injury to a very large and valuable class of her Majesty's subjects." A copy of the report of the Hon. J. W. Johnston, referred to by Lord Falkland, follows. American readers will fail to find the "technical knowledge and verbal accuracy" indicated by his lordship; while, if they will turn to the arguments of Mr. Everett, to which it replies, they will also find that the positions of our minister are neither fairly met nor essentially weakened. It may be admitted that some points are stated with force and with fairness. But this document adds nothing to the reputation of the attorney general, who is justly considered to be an able man; for it is deficient in learning, upon the matters in controversy, deficient in "accuracy," in the statements of facts relative to the course and character of our fishermen, and in its tone and spirit hardly more to be admired than the common accounts of "American aggressions" which appear in the colonial newspapers.

Under date of June 16, 1845, Mr. Johnston says:

"MY LORD: Agreeably to your excellency's desire, I have the honor to report such suggestions as appear to arise from the despatch of the Right Hon. the Secretary of State for the colonies, dated 10th May last, and the correspondence accompanying it of the United States minister at London and her Majesty's government, on the subject of the fisheries on the coasts of her Majesty's North American provinces.

"The concession of a right to fish in the Bay of Fundy has been followed by the anticipated consequence, the demand for more extended surrenders, based upon what has been already gained; and it is to be feared that the relaxations now contemplated, if carried into effect, will practically amount to an unrestricted license to American fishermen.

"When their right to fish within the larger bays, or at the mouths of the smaller inlets, shall be established, the ease with which they may run into the shores—whether to fish, or for obtaining bait, or for drawing off the shoals of fish, or for smuggling—and the facility of escape

before detection, notwithstanding every guard which it is within the means of the province to employ, will render very difficult the attempt to prevent violations of the remaining restrictions, while, in the case of *seizures*, the means of evasion and excuse, which experience has shown to be, under any circumstances, abundantly ready, will be much enlarged.

“An instance has just occurred which illustrates this apprehension, and confirms the observations to the same effect contained in the report I had the honor to make to your excellency on the 17th September last, on the same subject.

“An American fisherman, on the 5th of this month, was seized in the Bay of Fundy, at anchor ‘*inside* of the light-house at the entrance of Digby Gut,’ about a quarter of a mile from the shore, his nets lying on the deck, still wet, and with the scales of herrings attached to the meshes, and having fresh herrings on board his vessel. The excuse sworn to is, that rough weather had made a harbor necessary; that the nets were wet from being recently washed; but that the fish were caught while the vessel was beyond three miles from the shore.

“Hence, too, will be extended and aggravated all the mischiefs to our fisheries from the means used by the Americans in fishing, as by jigging—drawing seines across the mouths of the rivers—and other expedients; from the practice of drawing the shoals from the shores, by bating; and, above all, from their still more pernicious habit of throwing the garbage upon the fishing-grounds and along the shores.

“Every facility afforded the American fisherman to hold frequent, easy, and comparatively safe intercourse with the shores, extends another evil, perhaps more serious in its results—the illicit traffic carried on under the cover of fishing—in which not only the revenue is defrauded, and the fair dealer discountenanced, but the coasts and remote harbors are filled with noxious and useless articles, as the poisonous rum and gin and manufactured teas, of which already too much is introduced into the country, in exchange for the money and fish of the settlers; and from this intercourse, when habitual and established from year to year, the moral and political sentiments of our population cannot but sustain injury.

“In the argument of the American minister his excellency appears to assume that the question turns on the force of the word ‘*bay*,’ and the peculiar expression of the treaty in connexion with that word; but although it was obviously the clear intention of its framers to keep the American fishermen at a distance of three marine miles from the ‘*bays, creeks, and harbors*,’ there does not, therefore, arise any just reason to exclude the word *coasts*, used in the same connexion in the treaty, from its legitimate force and meaning; and if it be an admitted rule of general law that the outline of a coast is to be defined, not by its indentations, but by a line extending from its principal headlands, then waters, although not known under the designation, nor having the general form of a bay, may yet be within the exclusion designed by the treaty.

“His excellency the American minister complains of the ‘*essential injustice*’ of the law of this province under which the fisheries are at-

tempted to be guarded, and is pleased to declare that it '*possesses none of the qualities of the law of civilized states but its forms.*'

"His excellency, in using this language, possibly supposed that the colonial act had attempted to give a construction to the treaty of 1818, or had originated the penalty and mode of confiscation which he deprecates. But had his excellency examined the act of the province he has so strongly stigmatized, he would have discovered that, as regards the limits within which foreign fishermen are restricted from fishing, the colonial legislature has used but the words of the treaty itself, and a comparison of the provincial act with an act of the imperial Parliament, the 59 George III, ch. 38, would have shown him that, as regards the description of the offence, the confiscation of the vessel and cargo, and the mode of proceeding, the legislature of Nova Scotia has, in effect, only declared what was already, and still is, the law of the realm *under imperial enactments.*

"Mr. Everett adverts to what he considers '*the extremely objectionable character of the course pursued by the provincial authorities in presuming to decide for themselves a question under discussion between the two governments.*'

"But it is submitted, that if the American government controverted the construction given to the treaty, the course pursued on the part of Nova Scotia, which made confiscation dependent on a judicial trial and decision, was neither presumptuous nor inexpedient; nor could the necessity of security for £60, or the risk of costs, in case of failure, offer any serious impediment to the defence in a matter which, as Mr. Everett declares, the government of the United States deems of great national importance.

"Upon the other hand, if the American fishermen could only seek a relaxation of the construction given to the treaty in England and Nova Scotia, as a matter of *favor*, '*presumption*' would rather seem to lie on that side which insisted on enjoying the privilege *before* the boon was conferred.

"In any view of the matter, as the American fisherman was never meddled with until he had *voluntarily* passed the controverted limit, it is difficult to comprehend why the American minister's proposition would not stand *reversed* with more propriety than it exhibits in its present form; for his excellency's regret might not unreasonably, it would seem, have been expressed at '*the extremely objectionable course pursued by American subjects in presuming to decide for themselves a question under discussion between the two governments,*' by fishing upon the disputed grounds, and thereby reducing the provincial authorities to the necessity of vindicating their claim or seeing it trampled on, before any sanction had been obtained, either of legal decision or diplomatic arrangement.

"When Mr. Everett says that the necessity of fostering the interests of their fishermen rests on the highest ground of national policy, he expresses the sentiment felt in Nova Scotia as regards the provincial welfare in connexion with this subject. The Americans are fortunate in seeing the principle carried into practice; for the encouragement afforded their fishermen by the government of the United States is not small, and its strenuous, persevering, and successful efforts to extend

their fishing privileges on her Majesty's coasts but too practically evince its desire and ability to promote this element of national and individual prosperity. As far as I can learn, a liberal tonnage bounty is given on their fishing craft, besides a bounty per barrel on the pickled fish—thus guarding the fisherman against serious loss, in case of the failure of his voyage; and he is, I believe, further favored by privileges allowed on the importation of salt and other articles, while a market is secured him at home which insures a profitable reward for the fruit of his labor by a protecting duty of five shillings per quintal on dry fish, equal to fifty per cent. of its value, and from one to two dollars per barrel on pickled fish, according to the different kinds, equal to at least twenty per cent. of their values.

“The duty on American fish imported into the colonies is much less, and the British colonial fisherman is unsustained by bounties; but the chief drawback to his success is the want of certain and staple markets, those on which he is principally dependent being very limited and fluctuating.

“In the contrast, therefore, drawn by Mr. Everett, between the advantages of the colonial and American fisherman, the extensive home-markets of the latter, independently of the encouragement he receives from bounties and other sources, much more than compensates, I believe, for any local conveniences enjoyed by the former.

“The colonists cannot understand the principle on which *concession*, in any form, should be granted to the American people in a case avowedly ‘*touching the highest grounds of national policy*,’ even although concession did not involve consequences, as it unhappily does in the present case, both immediate and remote, most injurious to colonial interests.

“The strong and emphatic language of the treaty of 1818 is, that the United States ‘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 and 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.’

“If this national contract does not exclude the Americans from fishing within the *indentations* of our coasts and from our *bays and harbors*, the people of Nova Scotia, while it remained in force, could not complain of the exercise of the right.

“But we believe the treaty does exclude them, and we but ask a judicial inquiry and determination before these valuable privileges are relinquished: the highest law opinions in England have justified our belief—her Majesty's government, in theory, avows and maintains it.

“The compact, too, was in its nature reciprocal; and had the treaty, in this particular, been (as it was not) hard upon the United States,

there may doubtless be found, in other parts of it, stipulations at least equally unfriendly to British interests.

“I repeat, my lord, we cannot understand *why the Americans should not be held to their bargain*; nor can we perceive the principle of justice or prudence which would relax its terms in favor of a foreign people whose means and advantages already preponderate so greatly, and that, too, without reciprocal concessions, and at the expense of her Majesty’s colonial subjects, whose prosperity is deeply involved in the protection and enlargement of this important element of their welfare.

“If the present concessions to the United States are hoped to end and quiet the controversy between their fishermen and this province, there is too much reason to fear the expectation will end in disappointment. From the greater encouragement that will be given for violation of the treaty, under the modified conditions suggested to be imposed on the American fishermen, and from the multiplied facilities for evasion and falsehood, increased and not diminished occasions of collision can only be expected; and it may safely be asserted, from a knowledge of the subject and of the parties, that, unless the British government are content to maintain the strict construction of the treaty, as a mere question of past contract and settled right, whatever that construction may be, the encroachment of the American fishermen will not cease, nor disputes end, until they have acquired unrestricted license over the whole shores of Nova Scotia.

“It is hoped, my lord, that if an arrangement such as is contemplated should unhappily be made, its terms may clearly express that the American fishermen are to be excluded from fishing within three miles of the *entrance* of the bays, creeks, and inlets, into which they are *not* to be permitted to come.

“Some doubt on this point rests on the language of Lord Stanley’s despatch, and the making the criterion of the restricted bays, creeks, and inlets to be the width of the double of three marine miles, would strengthen the doubt by raising a presumption that the shores of these bays, &c., and the shores of the general coast, were to be considered in the same light and treated on the same footing.

“To avoid such a construction, no less than to abridge the threatened evil, the suggestion made to your lordship by Mr. Stewart that at least this width should be more than the double of three marine miles—say three or four times more—ought, I think, to be strongly enforced.

“I have the honor to be, your lordship’s most obedient servant,

“J. W. JOHNSTON.

“To the Right Hon. His Excellency

“VISCOUNT FALKLAND, *Lieut. Governor, &c., &c., &c.*”

Meantime New Brunswick was as active to prevent the measures under consideration of the British ministry as her sister colony of Nova Scotia. The Hon. Charles Simonds, speaker of the House of Assembly, and a gentleman of great wealth and of high consideration in colonial circles, was deputed by the council of the first named possession of the crown to attend to its interests, and to remonstrate against further “concessions.” On his arrival in England he met the Hon.

George R. Young, a distinguished personage of Nova Scotia, who was anxious to join him in behalf of his own colony. The Gaspè Fishing and Mining Company selected an agent to act with them, and the three gentlemen waited upon a member of the Board of Trade, to whom they communicated their views of the case.

Interviews with several other functionaries followed; and, finally, they met Lord Stanley, the secretary for the colonies, to whom Mr. Simonds, as the only one who was officially authorized to address his lordship, made "a strong representation" of the injurious consequences certainly to result to her Majesty's American subjects, were the negotiations with Mr. Everett to be concluded on the basis proposed. The secretary assured him, in reply, that "nothing should be done to injure the colonies;" and Mr. Simonds, after his return to New Brunswick, stated his entire confidence in the effect of his "representations" to change the designs entertained by the ministry.

The liberal policy towards the United States, known to have had the positive sanction of the first minister of the crown, (the late Sir Robert Peel,) which was designed to remove all reasonable complaints on our part, was abandoned. It was defeated by the means here stated, and by memorials to the Queen, from merchants and others in New Brunswick and Nova Scotia, which we need not specially mention. Tidings of success soon reached the gratified colonists. On the 17th of September, 1845, Lord Stanley thus wrote to Lord Falkland:

"Her Majesty's government have attentively considered the representations contained in your despatches Nos. 324 and 331, of the 17th of June and 2d of July, respecting the policy of granting permission to the fisheries of the United States to fish in the Bay of Chaleurs, and other large bays of a similar character on the coasts 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 had entertained on the subject, and shall 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 in so far as they may relate to the Bay of Fundy, which has been thrown open to the North Americans under certain restrictions.

"In announcing this decision to you, I must, at the same time, direct your attention to the absolute necessity of a scrupulous observance of those treaties on the part of the colonial authorities, and to the danger which cannot fail to arise from any overstrained assumption of the power of excluding the fishermen of the United States from the waters in which they have a right to follow their pursuits."

It is possible that, had our government seconded the efforts of our minister at the Court of St. James, and had instructed him, in positive and earnest terms, that the pretensions and claims of the colonists, which were at last adopted by the British government, had not been, and never would be, admitted as a just and proper commentary on the convention of 1818, the despatch from which the preceding extract is made would never have been written; and that of consequence the excitement and difficulties of 1852 would never have occurred. As it

was, the children of the "tories" triumphed over the children of the "whigs" of the Revolution.

The events of 1846, and of the three succeeding years, will not detain us but a moment. The seizure and total loss of several American vessels, and the renewed efforts of the Nova Scotia House of Assembly to close the Strait of Canso, for reasons stated in three annual reports of committees of that body, are the most important, and all which we need notice.

As we open upon the occurrences of 1851 we are met with a *fourth* report on the very *humane* and favorite plan of closing Canso, which, for reasons presently to appear, should be preserved in these pages.

"The committee appointed to consider the question of the navigation by foreign vessels of the Gut of Canso, beg leave to report as follows:

"The question submitted to your committee involves the consideration, first, of the right of the legislature of this province to impose restrictions or obstructions upon foreign vessels wishing the use of the passage; and secondly, the policy of imposing any, and what, restrictions or obstructions. Your committee, in the consideration of the first point, are aided materially by the action of a committee of this house in the year 1842, who prepared a series of questions which were submitted by Lord Falkland to the colonial secretary, and by him to the law officers of the crown in England, upon the general subject of the rights of fishery as reserved to this country by the treaty with the United States in the year 1818, and also respecting the navigation of the Gut of Canso. As the consideration of your committee has been solely directed to the latter point, it is unnecessary to advert to the issues raised upon the other points. The investigation is, therefore, confined to the fourth question submitted—that is to say, Have vessels of the United States of America, fitted out for the fishery, a right to pass through the Gut or Strait of Canso, which they cannot do without coming within the prescribed limits, or to anchor there or to fish there; and is casting bait to lure fish in the track of the vessel, fishing within the meaning of the convention?

"This question, with the others, was suggested by the consideration of a remonstrance from Mr. Stevenson, then United States minister in England, dated 27th of March, 1841, addressed to Lord Palmerston, then and now Foreign Secretary, against the seizure of fishing vessels belonging to citizens of the United States for alleged breaches of the terms of the convention of 1818, a copy of which was forwarded to Lord Falkland, then lieutenant-governor of this province, and submitted by him to the legislature of 1842. This note contains the following observations in respect to the navigation of the Gut of Canso: 'It may be proper, also, on this occasion to bring to the notice of her Majesty's government the assertion of the provincial legislature, that "the Gut or Strait of Canso is a narrow strip of water, completely within and dividing several counties of the province," and that the use of it by the vessels and citizens of the United States is in violation of the treaty of 1818. This strait separates Nova Scotia from the island of Cape Breton, which was not annexed to the province until the year 1820. Prior to that, in 1818, Cape Breton was enjoying a government of its own, distinct from Nova Scotia, the strait forming the line of demarca-

tion between them; and being then, as now, a thoroughfare for vessels passing into and out of the Gulf of St. Lawrence. The union of the two colonies cannot, therefore, be admitted as vesting in the province the right to close a passage which has been freely and indisputably used by the citizens of the United States since the year 1783. It is impossible, moreover, to conceive how the use on the part of the United States of the right of passage, common, it is believed, to all nations, can in any manner conflict with the letter or spirit of the existing treaty stipulations.'

'The questions having been previously forwarded by Lord Falkland to Lord John Russell, Lord Falkland, on the 8th of May, 1841, addressed to Lord John Russell a very able despatch on the general subject of the fisheries, in which previous provincial legislation was satisfactorily vindicated from charges made by Mr. Stevenson for the seizure, improperly, of American fishing vessels; and clearly showed that the provincial legislation was founded upon and sustained by previous imperial acts upon the same subject; and which despatch most completely silenced any further complaints of a like nature. This despatch also refers to the navigation of the Gut of Canso, upon which Lord Falkland therein remarks, in answer to Mr. Stevenson, 'Her Majesty's exclusive property and dominion in the Strait of Canso is deemed maintainable upon the principles of international law already referred to, and which it is considered will equally apply, whether the shore on each side form part of the same province, or of different provinces belonging to her Majesty. This strait is very narrow, not exceeding, in some parts, one mile in breadth, as may be seen on the admiralty chart; and its navigation is not necessary for communication with the space beyond, which may be reached by going round the island of Cape Breton.'

'Lord Falkland again says: 'I have now, I trust, established, that if the interpretation put upon the treaty by the inhabitants of Nova Scotia is an incorrect one, they are sincere in their belief of the justice and interpretation, and most anxious to have it tested by capable authorities; and further, that if the laws passed by the provincial legislature are really of the oppressive nature they are asserted to be by Mr. Stevenson, they were enacted in the belief that the framers of them were doing nothing more than carrying out the views of the home government as to the mode in which the colonists should protect their own dearest interests. I enclose a copy of the proclamation containing the act of the 6th William IV, of which Mr. Stevenson complains; and any alteration in its provisions, should such be deemed necessary, may be made early in the next session of the provincial Parliament.

'The opinion of the Queen's advocate and her Majesty's attorney general on the case drawn up by Lord Falkland, and upon the questions submitted by the committee, was enclosed by Lord Stanley to Lord Falkland, accompanied by a despatch dated the 28th of November, 1842. The opinion of the law officers of the crown, sustained as it was by the British government, upon the point now under discussion, is as follows: 'By the convention of 1818, it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence, and within certain defined limits, in common with British subjects, and

such convention does not contain any words negating the right to navigate the passage of the Gut of Canso, and therefore it may be conceded that such right of navigation is not taken away by that convention; but we have attentively considered the course of navigation to the gulf by Cape Breton, and likewise the capacity and situation of the passage of Canso, and of the British dominions on either side, and we are of opinion that, independently of treaty, no foreign country has the right to use or navigate the passage of Canso, and attending to the liberty of fishery to be enjoyed by American citizens. We are also of opinion that the convention did not, either expressly or by necessary implication, concede any such right of using or navigating the passage in question.

“The opinion of the British government, resting upon that of the law officers of the crown, is, therefore, clearly expressed to the head of the government of this province, for his direction and guidance, and that of the legislature. The case is decided after a full examination of the arguments on both sides. Mr. Stevenson complains of the exercise of the right asserted by the government here to control the ‘passage of Canso.’ Lord Falkland submitted his views, as well as those of the committee, in opposition to those of Mr. Stevenson; and the decision is unequivocally against the American claim. It will be observed that Mr. Stevenson rests his opposition to the right claimed principally upon the fact that the island of Cape Breton was a distinct colony at the time of the convention of 1818; and hence argues that the province of Nova Scotia, not having then the *sole* right to the waters of the Gut of Canso, could not now claim to exercise an unlimited control. Admitting that such did *not* then exist, it is clear that if a common right is enjoyed solely by two parties, their union would give complete control; and it may be fairly contended that Nova Scotia and Cape Breton, being now under one government, possess the same powers united as they did before the union, as respects third parties; and that the effect of the union only operates to prevent antagonistic action relatively between them. The law officers of the crown, however, take higher ground, and insist, first, that no foreign power has any such right as that contended for by Mr. Stevenson, unless conveyed by treaty; and, secondly, that no such right is conferred by the treaty of 1818 to American citizens. Having such high authority in favor of the existing control of the navigation of the passage in question, it might be considered as conclusively settled; but as this exclusive right is contested on the part of the American government, the opinion of the late Chancellor Kent, an American jurist of the highest standing, in favor of the exercise of that right, as given in a chapter of his celebrated Legal Commentaries upon the Law of Nations, is of peculiar value and importance. That distinguished lawyer, in the work just mentioned, treating at large upon this subject, says:

“It is difficult to draw any precise or determinate conclusion amidst the variety of opinions as to the distance to which a State may lawfully extend its exclusive dominion over the sea adjoining its territories, and beyond those portions of the sea which are embraced by harbors, gulfs, bays, and estuaries, and over which its jurisdiction unquestionably extends. All that can be reasonably asserted is, that the dominion

of the sovereign of the shore over the contiguous sea extends as far as is requisite for his safety and for some lawful end. A more extended dominion must rest entirely upon force and maritime supremacy. According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach, and no farther, and this is generally calculated to be a marine league; and the Congress of the United States have recognised this limitation by authorizing the district courts to take cognizance of all captures made within a marine league of the American shores. The executive authority of this country, in 1793, considered the whole of Delaware bay to be within our territorial jurisdiction, and it rested its claim upon those authorities which admit that gulfs, channels, and arms of the sea belong to the people with whose land they are encompassed. It was intimated that the law of nations would justify the United States in attaching to their coasts an extent into the sea beyond the reach of cannon-shot. Considering the great extent of the line of the American coasts, we have a right to claim for fiscal and defensive regulations a liberal extension of maritime jurisdiction; and it would not be unreasonable, as I apprehend, to assume, for domestic purposes connected with our safety and welfare, the control of the waters on our coast, though included within lines stretching from quite distant headlands, as, for instance, from Cape Ann to Cape Cod, and from Nantucket to Montauk point, and from that point to the capes of the Delaware, and from the south cape of Florida to the Mississippi. It is certain that our government would be disposed to view with some uneasiness and sensibility, in the case of war between other maritime powers, the use of the waters of our coast far beyond the reach of cannon-shot as cruising ground for belligerent purposes. In 1793, our government thought they were entitled, in reason, to as broad a margin of protected navigation as any nation whatever, though at that time they did not positively insist beyond the distance of a marine league from the sea shores; and in 1806 our government thought it would not be unreasonable, considering the extent of the United States, the shoalness of their coast, and the natural indication furnished by the well-defined path of the Gulf stream, to except an immunity from belligerent warfare for the space between that limit and the American shore.

“From the foregoing extract it will be observed that Chancellor Kent agrees with the principles put forth by the law officers of the crown, and which justify the conclusion ‘that no foreign power, independently of treaty, has any right to navigate the passage of Canso.’ Having thus, by the highest legal authorities of England and the United States, been borne out in the assumption that no foreign power has any such right, the next inquiry is, as to where the power of controlling the passage of Canso exists. By the act of 1820, Cape Breton was annexed to Nova Scotia, and has since that period formed a part of this province, which for nearly a century has enjoyed a representative form of government, and which, in making laws, is only controlled by the operation of imperial statutes and the veto of the crown. The right to make laws to affect navigation, except the registry of ships, has been enjoyed and acted upon by this legislature. Various laws have also been enacted making regulations for setting nets, and in other respects for regulating

the fisheries in our bays and creeks. Statutes have also been passed here, and assented to in England, for collecting light duties in the Gut of Canso, and American and other foreign, and also British and colonial vessels, have been brought within the operation of those statutes. The right, therefore, to legislate in respect of the fisheries and in respect of the navigation of the Gut of Canso, has not only been confirmed in England, but has been acknowledged in America in the payment of light duties.

“The legislature of Nova Scotia may, therefore, be fairly said to have the right to pass enactments either to restrict or obstruct the passage of foreign vessels through the Gut of Canso.

“The second point, as to the policy of imposing *further* restriction upon foreign vessels passing through the Gut of Canso, is yet to be considered.

“In the consideration of that question, the treaty of 1818 affords the best means of arriving at a sound conclusion. The American government, by it, relinquish all right of fishery within three marine miles of the coasts, bays, creeks, or harbors of this province; and under the construction put upon that clause in England, upon the same principle of international law as is acknowledged and insisted upon by the American government, the American citizens, under the treaty, have no right, for the purpose of fishery, to enter any part of the Bay of St. George lying between the headlands formed by Cape George on the one side and Port Hood island on the other. American fishermen, therefore, when entering that bay for fishing purposes, are clearly violating the terms of the treaty. It may be said that the Gut of Canso affords a more direct and easy passage to places in the Gulf of St. Lawrence, where American fishermen would be within the terms of the treaty; but that is no good reason why this legislature should permit them to use that passage, when their doing so is attended with almost disastrous consequences to our own fishermen. Were there no other means of getting upon the fishing grounds, in the produce of which they are entitled to participate, the Americans might then assert a right of way, from necessity, through the Gut of Canso. When that necessity does not exist, it would be unwise any longer to permit American fishing vessels to pass through the Gut of Canso, for the following, among many other reasons that could be given, if necessary: In the month of October, the net and seine fishery of mackerel in the Bay of St. George is most important to the people of that part of the country, and requires at the hands of the legislature every legitimate protection. Up to this period American fishermen, using the passage of the Gut of Canso, go from it into St. George's bay, and not only throw out bait to lure the fish from the shores where they are usually caught by our own fishermen, but actually fish in all parts of that bay, even within one mile of the shores. It is also a notorious fact that the American fishing vessels in that bay annually destroy the nets of the fishermen by sailing through them, and every year in that way do injury to a great extent—and this upon ground which they have no right to tread. Remonstrances have therefore been made to the American government against such conduct; but the answer has invariably been, to protect ourselves in that respect. Had the United States government adopted suitable measures to prevent its citizens from trespassing as before mentioned,

it would not be necessary for this legislature to put any restrictions upon their use of the passage in question; but as the onus has been thrown upon this legislature, it is clearly its duty to adopt the most efficient and least expensive means of protection. If the privilege of passage is exercised through the Gut of Canso and the bay in question, it is next to impossible to prevent encroachments and trespasses upon our fishing grounds by American citizens, as it would require an expensive coast-guard by night and day to effect that object, and then only partial success would result. It would be unreasonable to tax the people of this country to protect a right which should not be invaded by foreigners, and which can only be invaded and encroached upon by our permitting foreigners to use a passage to which they are not entitled. Without, therefore, any desire unnecessarily to hamper American citizens in the enjoyment of that to which they are justly entitled, your committee consider it their imperative duty to recommend such measures for the adoption of the House as will in the most effectual way protect the true interests of this country. The outlay necessarily required to watch properly the operations of foreign fishing vessels in the Bay of St. George, so as to prevent encroachments, amounts to a prohibition of its being accomplished; and it therefore becomes indispensable that such vessels be prohibited from passage *through* the Gut of Canso. The strait will always be, to vessels of all classes, a place of refuge in a storm, and American fishing vessels will be entitled to the use of it as a harbor for the several purposes mentioned in the treaty. It can be visited for all those purposes without a passage through being permitted; and your committee therefore recommend that an act be passed authorizing the governor, by and with the advice of his executive council, by proclamation, either to impose a tax upon foreign fishing vessels for such amount as may be provided in the act, or to prohibit the use of such passage altogether."

It is of consequence to remark, that, as far as there is evidence before the public, the fisheries were not once mentioned by Mr. McLane, (who succeeded Mr. Everett,) in his correspondence with the British government, during his mission. Nothing, in fact, seems to have passed between the two cabinets relative to the subject for more than six years, though England retraced no step after opening the Bay of Fundy. Our public documents do show, however, that, between the years 1847 and 1851, overtures were made to our government for "a free interchange of all natural productions" of the United States and of the British American colonies with each other, either by treaty stipulations or by legislation. In the first-mentioned year, Canada passed an act embracing this object, which was to become operative whenever the United States should adopt a similar measure. A bill to meet the act of Canada was introduced into Congress, and pressed by its friends, for three successive sessions, but failed to become a law. That the people of Canada were "disappointed," is a fact officially communicated to Mr. Webster, Secretary of State, by Sir Henry Bulwer, the British minister. It is not impossible that the existence of this feeling will sufficiently explain why the Canadian government became a party to the following agreement, which was signed at Toronto, on the 21st of June, 1851, at a meeting of colonial delegates, by the

president of the executive council of Canada and the Hon. Joseph Howe,\* secretary of Nova Scotia:

“Mr. Howe having called the attention of his excellency and the council to the importance and value of the gulf fisheries, upon which foreigners largely trespass, in violation of treaty stipulations, and Mr. Chandler having submitted a report of a select committee of the House of Assembly of New Brunswick, having reference to the same subject, the government of Canada determines to co-operate with Nova Scotia in the efficient protection of the fisheries, by providing either a steamer or two or more sailing vessels to cruise in the Gulf of St. Lawrence and along the coasts of Labrador.

“It is understood that Nova Scotia will continue to employ at least two vessels in the same service, and that Mr. Chandler will urge upon the government of New Brunswick the importance of making provision for at least one vessel to be employed for the protection of the fisheries in the Bay of Fundy.”

Canadian fishermen are by no means numerous; and the zeal thus manifested to aid Nova Scotia in preventing the “violation of treaty stipulations” could hardly have been awakened by the misdeeds of “foreigners” on the fishing grounds of the “gulf.” The motive is to be sought elsewhere. Just three days after the date of the above agreement, the British minister† addressed a note to Mr. Webster, in which the previous propositions on the subject of reciprocal trade between the United States and the British colonies are discussed at some length, and the overture for an arrangement is renewed. He enclosed an official communication from Lord Elgin, the governor general, and other papers, which gave details of the plan as then entertained. This plan embraced no concessions with regard to “the fisheries in estuaries and in the mouths of rivers,” and suggested no changes on the coast or banks of Newfoundland; but, on condition that the United States would admit “all fish, either cured or fresh, imported from the British North American possessions in vessels of any nation or description, free of duty, and upon terms, in all respects, of equality with fish imported by citizens of the United States,” her Majesty’s government were prepared “to throw open to the fishermen of the United States the fisheries in the waters of the British North American colonies, with permission to those fishermen to land on the coasts of those colonies for the purpose of drying their nets and curing their fish, provided that, in so doing, they do not interfere with the owners of private property or with the operations of British fishermen.”

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\* This gentleman is of loyalist descent. John Howe, his father, was a citizen of Boston, and published there the “Massachusetts Gazette and Boston News Letter,” a paper which, in the revolutionary controversy, took the side of the crown. At the evacuation of that town by the royal army, he accompanied it to Halifax, where he resumed business, became king’s printer, and died at a good old age in 1835. His son, mentioned in the text, was educated a printer, and conducted a newspaper for several years. As the acknowledged leader of the “liberals” of Nova Scotia, he possessed great influence; but as a member of Lord Falkland’s coalition cabinet, lost popularity with his party. His letters to Lord John Russell, in 1846, evince great ability, but contain demands on the home government which are irreconcilable with colonial dependence. These papers show that the Hon. Secretary is somewhat familiar with the writings of the “rebels” of his father’s time, and that what was treason *then*, and with *them*, is entirely right *now*, and with the descendants of their opponents.

† Documents accompanying President’s message, December, 1851, part I, pp. 89, 90.

Her Majesty's minister desired Mr. Webster to inform him whether our government was disposed to enter upon negotiations and conclude a convention, on the terms suggested, or whether, preferring legislation, an urgent recommendation would be made to Congress, at the earliest opportunity. The President declined to negotiate; but in his annual message, December, 1851, he said: "Your attention is again invited to the question of reciprocal trade between the United States and Canada and other British possessions near our frontier. Overtures for a convention upon this subject have been received from her Britannic Majesty's minister plenipotentiary, but it seems to be in many respects preferable that the matter should be regulated *by reciprocal legislation*. Documents are laid before you, showing the terms which the British government is willing to offer, and the *measures which it may adopt, if some arrangement upon this subject shall not be made.*"

Months passed away; "Congress did nothing, said nothing, thought nothing on the subject,"\* and the parties to the Toronto agreement became impatient. In March, 1852, the committee on the fisheries of Nova Scotia, in a report to the House of Assembly, unanimously recommended a sufficient sum to be placed at the disposal of the executive of the colony, to employ four fast-sailing vessels during the fishing season, with authority to seize all foreign vessels found employed within the prescribed limits; and they recommended, also, the adoption of measures to enlist the aid of the home government, and secure the co-operation of naval steam-vessels. This plan was substantially executed by the Assembly. The government of Canada promptly followed, and a vessel to cruise in the Gulf of St. Lawrence was ready for sea early in May. New Brunswick was tardy, but the authorities of that colony were reminded of their duty by the newspaper press, and finally fitted out two vessels. Prince Edward Island furnished one vessel, and Newfoundland, though not included in the arrangements at Toronto, joined the movement. In June, the colonists received assurances from Sir John Packington, the secretary for the colonies, that "among the many pressing subjects which have engaged the attention of her Majesty's ministers since their assumption of office, few have been more important, in their estimation, than the questions relating to the protection solicited for the fisheries on the coasts of British North America;" and that "her Majesty's ministers are desirous to remove all grounds of complaint on the part of the colonies, in consequence of the encroachments of the fishing vessels of the United States upon those waters, from which they are excluded by the terms of the convention of 1818; and they therefore intend to despatch, as soon as possible, a small naval force of steamers, or other small vessels, to enforce the observance of that convention."

The controversy was now rapidly approaching a crisis. As was subsequently said by a distinguished statesman,† "this whole matter is to be explained as a stroke of policy. It may be a dangerous step to be taken by the British government, and the colonies may be

\* Speech of Hon. W. H. Seward in the Senate of the United States, August 14, 1852.

† Hon. John Davis, of Massachusetts—speech in the Senate United States, August, 1852

playing a game which will not advance materially the interests they have in view."

On the 5th of July, Mr. Crampton, the successor of Sir Henry Bulwer, announced to the President, in a note addressed to the Secretary of State, that he had "been directed by her Majesty's government to bring to the knowledge of the government of the United States a measure which has been adopted by her Majesty's government to prevent a repetition of the complaints which have so frequently been made of the encroachments of vessels belonging to citizens of the United States and of France, upon the fishing-grounds reserved to Great Britain by the convention of 1818.

"Urgent representations having been addressed to her Majesty's government by the governors of the British North American provinces, in regard to these encroachments, whereby the colonial fisheries are most seriously prejudiced, directions have been given by the lords of her Majesty's admiralty for stationing off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing vessels and steamers as shall be deemed sufficient to prevent the infraction of the treaty. It is the command of the Queen, that the officers employed upon this service should be especially enjoined to avoid all interference with the vessels of friendly powers, *except where they are in the act of violating the treaty*, and on all occasions to avoid giving ground of complaint by the adoption of harsh or unnecessary proceedings, when circumstances compel their arrest or seizure."

Mr. Webster, in a paper dated at the Department of State, on the following day, and published in the Boston Courier of the 19th of July, after citing various documents which refer to the policy of the administration of Lord John Russell, and to that of his successor, the Earl of Derby, touching the colonial fisheries, quotes from another document, that "The vessels-of-war mentioned in the above circular despatches are expected to be upon the coasts of British North America during the present month, (July) when, no doubt, seizures will begin to be made of American fishing vessels, which in the autumn pursue their business in indents of the coast, from which it is contended they are excluded by the convention of 1818.

"Meantime, and within the last ten days, an American fishing vessel called the 'Coral,' belonging to Machias, in Maine, has been seized in the Bay of Fundy, near Grand Menan, by the officer commanding her Majesty's cutter 'Netley,' already arrived in that bay, for an alleged infraction of the fishing convention; and the fishing vessel has been carried to the port of St. John, New Brunswick, where proceedings have been taken in the admiralty court, with a view to her condemnation and absolute forfeiture.

"Besides the small naval force to be sent out by the imperial government, the colonies are bestirring themselves also for the protection of their fisheries. Canada has fitted out an armed vessel, to be stationed in the gulf; and this vessel has proceeded to the fishing-grounds, having on board not only a naval commander and crew, with power to seize vessels within limits, but also a stipendiary magistrate and civil police, to make prisoners of all who are found transgressing the laws of Canada, in order to their being committed to jail, in that colony, for trial.

“The colony of Newfoundland has fitted out an armed vessel for the purpose of resisting the encroachments of French fishing vessels on the coast of Labrador; but when ready to sail from her port, the governor of that colony, acting under imperial instructions, refused to give the commander of this colonial vessel the necessary authority for making prize of French vessels found trespassing. This is an extraordinary circumstance, especially when taken in connexion with the fact that the like authority to seize *American* fishing vessels, under similar circumstances, has never been refused to the cruisers of any of the North American colonies.

“The colony of Nova Scotia has now four armed cruisers, well manned, on its coasts, ready to pounce upon any American vessels who may, accidentally or otherwise, be found fishing within the limits defined by the crown officers of England.

“New Brunswick has agreed with Canada and Nova Scotia to place a cutter in the Bay of Fundy to look after American fishermen there; and at Prince Edward Island, her Majesty’s steam-frigate ‘Devastation’ has been placed, under the instructions of the governor of that colony.”

Mr. Webster then recites the first article of the convention of 1818, and concludes in the following terms:

“It would appear that by a strict and rigid construction of this article, fishing vessels of the United States are precluded from entering into the bays or harbors of the British provinces, except for the purposes of shelter, repairing damages, and obtaining wood and water. A bay, as is usually understood, is an arm or recess of the sea, entering from the ocean between capes or headlands; and the term is applied equally to small and large tracts of water thus situated. It is common to speak of Hudson’s Bay, or the Bay of Biscay, although they are very large tracts of water.

“The British authorities insist that England has a right to draw a line from headland to headland, and to capture all American fishermen who may follow their pursuits inside of that line. It was undoubtedly an oversight in the convention of 1818 to make so large a concession to England, since the United States had usually considered that those vast inlets or recesses of the ocean ought to be open to American fishermen, as freely as the sea itself, to within three marine miles of the shore.

“In 1841, the legislature of Nova Scotia prepared a case for the consideration of the advocate general and attorney general of England, upon the true construction of this article of the convention. The opinion delivered by these officers of the crown was, ‘That by the terms of the convention, American citizens were excluded from any right of fishing within three miles from the coast of British America, and that *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 bays or indents 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 fishing, 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*

*the land we have before mentioned, including the interior of the bays and the indents of the coast.'*

"It is this construction of the intent and meaning of the convention of 1818 for which the colonies have contended since 1841, and which they have desired should be enforced. This the English government has now, it would appear, consented to do, and the immediate effect will be the loss of the valuable fall fishing to American fishermen; a complete interruption of the extensive fishing business of New England, attended by constant collisions of the most unpleasant and exciting character, which may end in the destruction of human life, in the involvement of the government in questions of a very serious nature, threatening the peace of the two countries. Not agreeing that the construction thus put upon the treaty is conformable to the intentions of the contracting parties, this information is, however, made public to the end that those concerned in the American fisheries may perceive how the case at present stands, and be upon their guard. The whole subject will engage the immediate attention of the government.

"DANIEL WEBSTER,  
"Secretary of State."

This paper attracted immediate and universal attention. On the 23d of July Mr. Mason, chairman of the Committee on Foreign Relations, offered a resolution in the Senate of the United States, requesting the President to communicate to that body, "if not incompatible with the public interest, all correspondence on file in the executive department, with the government of England or the diplomatic representative, since the convention between the United States and Great Britain of October 20, 1818, touching the fisheries on the coast of British possessions in North America, and the rights of citizens of the United States engaged in such fisheries secured by the said convention; and that the President be also requested to inform the Senate whether any of the naval forces of the United States have been ordered to the seas adjacent to the British possessions of North America, to protect the rights of American fishermen, under the convention, since the receipt of the intelligence that a large and unusual British naval force has been ordered there to enforce certain alleged rights of Great Britain under said convention."

This resolution was agreed to unanimously. The debate which preceded its passage was highly animated. Mr. Mason is reported to have said, that "he had thought it his duty, considering the present aspect of affairs, so far as they are communicated to us by the public journals, to submit this resolution, and ask that it be considered immediately. We are informed, (he said,) unofficially, but yet in a manner clearly indicating that it is correct, that the British government has recently asserted rights under the convention of 1818 in relation to the fisheries of the North, which, whether they exist or not, they suffered from 1818 to 1841; and when the question was moved as to the respective rights of British subjects and American citizens under the treaty of 1818, they still suffered to remain *in statu quo*. The British government knew well that very large and important interests are embarked by citizens of the United

States by these fisheries. They knew that the harbors, coasts, and seas of their possessions in North America swarm, at stated seasons of the year—and this, as he was informed, was one of these reasons—with these fishing vessels. Yet suddenly, without notice of any kind, we are informed from the public journals, and semi-officially by a sort of proclamation from the Secretary of State, that a very large British naval force has been ordered into these seas for the purpose of enforcing, at the mouth of the cannon, the construction which Great Britain has determined to place on that convention.”

Mr. Mason said: “I had supposed, in this civilized age and between two such countries as Great Britain and the United States, that were it the purpose of England to revive her construction of the convention and require that it should be enforced, ordinary national courtesy would have required that notice should have been given of that determination on the part of Great Britain. But, sir, when no such notice is given—when, on the contrary, the first information which reaches us is that Great Britain has ordered into these seas a large naval force for the purpose of enforcing this alleged right, I know not in what light it may strike senators; for it strikes me as a far higher offence than a breach of national courtesy—as one of insult and indignity to the whole American people. This morning, in the first paper I took up, from the North, I see extracted from one of the British colonial newspapers, printed at St. John, New Brunswick, a formal statement of the actual naval forces ordered by Great Britain into those seas. It consists of the Cumberland, a seventy-gun ship, commanded by Sir G. F. Seymour, who, I believe, is a British admiral, commanding on the West Indian station; and then follows an enumeration of steam-vessels, sloops-of-war, and schooners, and the entire number, nineteen, ordered to rendezvous there, and with the utmost despatch. For what purpose?

“To enforce at once, and without notice to this government, so far as I am informed; and yet we have some information through the quasi proclamation of the Secretary of State, at the mouth of the cannon, of the construction which the British government places on that convention. I do not know what view has been taken by the President of this extraordinary movement; but I think I do know what the American people would demand of the Executive, under such circumstances. If there be official or satisfactory information to the Executive that this extraordinary naval armament has been ordered by Great Britain into the North American seas, for the purpose of executing instantly the construction which Great Britain places on the convention, I say the American people will demand of their Executive that all the force of the home squadron shall be ordered there instantly, to protect American fishermen. Sir, we have been told by the poet who most deeply read the human heart, that

‘From the nettle danger  
We pluck the flower safely.’

And if I may be told there is danger of collision, I would answer at once, there is no danger; but if there were, it becomes the Executive immediately to resent that which can only be looked on as an indignity and

insult to the nation. I have no fears, Mr. President, that war is to follow the apparent collision which has taken place between the two governments. I confess I feel deeply the indignity that has been put upon the American people in the ordering of the British squadron into those seas without notice; and if I read the feelings of our people aright, they will demand that a like force shall be instantly sent there in order that the rights of our people may be protected.

“Sir, I do not profess the power to construe the purposes on the part of the British government. I was very much impressed by a despatch which I saw in one of the late papers, but which unfortunately I have not at hand. Within the last few days a despatch has been received from the foreign office of Great Britain to the colonial office, advising it of this movement, and advising that it was one requiring celerity and despatch, and requiring that measures should be taken by the colonial office to procure concert between the British naval forces and the colonial authorities. The reason assigned was, that this measure was taken on the part of Great Britain as preliminary to certain negotiations. Now, what does this mean? I know not what these negotiations are; but if it means anything, it means that we are to negotiate under *duress*.

“Aye, sir, at this day this great people, covering a continent numbering thirty millions, are to negotiate with a foreign fleet on our coast. I know not what the President has done, but I claim to know what the American people expect of him. I know that if he has done his duty, the reply to this resolution of inquiry will be—I have ordered the whole naval force of the country into those seas, to protect the rights of American fishermen against British cruisers! I hope it will be the pleasure of the Senate to consider the resolution immediately.”

Several senators followed Mr. Mason, and spoke in similar terms.

“Mr. Hamlin agreed to every word uttered by the chairman of the Committee on Foreign Relations, and he was grateful to the senator for having introduced the resolution. What the object of the British armament sent to the fishing shores was, he could not say; but that it had some ulterior object, was certain. It had been whispered that it was connected with certain negotiations with respect to a reciprocity trade with the colonies. If this were so, it was nothing more nor less than to compel the United States to legislate under *duress*, and to this he, for one, was unwilling to submit.

“Mr. Cass gave his full concurrence to all that had fallen from Mr. Mason, and he heartily approved of the resolution. He was gratified at hearing that senator’s remarks, which were equally statesmanlike and patriotic. He had never before heard of such proceeding as that now adopted by England. No matter what the object of the force was, there was one thing certain—the American people would not submit to surrender their rights. This treaty was now over thirty years old, and it recognised clearly the right of Americans to fish within three miles of any shore. This had been conceded for thirty years. If there was any doubt about it, it could be settled by negotiations.

“Mr. Pratt said this appeared to him more likely to result in war than did the late difficulty. The English government has decided upon a treaty construction. England don’t want to negotiate, for she has sent

a large force to execute her construction of the treaty. Americans are to be expelled from rights which they have enjoyed for thirty years, under what their government has at all times and now declares to be the proper construction of the treaty. Ought not a force to be sent there to protect them in those rights which this treaty has declared to be theirs? Certainly there ought.

“Mr. Davis said, by the newspapers it would appear that the Secretary of State and the British minister, who had gone to Boston, were now consulting on this matter, and he thought, from this fact, that there was little apprehension but that the matter would be settled amicably. He had no difficulty at arriving at the object of the movement. The senator from Maine, he thought, had touched the key to the whole. He would not hesitate to act on a bill proposing a proper and suitable principle of reciprocity.

“Mr. Seward would vote with pleasure for the resolution. It was limited to two objections: to obtain information as to diplomatic correspondence on the subject, and whether any naval force had been sent to the seas where the difficulty had arisen. The importance of these fisheries was conceded by all, and no one State was more interested in them than another. It was well known that any attempt to drive our fishermen from these fisheries would involve the whole country in a blaze of war, in which case his State would be deeply interested.

“Mr. Rusk said that if the object of that naval force by Great Britain was to bring about a reciprocity of trade, no matter how favorably he ought to look on such a proposition otherwise, he would never give it his assent under the *duress* of British cannon. He thought the domineering spirit of England ought to be met promptly.”

On the 25th of July, and two days after the resolution passed the Senate, the Secretary of State was publicly received at his family home, Marshfield, Massachusetts. In the course of his reply to an address by the Hon. Seth Sprague, he is reported to have spoken in reference “to recent occurrences, threatening disturbances to this country, on account of the fisheries,” in these words:

“It would not become me to say much on that subject, until I speak officially, and under direction of the head of the government. And then I *shall* speak. In the mean time, be assured that that interest will not be neglected by *this administration*, under any circumstances. The fishermen shall be protected in all their rights of property, and in all their rights of occupation. To use a Marblehead phrase, they shall be protected ‘hook and line, and bob and sinker.’ And why should they not? They are a vast number who are employed in that branch of naval enterprise. Many of the people of our own town are engaged in that vocation. There are among you some, who, perhaps, have been on the Grand Bank for forty successive years. There they have hung on to the ropes, in storm and wreck. The most important consequences are involved in this matter. Our fisheries have been the very nurseries of our navy. If our flag-ships have met and conquered the enemy on the sea, the fisheries are at the bottom of it. The fisheries were the seeds from which these glorious triumphs were born and sprung.

“Now, gentlemen, I may venture to say one or two things more on this highly important subject. In the first place, this sudden interrup-

tion of the pursuits of our citizens, which had been carried on more than thirty years, without interruption or molestation, can hardly be justified by any principle or consideration whatever. It is now more than thirty years that they have pursued the fisheries in the same waters and on the same coast, in which, and along which, notice has now come that they shall be no longer allowed these privileges. Now, such a thing cannot be justified without previous notice having been given. A mere indulgence of long continuance, even if the privilege were *but* an indulgence, cannot be withdrawn at this season of the year, when our people, according to the custom, have engaged in the business, without notice—without just and seasonable notice.

“I cannot but think the late despatches from the colonial office had not attracted, to a sufficient degree, the attention of the principal minister of the crown; for I see matter in them quite inconsistent with the arrangement made in 1845 by the Earl of Aberdeen and Edward Everett. At that time, the Earl of Derby, the present first minister, was colonial secretary. It could not well have taken place without his knowledge, and, in fact, without his concurrence and sanction. I cannot but think, therefore, that its being overlooked is an inadvertence.

“The treaty of 1818 was made with the crown of England. If a fishing vessel is captured by one of her vessels of war, and carried to a British port for adjudication, the crown of England is answerable; and then we know whom we have to deal with. But it is not to be expected that the United States will submit their rights to be adjudicated upon in the petty tribunals of the *provinces*; or that we shall allow our vessels to be seized on by constables, or other petty officers, and condemned by the municipal courts of Quebec and Newfoundland, New Brunswick or Canada. No, no, no! (Great cheering.)

“Further than this, gentlemen, I do not think it expedient to remark upon this topic at present. But you may be assured, it is a subject upon which no one sleeps at Washington. I regret that the state of my health caused my absence from Washington when the news came of this sudden change in the interpretation of the treaties.”

The President answered the resolution of the Senate on the 5th of August, and, in transmitting the documents\* requested by that body, he observed that the steam-frigate *Mississippi*, Commodore M. C. Perry, had been despatched to the coasts of the British possessions “for the purpose of protecting the rights of American fishermen under the convention of 1818.” These documents were speedily published. Many of them are of great value. Soon after their publication, debates upon the subject of the fisheries were renewed. Our limits allow us to notice the speech of Mr. Seward alone, delivered on the 14th of August.

He is supposed to have expressed the views of the government, or to have made authorized explanations, upon several important points which he discussed. To correct whatever misapprehension existed relative to the British naval force on the fishing grounds, he said:

“Let us now see what force it is that has been sent into the field of the dispute. There is the *Buzzard*, a steamer of six guns, and the *Bermuda*, a schooner of three guns, sent to the straits of Belleisle and on

the coast of Newfoundland, where we have an unquestioned right of fishing, and where there is no controversy. Then there is the Devastation, a steamer of six guns; the Arrow and the Telegraph, of one gun each; and the Netley, of two guns, in the Gulf of St. Lawrence: making in the whole seven vessels, with a total of 31 guns, sent by the imperial government into these waters. If you add to this force the flag-ship of Vice Admiral Seymour, (the Cumberland,) with seventy guns, there are, altogether, one hundred and one guns. This is the naval force which has been sent into the northeastern seas.

“Now, I desire the Senate to take notice what force was there *before* this great naval force was sent. Last year there was the flag-ship, the Cumberland, commanded by the same Sir Charles Seymour, with seventy guns; a frigate of twenty-six guns; two sloops of sixteen guns; and one steamer of six guns: making in the whole sixty-four guns, without the Cumberland; and, including the Cumberland, one hundred and thirty-four guns.

“Then this mighty naval demonstration which has so excited the Senate and roused its indignation, and brought down its censure upon the administration, consists in a reduction of the naval force which Great Britain had in these waters a year ago from one hundred and thirty-four to one hundred and one guns. What the British government has done has been to withdraw some large steamers, because they were not so useful in accomplishing the objects designed, or because they would be more useful elsewhere, and to substitute in their place a large number of inferior vessels—either more efficient there, or less useful elsewhere.”

He added: “The Senate will understand me. I do not say that this is the whole force which is in those waters. There is an increase, I think, on the whole, which is furnished by small vessels of the different provinces—Canada having sent two or three, Nova Scotia three or four, and Prince Edward Island, I think, one. But the question I am upon, and the real question now is, what the imperial government has done; and so I say the British government has reduced the number of guns employed.”\*

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\* The Halifax Chronicle, in July, published the following:

“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	.....	Captain Seymour.
Sappho	12	..... sloop	Com. Cochrane.
Devastation †	6	..... steam sloop	Com. Campbell.
Buzzard	6	..... steam sloop	Com. _____
Janus †	4	..... steam sloop	Lieutenant _____
Netley	3	..... ketch	Com. Kynaston.
Bermuda	3	..... schooner	Lieutenant Jolly.
Arrow		..... brigantine	_____
Telegraph		..... schooner	_____
Halifax	2	..... brigantine	Master Laybold.
Belle	2	..... brigantine	Master Crowell.
Responsible	2	..... schooner	Master Dodd.
Daring	2	..... schooner	Master Daly.

“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

\* Flag, Sir G. F. Seymour.

† 300 horse power.

‡ 220 horse power.

In reply to strictures upon the course of the Secretary of State, Mr. Seward remarked: "The President, it seems, took pains to obtain information informally, and he caused it to be published, in a notice issued by the Secretary of State, and dated at the Department of State July 6, 1852, and which has been called here the 'proclamation' of the Secretary.

"The Senate will see that the Secretary of State set forth such unofficial information (and all the information was unofficial) as had been obtained, and stated the popular inference then prevalent, saying that the imperial government 'appeared' now to be willing to adopt the construction of the convention insisted on by the colonies. Inferring, from circumstances, the hazards and dangers which would arise, he set forth the case precisely as it seemed to stand. He adverted to the question understood as likely to be put in issue, and, admitting that technically the convention of 1818 would bear the rigorous construction insisted on by the colonies, he declared the *dissent* of the government of the United States from it; and then communicated the case to the persons engaged in this hard and hazardous trade, that they might be 'on their guard.'

"I am surprised that any doubts should be raised as to the proclamation being the act of the government. I do not understand how a senator or a citizen can officially know that the Secretary of State is at Marshfield, or elsewhere, when the seal and date of the department affirm that he is at the capital. I would like to know where or when this government or this administration has disavowed this proclamation.

"In issuing this notice, the Secretary of State did just what the Secretary of State had been in the habit of doing in such cases from the foundation of the government, viz: he issued a notice to the citizens of the United States to put them on their guard in a case of apparent danger, resulting from threatening embarrassment of our relations with a foreign power. The first notice of the kind which I have found in history is a notice issued by Thomas Jefferson, Secretary of State under George Washington, to the merchants of the United States, informing them of the British Orders in Council, and of the decrees of the French Directory, and of the apprehended seizure and confiscation of American vessels under them; and assuring the American merchants that, for whatever they might unlawfully lose, the government of the United States would take care that they would be indemnified. I brought that to the notice of the Senate heretofore, and upon the ground, among others, that they have twice sanctioned a bill providing for the payment of losses by French spoliations.

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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 Pince Edward 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 co-operation 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 and the Newfoundland coast."

“The notice published by Mr. Webster was of the same character and effect. Since that time, the *Mississippi*, a steam war frigate of the United States, has been ordered to those waters to cruise there for the protection of American fishermen in the enjoyment of their *just* rights. Thus ends the whole story of these transactions about the fisheries. The difficulties on the fishing grounds have ‘this extent—no more:’ they are the wonder of a day, and no more.”

Again: in explanation of the charge of a senator, that Mr. Webster had conceded too much in his official notice of July 6, he said: “Now, here is Mr. Webster’s language. After quoting the treaty, he says:

“‘It would appear that, by a *strict and rigid construction of this article*, fishing vessels of the United States are precluded from entering into the bays,’ &c.

“And in the same connexion he adds:

“‘It was undoubtedly an *oversight in the convention of 1818 to make so large a concession to England.*’

“That is to say, it was an oversight to use language in that convention which, by a strict and rigid construction, might be made to yield the freedom of the great bays.

“It is, then, a question of mere verbal criticism. The Secretary does not admit that the rigorous construction is the just and true one; and so he does not admit that there is any ‘concession’ in the sense of the term which the honorable senator adopts. Now, other honorable senators, if I recollect aright—and particularly that very accurate and exceedingly strong-minded senator, the gentleman from Massachusetts, (Mr. Davis)—conceded that the treaty *would bear* this rigorous construction; insisting, nevertheless, just as the Secretary of State did, that it was a forced and unjust one.”

To refute the many rumors relative to an adjustment of the difficulties, as well as to repel the imputation of treating under duress, he declared that “no negotiation has been had between the President of the United States and the English government. No negotiation is now in progress between the two governments. No negotiation has been instituted between the two governments for any purpose whatever. No overture of negotiation has been made by the British government since the last year, and no overture has been made by the American to the British government. So, then, it appears that nothing has been negotiated away at the cannon’s mouth, because there has been no negotiation at all, either at the cannon’s mouth or elsewhere. There has not been any negotiation under duress, because there has been no pretence of a design by the imperial government to enforce its rigorous construction of the convention of 1818, or to depart from the position of neutrality, if I may so call it, always heretofore maintained.”

On the subject of reciprocity, he considered that “the indications are abundant that it is the wish of the Senate that the Executive should not treat upon this subject, and I think wisely. I agree on that point with my honorable and distinguished friend from Massachusetts, (Mr. Davis.) What the colonies require is some modification of commercial regulations which may affect the revenue. That is a subject proper to be acted upon by Congress, not by the President, if it is to be acted upon at all. It must not be done by treaty. We seem to have courted

the responsibility, and it rests upon us. Let us no longer excite ourselves and agitate the country with unavailing debates; but let us address ourselves to the relief of the fishermen, and to the improvement of our commerce.

“Now, sir, there is only one way that Congress can act, and that is by reciprocal legislation with the British Parliament or the British colonies of some sort. I commit myself to no particular scheme or project of reciprocal legislation, and certainly to none injurious to an agricultural or a manufacturing interest.”

As to the course to be pursued, he said, in concluding his speech, “I, for one, will give my poor opinion upon this subject, and it is this: that so long hereafter as any force shall be maintained in those north-eastern waters, an equal naval force must be maintained there by ourselves. When Great Britain shall diminish or withdraw her armed force, we ought to diminish or withdraw our own; and in the mean time a commission ought to be raised, or some appropriate committee of this body—the Committee on Foreign Relations, the Committee on Finance, or the Committee on Commerce—should be charged to ascertain whether there cannot be some measures adopted by reciprocal legislation to adjust these difficulties and enlarge the rights of our fishermen, consistently with all the existing interests of the United States.”

It is understood that the Committee on Commerce, at the moment of the misunderstanding in July, had nearly matured a bill which embraced, substantially, the propositions submitted by Sir Henry Bulwer, in June, 1851. To assume that such is the fact, and that the bill would have passed Congress, but for the precipitancy of the parties to the Toronto agreement, recalls the significant remark of Mr. Davis, once already quoted, that the colonists were “playing a game which may not advance materially the interests they have in view.”

Our record, thus far, contains a rapid notice of events connected with the controversy to the close of August, 1852. It comprises, as will be perceived, no account of any action on the part of the two governments to adjust the difficulties between them, either by negotiation or by legislation.

But there is good authority for saying that the British admiral (Scymour) was instructed by the admiralty, in the course of August, to allow our fishermen to pursue their avocation in the Bay of Fundy, on the terms of the arrangement of 1845; to allow us to fish at the Magdalene islands, as in former years; to forbear to capture our vessels when more than three miles from the shore, as measured *without* reference to the “headlands,” and by the old construction of the convention; and generally to execute his orders with forbearance and moderation. That the British ministry have been disposed, from first to last, to adjust the controversy on honorable terms, can hardly be doubted. In 1852, as in 1845, the clamors, remonstrances, and, I will add, the misrepresentations of the colonists, changed their intentions. As at every former time, the politicians of Nova Scotia led off in opposition to a settlement. Early in September, a public meeting was called at Halifax, which, according to the published report of its proceedings, was attended by persons of all classes and interests, “to petition her

Majesty in regard to the rumored surrender of the rights of fishery secured to British subjects by the convention of 1818." One gentleman of consideration and influence appears to have "protested against the utility of the meeting," but to have been "promptly checked by his worship the mayor," who presided. Several merchants were present, but performed a secondary part. The political leaders had everything their own way. One member of the "provincial parliament" nominated the chairman; another introduced a series of resolutions; while a third, who declared that "a strong expression of the opinion of the meeting should go to the foot of the throne," closed his remarks with submitting a memorial to her Majesty, which "*he* had prepared." A fourth honorable M. P. is understood to have said, that "if her Majesty's government give up the fisheries, they must be prepared to give up the colony also;" and the Hon. Joseph Howe, provincial secretary, is represented to have advocated, with his usual power, the adoption of the measures presented by his associate politicians. Comment upon these measures is not necessary. The tone of the resolutions, of the address to the governor of the colony, and of the memorial to the Queen, is offensive. These documents, from beginning to end, show a spirit of deep hostility to the United States, and a determination to be satisfied with no terms of accommodation which would be entertained by our government; and, like everything else in Nova Scotia on the subject of the fisheries, contain much that is erroneous in statement of matters of fact, and that is unsound in questions of *political science*.\*

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\* These documents are as follows :

#### RESOLUTIONS.

1. *Resolved*, That the citizens of Halifax feel deeply grateful to her Majesty's government for the determination to "remove all ground of complaint on the part of the colonies in consequence of the encroachments of the fishing vessels of the United States upon the reserved fishing grounds of British America," expressed in the despatch of the right honorable the Secretary of State for the colonies, dated the 22d of May.

2. *Resolved*, That the citizens of Halifax have regarded with interest and satisfaction the judicious measures adopted by Vice Admiral Sir George Seymour, to carry out that determination with firmness and discretion.

3. *Resolved*, That securely relying upon the justice and maternal care of their Sovereign, the citizens of Halifax are reluctant to believe that, because a few threatening speeches have been made in Congress, and a single ship-of-war has visited their coasts, the Queen's government will relax their vigilant supervision over British interests, or weakly yield up rights secured by treaty stipulations.

4. *Resolved*, That history teaches that the commercial prosperity and naval power of every maritime State have risen, by slow degrees, from the prosecution of the fisheries, in which seamen were trained and hardy defenders nurtured.

5. *Resolved*, That reading this lesson aptly, the great commercial and political rivals of England—the United States and France—have, for many years, fostered their fisheries by liberal bounties, and freely spent their treasure that they might recruit their navy and extend their mercantile marine.

6. *Resolved*, That by the aid of these bounties France and the United States maintain, on the banks and coasts of North America, 30,000 seamen, respectively, which either power, in case hostilities impend, can call home to defend its national flag, and, if need were, launch against the power of this empire.

7. *Resolved*, That without the aid of bounties the fisheries of British America have been prosecuted, and her marine interests have expanded, until her shores are peopled with a hardy class of men, who consume, almost exclusively, the manufactures of England in peace, and who, in times of danger, would leap into the shrouds of their national ships to defend the flag they reverence.

There is now but little to add to complete a record of the more important events connected with the history of this controversy.

The Queen of England, in her speech at the opening of Parliament,

8. *Resolved*, That the cession of the Aroostook territory, and the free navigation of the St. John, the right of registry in colonial ports, and the free admission of the productions of the United States into British America at revenue duties only, have been followed by no corresponding relaxation of the commercial system of the United States which would justify a further sacrifice of colonial interests.

9. *Resolved*, That while more than one half of the seacoast of the republic bounds slave States, whose laboring population cannot be trusted upon the sea, the coasts of British America include a frontage upon the ocean greater than the whole Atlantic seaboard of the United States. The richest fisheries in the world surround these coasts. Coal, which the Americans must bring with them, should they provoke hostilities, abounds at the most convenient points. Two millions of adventurous and industrious people already inhabit these provinces, and the citizens of Halifax would indeed deplore the deliberate sacrifice of their interests, by any weak concession to a power which ever secouds the efforts of astute diplomacy by appeals to the angry passions—the full force of which has been twice on British America within the memory of this generation, and, in a just cause, with the aid of the mother country, could be broken again.

#### ADDRESS.

To his Excellency Colonel Sir J. GASPARD LEMARCHANT, Knight, and Knight Commander of the Orders of St. Ferdinand and of Charles the Third of Spain, Lieutenant Governor and Commander-in-chief in and over her Majesty's province of Nova Scotia and its dependencies, Chancellor of the same, &c.

MAY IT PLEASE YOUR EXCELLENCY: We, her Majesty's dutiful and loyal subjects, the mayor and aldermen of the city, and representatives of the city and county of Halifax, respectfully request that your excellency will be pleased to transmit, by this night's mail, to the right honorable the Secretary of State for the Colonies, to be laid at the foot of the throne, a dutiful and loyal petition, unanimously adopted this day by a very large and influential meeting of our fellow-citizens, held in the Province Hall.

We also pray that the resolutions, a copy of which is annexed, and which were passed with equal unanimity, may be also forwarded to the right honorable the Colonial Secretary.

This petition, and these resolutions, have been adopted in consequence of the alarming intelligence having been received that negotiations are pending between the British government and the American minister in London, for surrendering to the citizens of the United States the right of fishing on the coasts and within the bays of the British North American colonies, from which they are now excluded by the convention of 1818. We entreat your excellency, as the Queen's representative in this province, to convey to her Majesty's government a strong remonstrance against any such concession of the fishing rights as appears to be contemplated.

The immediate departure of this mail will not permit our detailing all the disastrous results to be apprehended from the concessions now required by the American government, but we must beg that you will assure her Majesty's ministers that the information just received has occasioned the most intense anxiety throughout the community, it being evident that our rights, once conceded, can never be regained.

By the terms of the convention of 1818 the United States expressly renounced any right of fishing within three marine-miles from the coasts and shores of these colonies, or of entering their bays, creeks, and harbors, except for shelter, or for wood and water.

If this restriction be removed, it must be obvious to your excellency that it will be impossible to prevent the Americans from using our fishing grounds as freely as our own fishermen. They will be permitted to enter our bays and harbors, where, at all times, *unless armed vessels are present in every harbor*, they will not only fish in common with our own fishermen, but they will bring with them contraband goods to exchange with the inhabitants for fish, to the great injury of colonial traders and loss to the public revenue. The fish obtained by this illicit traffic will then be taken to the United States, where they will be entered as the produce of the American fisheries, while those exported from the colonies in a legal manner are subject to oppressive duties.

We need not remind your excellency that the equivalent said to have been proposed—that of allowing our vessels to fish in the waters of the United States—is utterly valueless, and unworthy of a moment's consideration.

We would fain hope that the reports which have appeared in the public press respecting the pending negotiations between the two governments are without any good foundation.

November, 1852, remarked that "the present and well-grounded complaints on the part of my North American colonies, of the infraction by the citizens of the United States of the fishery convention of 1818, in-

We cannot imagine that her Majesty's government, after having taken prompt and decided measures to enforce the true construction of the treaty, will ever consent to such modification of its terms as will render our highly valued rights a mere privilege to be enjoyed in common with foreigners.

We therefore pray your excellency to exert all your influence to induce her Majesty's ministers to stay any further negotiations on this vitally important question until the rights and interests of the inhabitants of this province are more fully inquired into and vindicated.

HALIFAX, *September 2, 1852.*

#### MEMORIAL.

*To the Queen's Most Excellent Majesty.*

The humble memorial of the undersigned, merchants and inhabitants of Halifax and other parts of Nova Scotia, convened at a public meeting held at Halifax on Thursday, the 2d of September, 1852, sheweth:

By the mail recently arrived from England, your memorialists have learned with deep concern that it is in contemplation of your Majesty's ministers to surrender to the United States of America privileges of fishing on the coasts of your Majesty's North American colonies, to which, at present, your Majesty's subjects are alone entitled.

Time is not afforded to enter at large on this subject, nor is it necessary. Repeatedly have the vital importance of these fisheries, and the necessity of preserving unimpaired the restrictions against encroachment by which they are guarded, been urged on the imperial government. It was believed the time had long passed when a question could be raised on either of these points. To stimulate imperial aid in protecting and maintaining acknowledged rights was all, it was imagined, that was required of the colonies, and they fondly trusted this consummation had been attained, when, in the present season, your Majesty's war steamers came commissioned on this service.

Little, may it please your Majesty, was it anticipated these were to be the precursors of a transfer alike injurious and humiliating to your loyal colonial subjects, or for this aid that so large a price would be demanded.

May it please your Majesty, when the United States, by the treaty of 1818, solemnly renounced forever the right to fish within three marine miles of the coasts, bays, creeks, or harbors of certain portions of your North American territory, the stipulation was neither extraordinary nor extravagant. It is matter of common history, that sea-girt nations claim peculiar rights within a league of their shores; and equally plain that, according to the maxims of international law, this claim is defined by lines drawn not only between the formations of bays, but from the headlands of indentations of the coast.

But had it been otherwise, the stipulation was part of a general treaty, in which concession on one side may be presumed to have been compensated by concession on the other, and loss in one particular by gain in another; and the engagement was made in language too explicit, and in terms too well understood, to admit the possibility of misapprehension.

Shall nations, may it please your Majesty, be absolved from the obligation of their contracts, and complaints be respected when made by a people, which, between individuals, would be treated as puerile?

If conciliation, irrespective of right, be the principle on which is to be withdrawn the restriction against the entry of Americans into the bays and indentations of the coast to fish, limiting them alone to the distance of three miles from the shore, the concession of the privilege to fish within this latter distance must equally be granted—as, indeed, has been already urged in the American Congress: the restriction in both cases rests on the same authority; and the concession in each would be demanded by the same principle. It may not be the province of your Majesty's colonial subjects to suggest how far such a principle is consistent with national honor and independence: they have a right to pray that it be not carried out at their expense.

When the welfare of the empire is supposed to demand extensive alterations in the laws of trade and navigation, the peculiar interests of the colonies are not permitted to disturb the general system by the continuance of conflicting regulations, however necessary, from long usage and the competition of foreigners more powerful and more fostered by their own government.

In the present case, the possession to surrender is no offspring of artificial arrangements, falling with a complicated policy of which it formed a part.

No, may it please your Majesty, your loyal subjects in Nova Scotia raise their voice against the injury of an inheritance conferred upon your North American subjects by nature, con-

duced me to despatch, for the protection of their interests, a class of vessels better adapted to the service than those which had been previously employed. This step has led to discussion with the government of the United States; and while the rights of my subjects have been firmly maintained, the friendly spirit in which the question has been treated induces me to hope that the ultimate result may be a mutually beneficial extension and improvement of our commercial intercourse with the great republic."

The President of the United States, in his message to Congress, in the following month, refers to the subject with less brevity. He said: "In the course of the last summer, considerable anxiety was caused, for a short time, by an official intimation from the government of Great Britain that orders had been given for the protection of the fisheries upon the coasts of the British provinces in North America against the alleged encroachments of the fishing vessels of the United States and France. The shortness of this notice and the season of the year, seemed to make it a matter of urgent importance. It was at first apprehended that an increased naval force had been ordered to the fishing grounds to carry into effect the British interpretation of those provisions in the convention of 1818 in reference to the true intent of which the two governments differ. It was soon discovered that such was not the design of Great Britain; and satisfactory explanations of the real objects of the measure have been given, both here and in London.

The unadjusted difference, however, between the two governments, as to the interpretation of the first article of the convention of 1818, is still a matter of importance. American fishing vessels, within nine or

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nected with their soil by the laws and usages of nature, confirmed to them by solemn compact, and which, practically enjoyed by them peculiarly, and as your other Majesty's subjects cannot enjoy them, can be surrendered only at their extreme injury and great loss.

Surely, may it please your Majesty, your loyal colonial subjects have a right to ask for some better reason for this sacrifice of their peculiar right and interest than the demand of a foreign power—the aggrandizement of a foreign people.

It is reported that the American government, with characteristic diplomatic skill, have offered to concede a similar privilege on their own coast in return for what they seek on the coasts of British North America.

The proffered boon is valueless to the colonists—they want it not, and would derive no benefit from it. The offer may deceive the uninformed, or it may afford an excuse to palliate the sacrifice of your colonial subjects' rights. It may have been made by our sagacious neighbors with this object; but to those who will suffer by the pretext, it is but the addition of insult to wrong. If rights so entirely colonial and so clear as this are to be sacrificed to American influence, the colonists should know it. Let them not, may it please your Majesty, be treated as children or imbeciles by nominally granting them a privilege which they know, and the Americans know, to be worthless as an equivalent for one which both equally know to be of incalculable value; for let it not be urged upon your Majesty that what the Americans seek is of no value. Their earnestness is certain evidence to the contrary.

It is, may it please your Majesty, of value, of great value, in itself; of perhaps greater value still, as the best, the only safeguard against violation of the restriction which prohibits the approach of the American fishermen within three miles of the shore.

Your memorialists deprecate all negotiation—all compromise on the subject. The Americans will not, probably they cannot, grant an equivalent for the privileges they seek, and the only security for the colonies is the entire abandonment of the present negotiations.

Your memorialists most earnestly entreat your Majesty that the existing fishery restrictions will be preserved in their letter, and that your Majesty's power may be put forth to prevent their violation.

And your petitioners, as in duty bound, will ever pray, &c.

ten years, have been excluded from waters to which they had free access for twenty-five years after the negotiation of the treaty. In 1845, this exclusion was relaxed so far as concerns the Bay of Fundy, but the just and liberal intention of the home government, in compliance with what we think the true construction of the convention, to open all the other outer bays to our fishermen, was abandoned, in consequence of the opposition of the colonies. Notwithstanding this, the United States have, since the Bay of Fundy was reopened to our fishermen in 1845, pursued the most liberal course towards the colonial fishing interests. By the revenue law of 1846, the duties on colonial fish entering our ports were very greatly reduced, and, by the warehousing act, it is allowed to be entered in bond without payment of duty. In this way, colonial fish has acquired the monopoly of the export trade in our market, and is entering, to some extent, into the home consumption. These facts were among those which increased the sensibility of our fishing interest at the movement in question.

“These circumstances, and the incidents above alluded to, have led me to think the moment favorable for a reconsideration of the entire subject of the fisheries on the coasts of the British provinces, with a view to place them upon a more liberal footing of reciprocal privilege. A willingness to meet us in some arrangement of this kind is understood to exist on the part of Great Britain, with a desire on her part to include in one comprehensive settlement as well this subject as the commercial intercourse between the United States and the British provinces. I have thought that, whatever arrangements may be made on these two subjects, it is expedient that they should be embraced in separate conventions. The illness and death of the late Secretary of State prevented the commencement of the contemplated negotiation. Pains have been taken to collect the information required for the details of such an arrangement. The subject is attended with considerable difficulty. If it is found practicable to come to an agreement mutually acceptable to the two parties, conventions may be concluded in the course of the present winter. The control of Congress over all the provisions of such an arrangement, affecting the revenue, will of course be reserved.”

Our latest accounts from two of the British colonies show that opposition is still manifested to an adjustment of the dispute on terms which would be satisfactory to the United States.

The resolutions which follow, and which were adopted at a public meeting at St. John, New Brunswick, December, 1852, indicate, probably, the temper of the commercial class of that city:

“*Resolved*, That this meeting consider the coast fisheries of the North American colonies the natural right and property of the inhabitants thereof, and that they should not be alienated, conceded, nor affected without their consent, in any negotiation with the United States government, or any other foreign power, without their consent, inasmuch as the value of the fisheries to the British provinces, with an increased and increasing population, cannot be estimated aright at the present time.

“*Resolved*, That this meeting view with deep anxiety and concern the announcement in her Majesty’s speech to the imperial Parliament, that negotiations are now pending between her Majesty’s government and that of the United States, relative to the fisheries of the North

American provinces, and also the recommendation of the President of the United States, in his official message to Congress, to negotiate a treaty for a participation by the citizens of the United States in the said fisheries, irrespective of any question of reciprocal intercourse between the United States and the North American colonies.

“*Resolved*, That a committee be now appointed to prepare an humble address, praying that her Majesty will be graciously pleased to refuse to entertain any proposition from the United States government for any modification or alteration of the treaty of 1818, unless such a proposition embraces the full and entire question of reciprocal intercourse in commerce and navigation upon terms that will be just and reasonable, inasmuch as the value of a participation in our fisheries by the citizens of the United States would greatly exceed any concessions that the United States government can offer to the inhabitants of the British colonies, and that, before any treaty affecting the fisheries is agreed upon, her Majesty will be graciously pleased to afford her Majesty’s loyal and faithful subjects, in the provinces, an opportunity of becoming acquainted with the terms proposed in said treaty, and of laying their case at the foot of the throne.”

The lieutenant governor of Nova Scotia, in his speech to the Assembly of that colony, January, 1853, observes :

“I shall direct to be laid before you certain papers, connected with the important subject of an efficient protection of the fisheries, including correspondence between the executive and his excellency the naval commander-in-chief on this station, with respect to the best mode in which this service should be carried out. To the zeal and experience of that distinguished officer, and to the active and cordial co-operation of the officers of the squadron employed under his command, we are much indebted for the vigilance with which our national rights have been guarded, without, at the same time, any diminution of the friendly relations which ought to subsist between those whose common origin and mutual interests offer so many pledges for the preservation of peace.

“You will be pleased to learn that the government of the United States has at length consented to negotiate on the subject of their commercial relations with the British empire. I shall rejoice if these negotiations result in the opening of more extended markets for the productions of British America, and the adjustment of questions on which the legislatures of all the provinces have hitherto evinced a lively interest.”

The Assembly, in their reply to his excellency, deprecate “any concession of territorial advantages to the citizens of the United States, without these are purchased by the most full and ample equivalents.”

#### EXAMINATION OF THE BRITISH PRETENSIONS, AND OF THE DOCUMENTS WHICH SUPPORT THEM.

Having now completed a rapid historical view of the controversy between the two governments as to the intent and meaning of the first article of the convention of 1818, I propose to examine the principal papers which are relied on to maintain the British side of the case.

In answer to Lord Falkland’s first query, the crown lawyers say: “In obedience to your lordship’s commands, we have taken these papers

into consideration, and have the honor to report, that we are of opinion that the treaty of 1783 was annulled by the war of 1812; and we are also of opinion that the rights of fishery of the citizens of the United States must now be considered as defined and regulated by the convention of 1818; and with respect to the general question, '*if so, what right?*' we can only refer to the terms of the convention, as explained and elucidated by the observations which will occur in answering the other specific queries."

And so, as the words stand, the treaty of 1783 having been "annulled" by the event spoken of, our independence as a nation was revoked also. This is something the American people had not thought of. These gentlemen mean, possibly, that our rights of fishing only were abrogated by the rupture in 1812, and we may consider their opinion on this ground.

Fortunately, the late President John Quincy Adams has pronounced a judgment upon this very point. On the convention of 1818 he remarked: "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 have not been abrogated by the war."

It is true, as a general rule, that the obligations of treaties are dissolved by hostilities. But, says Chancellor Kent, "*where treaties contemplate a permanent arrangement of national rights, or which, by their terms, are meant to provide for the event of an intervening war, it would be against every principle of just interpretation to hold them extinguished by the event of war. They revive at peace, unless waived, or new and repugnant stipulations be made.*" The treaty of 1783 is precisely within this rule. It "contemplated a permanent arrangement of national rights." It "revived at the peace;" for our commissioners at Ghent, instead of "waiving" the former stipulations, or admitting "new and repugnant" ones, declined any discussions whatever on the subject. In their communication to the Secretary of State, of December 25, 1814, 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 recognising 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.”\*

To Lord Falkland’s second and third queries the Queen’s advocate and her Majesty’s attorney general reply:

“Except within certain defined limits, to which the query put to us does not apply, we are of opinion that, by the terms of the treaty, American citizens are excluded from the right of fishing within three miles of the coast of British America; and that the prescribed distance

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\* It has been suggested to me by gentlemen of high consideration in our national councils, that Mr. Adams, by consenting to the convention of 1818, abandoned the principle which is here so ably asserted. If it can be shown that he really did consent to that convention, the suggestion is not without force, since it is manifest, that on the ground taken by our commissioners at Ghent, no new stipulations were necessary. But I have never believed that Mr. Adams, as Secretary of State, approved of the terms of the convention; and my conjecture has been, that he persisted in the views which he entertained in 1814, and was overruled by other members of Mr. Monroe’s cabinet. Desirous, if possible, to ascertain the precise fact upon so important a point, I addressed a note of inquiry to the Hon. Charles Francis Adams, his only surviving son and executor. This gentleman consulted his father’s diary, and kindly furnished me with the following minutes of a conversation with the British minister at Washington, (Mr. Bagot,) on the 15th of May, 1818. This extract will remove all doubt, as it seems to me, as to the consistency of Mr. Adams, and shows that he *submitted*, rather than consented, to a negotiation which he had not the power to prevent, as well as to terms which he disliked, and which had been partially or entirely determined upon by our government before his return from England, or before he became a member of the cabinet.

“As to the proposal which was to have been made to the British government,” he recorded, “and which had hitherto been delayed, its postponement had been owing to difficulties which had been discovered since it was promised. It was founded on the principle of assuming a range of coast within given latitudes for our fishermen to frequent, and abandoning the right to fish for the rest. But the fish, themselves, resorted at different times to different parts of the coast, and a place which might be selected as very eligible now, might be in the course of four or five years entirely deserted. *For my own part, I had always been averse to any proposal of accommodation. I thought our whole right, as stipulated by the treaty of 1783, so clear, that I was for maintaining the whole; and if force should be applied to prevent our fishermen from frequenting the coast, I would have protested against it, and reserved the right of recovering the whole by force, whenever we should be able.* IT HAD, HOWEVER, BEEN DETERMINED OTHERWISE HERE, AND A PROPOSAL HAD BEEN PROMISED. Perhaps we should ultimately offer to give up the right of drying and curing on the shore, and reserve the whole right of fishing.”

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 fishing 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 the land we have before mentioned, excluding the interior of the bays and the inlets of the coast."

It is somewhat remarkable that the term "headland" *does not once occur in the convention*. Of course, so important a mistake as this leaves these *learned gentlemen* in an unfortunate position. The single word "headland," on which they found their argument, is not once "used," I repeat, in the instrument which they are required to interpret. I affirm, further, that the idea of excluding our vessels from the "bays of Nova Scotia" was not entertained, nor so much as mentioned, during the negotiations which preceded the convention. The consultations between Mr. Adams and Lord Bathurst commenced on the basis of requiring of us the renunciation of the *shore* or *boat fisheries*, and of no others. At the first interview his lordship used this distinct and emphatic language:

"As, on the one hand, 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*." Again, and on a subsequent occasion, he said, it is not "of fair competition that his Majesty's government has reason to complain, but of the preoccupation of British *harbors* and creeks." The conferences, the correspondence, proceeded and terminated on this supposition—that we relinquished the *inner grounds*, as they are called, and retained the *outer*, or *vessel fisheries*. We were no longer to interfere with the colonists in the "harbors and creeks;" but, beyond the common three-mile maritime jurisdiction, were to retain every right to *catch* fish that we had previously enjoyed. Did space allow, I could show from both sides of the correspondence that this original thought of Lord Bathurst was kept continually in view, and that the *bays* mentioned by the crown lawyers were not even once referred to. Is it, then, to be believed for a single moment—recalling, as we fairly may do, the course pursued by Mr. Adams and Mr. Gallatin at Ghent, in 1814, and the remarks of Lord Bathurst the following year—that, after three years of negotiation, a treaty should have been formed which took from us very much more than the British government required us to surrender at the outset? The thing seems utterly impossible.\*

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\* The extract from John Quincy Adams's diary which I have inserted as a note, in considering the crown lawyers' reply to Lord Falkland's first query, shows, conclusively, that as late as May 15, 1818, and after the negotiations of more than two years, our government had not even proposed to *surrender any portion of the fishing-grounds* which we occupied under the treaty of 1783. Mr. Adams records, at the date mentioned: "*Perhaps we should ultimately offer to give up the right of drying and curing on the shore, and reserve the whole right of fishing.*"

Our statesmen *have* been accused, on the other side of the Atlantic, of a limited knowledge of international law, but never of sacrificing our interests: in truth, the standing charge against them is, that they overreach, and drive too hard bargains. But, on the supposition that the right of fishing has been abandoned in the bays of British America, those who negotiated, and those who confirmed, the convention of 1818, allowed themselves to be most scandalously duped, and never subsequently discovered the fraud.

Contemporaneous exposition is always authoritative to some extent; and in this case, I consider it is as decisive as are the essays of Hamilton, Madison, and Jay, in interpreting the constitution.

The crown lawyers, who had no part in concluding the treaty before us, cannot be allowed to interpret it for our government, when we have the declarations of the minister who opened the conferences, and the ministers who signed the treaty itself. From this position we are not to be driven. What, then, is the testimony of Messrs. Gallatin and Rush? On the very day on which they affixed their signatures to the convention, (October 20, 1818,) they wrote to the Secretary of State, (who was no other than John Quincy Adams) that "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 *projet*. 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.*"

But if, as the crown lawyers contend, we cannot fish in a single bay

of Nova Scotia, what did the American ministers mean, in the statements which I have marked? Did they attempt to deceive *an Adams*, on questions connected with the fisheries; or were they ignorant of their duty? Neither; for Mr. Adams himself emphatically and positively affirms their construction of the convention. Under circumstances\* highly interesting to his fame with this generation and with posterity, he declared that this convention "*secures essentially and substantially all the rights acquired by the treaty of 1783; it secures the whole coast fishery of every part of the British dominion, excepting within three marine miles of the shores.*" What answer can be made to this?

Still again: If the crown lawyers are in the right, how does it happen that we were in the uninterrupted possession of the very bays in dispute for a quarter of a century? The fact is not doubted; indeed, the attempt to dispossess us is the cause of the controversy. Mr. Everett afforded Lord Aberdeen an opportunity—nay, invited him—to explain this circumstance; but his lordship declined to reply. During these twenty-five years, ships of the royal navy annually appeared on the fishing grounds under special orders to prevent aggressions; yet not one of them, prior to the capture of the *Washington* in 1843, ever seized an American vessel for merely fishing within these bays!

It may be answered, however, that we were occupants without title and by permission. But, says Blackstone, possession of lands, "by length of time and negligence of him who hath the right, by degrees ripens into a perfect and indefeasible title." As upon the land, so upon the sea. A nation, says Vattel; "if it has once acknowledged the common right of other nations to come and fish there, 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."†

If these remarks and authorities are pertinent, what term is necessary to give us a right to the common use of the bays of British America by uninterrupted occupancy and possession? Lord Stanley, in a despatch to Lord Falkland, as we have seen, considered that we had "practically acquiesced" in the opinion of the crown lawyers, because we did not protest against it in less than two years; and it might seem that the "practical acquiescence" of the British government for a period of twenty-five years previously was sufficient to place us within the rule of the writers above quoted. Especially since, after all, the true question in discussion is simply whether we shall *continue* in the common use of waters to which we have never ceased to resort from the peace of 1783; to which our fathers resorted as British subjects before the dismemberment of the empire; and to which we, as their descend-

\* Controversy with Jonathan Russell.

† Dr. Paley, in his *Moral and Political Philosophy*, states the principle far more broadly. In chapter eleven, which is devoted to the "general rights of mankind," he says:

"If there be fisheries which are inexhaustible—as, for aught I know, the cod-fishery upon the Banks of Newfoundland and the herring fishery in the British seas are—then all those conventions by which one or two nations claim to themselves, and guaranty to each other, the exclusive enjoyment of these fisheries, are so many encroachments upon the general rights of mankind."—Boston edition, 1821, p. 84.

ants, have a claim for services rendered to the British crown in the original conquest from France.

If asked how the term "bays" is to be disposed of in the treaty, I answer that it applies to such arms of the sea as on some coasts are called *coves* and *crecks*, and was meant to designate all sheets of water which are not six miles wide, and no others. That our ministers acted upon information obtained from persons engaged in the fisheries is certain, for the negotiation was suspended to obtain it; and we may reasonably conclude that their informants spoke of these *coves* or *crecks* by the popular name of *bays*. Any person with a mariner's chart in his hand can observe that on the colonial coasts there is a multitude of "bays," some of which are more, and many less, than six miles wide at their mouths, or outer headlands. In fact, I know of no coast where they are so numerous. To mention all, would occupy more room than can be spared in this report. Mace's, St. Mary's, Barrington, Liverpool, Malaguash, Mahone, Margaret's, Blind, Tenant's, Pennant's, Chisselcook, Musquidoboit, Newton Quoddy, Shoal, Tom Lee's, Nicomquirque, Nicomtan, and Dover, are a part (though the most considerable) between the St. Croix and Cape Canso alone. That it may be fully understood in what sense the word "bay" is used in speaking of indentations of the coast at the east, I give an example in the case of the Passamaquoddy, which in itself is only a branch-bay of Fundy. In this small branch-bay, then, in common language, are Cipp's, South, East, Rumsey's, Cobscook, Strait, Friar's, Casco, and West Quoddy; and the Passamaquoddy, after being thus minutely divided, takes the name of St. Andrew's bay, northerly and westerly of Eastport. The term "bays" is therefore a word of sufficient significance in the treaty, without embracing bodies of water which are as large as many European seas, and which are to be held in America as seas. I claim that our vessels can enter them of right, and fish in them, and can enter and fish in their branches, where the shore on either hand is more than three miles distant. We renounced the right to fish in the bodies of sea-water which are less than six miles wide at their entrance or mouths, and in no others. That this is the true meaning of the convention is apparent from the proviso of the renunciatory clause, which allows our fishermen to enter "*such* bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water," &c. Now, as every practical man knows that neither of these purposes is or can be accomplished in large open bays, it is certain that while we renounced the right to fish in the small bays, we retained the right to enter them in cases of distress and emergency. The bays relinquished are of a description which allow of anchorage and shelter in stormy weather; that actually afford safety during the days and weeks which disabled vessels may occupy in repairs; that have accessible forests, and springs or streams of fresh water. The idea embraced is, that our vessels, in the cases specified, may run into any and every indent of the coast; for the term "purchasing wood" supposes a colonial owner, with a habitation on the shore, of whom fuel can be bought and paid for; and thus includes places which are inhabited. Persons who are acquainted with the bold and rocky shores of the large bays of British America—those of Chaleurs and Fundy, for

example—with the dense fogs which prevail there, with the frequent and terrific gales, and with the fearful whirls and great rise and fall of the tide, understand full well what was intended to be reserved in the treaty, and the importance of the reservations. But such persons never heard, and, I will venture to say, never will hear, of fishing vessels, or of any class of vessels, effecting either of the purposes mentioned in the proviso, while sailing broad in the great seas which, in common language, are called *bays*. Yet these seas, in the opinion of the crown lawyers, are only open to our vessels in cases of distress, and when not one object for which they say we may lawfully enter them can, in fact, be executed. An attempt to show that the Queen's advocate, and her Majesty's attorney general, do not thus absurdly interpret the convention, involves the admission that our vessels, once across the line drawn three miles outside of the headlands, may seek the small branch-bays within these seas; and so demonstrates the accuracy of the construction which I have given; for then it follows that the right to fish in the branch-bays only is renounced, inasmuch as "*such bays*," after all, are *the* bays which afford the shelter, the accommodation for repairs, and the wood and water, contemplated by the convention.

"It is an established rule in the exposition of statutes," says Chancellor Kent, "that the intention of the lawgiver is to be deduced from a view of the whole and of every part of a statute, taken and compared together. The real intention, when accurately ascertained, will always prevail over the literal sense of the terms." And he says further, that "When the words are not explicit, the intention is to be collected from the occasion and necessity of the law, from the mischief felt, and the remedy in view; and the intention is to be taken or presumed, according to what is consonant to reason and good discretion." If such is the fact with regard to municipal law, how much more important is the principal in the interpretation of treaties, which affect the harmony and peace of nations? I submit, then, that we have the "intention" of Messrs. Rush and Gallatin, in their renunciation of the right to fish in certain bays; that the pretension of England, that the war of 1812 had abrogated our entire rights, as provided in the treaty of 1783, was the "occasion and necessity" for new stipulations on the subject; that the opening conference between Lord Bathurst and Mr. Adams, in 1815, shows, beyond all doubt, that fishing, by our countrymen, within the creeks and close upon the shores of the British territories, was the "mischief felt;" and that the exclusion of American vessels from the common three-mile jurisdiction was "the remedy in view," in the renunciatory clause of the convention. Nor can it be urged that the relinquishment on our part of the *boat* or *shore* fisheries was too inconsiderable an object to be so strongly insisted on by the British government. I understand the value of these fisheries far too well to allow any force to such a suggestion. The colonists, secure in these, have vast treasures at their very doors. Oftentimes they have but to cast, tend, and draw seines and nets, to take hundreds of barrels of mackerel and herring in a single day; and years have occurred when no less than forty thousand barrels of the former fish have been caught in a season, on a portion of the coast only twelve miles long.

As regards the *shore* fishery, for the kinds usually dried, that in the region of Barrington is of itself a mine of wealth. Colonial fishermen, here and elsewhere along the coast, may be at home after every day's toil, and look out upon their American competitors in the offing, rejoicing in advantages of pursuing their avocation in open boats, and the consequent advantages of social life, and of fishing and of attending to their little farms between "slacks of the tide," in "blowly weather," and when the fish "strike off."

The Queen's advocate and her Majesty's attorney general answer Lord Falkland's fourth query as follows:

"By the treaty of 1818 it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence, within certain defined limits, in common with British subjects; and such treaty does not contain any words negating the right to navigate the passage of the Gut of Canso, and therefore it may be conceded that such right of navigation is not taken away by that convention; but we have now attentively considered the course of navigation to the gulf, by Cape Breton, and likewise the capacity and situation of the passage of Canso, and of the British dominions on either side, and we are of opinion that, independently of treaty, no foreign country has the right to use or navigate the passage of Canso; and attending to the terms of the convention relating to the liberty of fishery to be enjoyed by the Americans, we are also of opinion that that convention did not, either expressly or by implication, concede any such right of using or navigating the passage in question. We are also of opinion that casting bait to lure fish in the track of any American vessels navigating the passage, would constitute a fishing within the negative terms of the convention."

This reply and the report\* of the committee of the House of Assembly of Nova Scotia will be considered together. The committee laud the late Chancellor Kent, cite from his Commentaries, and aver that he "agrees with the principles put forth by the law officers of the crown, and which justify the conclusion that no foreign power, independent of treaty, has any right to navigate the passage of Canso." It is not so. The passage† which they quote from Kent relates to "an immunity from belligerent warfare;" to ships of an enemy "hovering on our coasts;" to the degree of "uncasiness and sensibility" we might feel, "in the case of war between other maritime powers," were they to "use the waters of our coast" for the purpose of cruising and of capturing vessels. He gives no exact rule even in this respect. He gives no exact rule in time of peace. He says that "*the claim of dominion to close or narrow seas is still the theme of discussion and controversy.*" He then states the doctrine of several writers on international law, and remarks that "all that can reasonably be asserted is, that the dominion of the sovereign of the shore over the contiguous sea extends as far as is requisite for his safety and for some lawful end. A more extended dominion must rest entirely upon force and maritime supremacy." Now, it may be asked whether the "safety" of Nova Scotia demands the closing of Canso; and whether the refusal of its use is for "some

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\* Inserted in the historical notice of the controversy in this report, under date of 1851.

† Kent's Commentaries, edition of 1832, vol. 1, pages 29 and 30.

lawful end." I am defending the rights of men in peace. I am asking for a free sea when our fishermen are bound to and from the distant scenes of their toil. I assume that they neither loiter nor traffic; that they violate no municipal law; and that in no other way do they harm or molest her Majesty's subjects. Perhaps the eminent jurist, who is quoted so triumphantly against them, will sustain my defence. We shall see. "Every vessel in time of peace," says the same Chancellor Kent, "has a right to consult its own safety and convenience, and to pursue its own course and business, without being disturbed, and without having violated the rights of others." Again, he says: "As the end of the law of nations is the happiness and perfection of the general society of mankind, it enjoins upon every nation the punctual observance of benevolence and good will, as well as of justice, towards its neighbors. This is equally the policy and the duty of nations." Still again: "No nation has a right, in time of peace, to interfere with, or interrupt, any commerce which is lawful by the law of nations, and carried on between other independent powers, or between different members of the same state." Nor is this all. "*Every nation is bound, in time of peace, to grant a passage, for lawful purposes, over their lands, rivers, and seas, to the people of other states, whenever it can be permitted without inconvenience.*"\* Let us apply these principles to the case before us. In passing through Canso, our fishermen consult their "safety and convenience." They promote the "happiness" of mankind, for they are producers of human food. Their "purpose is lawful," for the crown lawyers themselves admit that the right of fishing in the Gulf of St. Lawrence is secured to them.

A report on Canso has become a regular legislative duty in the Assembly of Nova Scotia. The little colonial world will soon be gratified with another labored effort to show that our countrymen have "no right to pass through one of her Majesty's possessions." I commend to the committee of 1853 the passages which I have quoted, and which relate to the duties of nations in time of peace. I have the presumption, too, to suggest to the Queen's advocate, and her Majesty's attorney general, that though Selden was among the lights of his age, and though his *Mare Clausum* was once high authority, yet that since the progress of civilization has modified some, and changed other, rules of international law, it is time that the old and barbarous doctrine of exclusion from the navigation of internal straits between the main land and islands, as applied to vessels under sail, and making a direct voyage, ceased to distress the mariners of one Christian country when within the jurisdiction of another. Two centuries ago,† when Selden, and his great antagonist, Grotius, wrote their celebrated treatises, it was the practice, under the public law, to confiscate the debts due to the subjects of an enemy at the commencement of hostilities; to regard an enemy as an outlaw and as a criminal, who had no right to life, even when unarmed and defenceless; to use poisoned weapons, employ assassins, violate females, and sell prisoners into slavery; and to confiscate, as contraband, provisions when in transitu to feed starving non-

\* These several quotations are from Kent, edition of 1832, pages 28, 29, 31, 32, 33, and 34.

† Selden died in 1654; Grotius in 1645.

combatants and furnishing women and children. If the abstract right exist to close Canso in time of peace against vessels under sail, it belongs to the same class of inhuman rules of the international code. "The English," says Montesquieu, "have made the protection of *foreign* merchants one of the articles of their national liberty." I commend the sentiment to the consideration of the English crown lawyers.

But let us take a practical view of the question before us. The peninsula of Nova Scotia is bounded on the northeast by the strait, or "gut," of which we are speaking, and is separated by it from the large island of Cape Breton. To save the long, difficult, and at some times of the year the dangerous voyage round this island, our vessels are in the constant practice of passing through Canso. The strait is lighted; and our flag contributes liberally to support *all* the light-houses on the coast. The "light-money" exacted is, indeed, so enormous—the benefit afforded considered—that our ship-owners complain of the exactions continually.\* It is apparent at a glance that the sailing of a vessel over the sea between Nova Scotia and Cape Breton can, of itself, harm no one. This sea, be it understood, is very narrow, not exceeding, in some parts, one mile in breadth.

Having thus stated the case, we will illustrate the doctrine maintained by the crown lawyers, by one exactly parallel in all its points. The "McLane arrangement" in 1830, disposed of many of the difficulties which, from the peace of 1783, had embarrassed our intercourse with the colonies, and under its terms colonial vessels have freely used

\*The United States consul at Pictou, Nova Scotia, thus wrote to Mr. Forsyth, Secretary of State, in 1839: "The tax of six and two-thirds cents per ton register of shipping, collected by the province of Nova Scotia at the Strait of Canso, is levied on British as well as foreign ships; but it becomes a heavy charge on American vessels making four or five trips a year to this port, in the coal trade; and as there is no impost on shipping in American ports for the support of lights on the coast of the United States, such a tax on American vessels in the ports of the British colonies involves a discrepancy in the terms of intercourse between the two countries, although it professes to be based on strict reciprocity."

The Gloucester Telegraph, a paper which is authority on all matters connected with the fisheries, contained the following article, August, 1852:

"**LIGHT DUTY AT THE BAY.**—One of the most grievous things which our fishermen have to submit to at the Bay of St. Lawrence, is the payment of a light-duty. Our vessels have for years been obliged to pay this duty at the Gut of Canso, which is a tax upon the town of Gloucester alone of \$1,000 a year. This year every vessel which visits the harbor of Prince Edward Island is obliged to pay another tax, which is called anchorage duty. As almost all of our vessels visit the island, this new duty about doubles the tax upon them. And again, if any of our vessels are driven by stress of weather into Miramichi, and some of the other ports on the main land, the anchorage duty, light-duty, port charges, &c., &c., are put upon them to the amount of \$20 more. Now, is this right? The Nova Scotia vessels which visit our harbors are subjected to port charges, amounting, for a vessel under one hundred tons, to only \$4 50. Why should our vessels, for merely passing through their waters, be subjected to so heavy a tax, while their vessels who visit us for the purpose of trading have the benefit of our light-houses, and only pay a trifling sum for port charges?

"It is said that the light-duty paid by our vessels is for the support of their light-houses. But what are those light-houses? There are two poor lights at the Gut of Canso, but none on the coasts visited by the fishermen, except, we believe, at Gaspé. There is no light on the whole northern coast of Prince Edward Island, which is most visited by our fishermen during the stormy months of September and October, when the lights are most needed. Our fishing-vessels alone pay light-duty sufficient to have the coast well lighted.

"The officers who collect these duties admit that they are unjust; but still they say their government must impose them. And how are they collected? The officers at the island offer to take most anything when the captain hesitates about paying the specie: they will take molasses, pork, and even oil clothes! This is a nice way to smuggle in the goods."

the straits, passages, and harbors of our entire coast. Thousands of these vessels visit our ports annually; and the "in-shore" voyage is invaluable to them during the stormy and boisterous months of the year. Every merchant engaged in navigation is aware that, as a class, the small vessels built in Nova Scotia and New Brunswick are far inferior to our own. To say nothing of the want of skill and sobriety in *some* of the masters, and nothing of the weak and misshapen hulls of many of the colonial craft, it may be remarked that a proportion of such as are employed in the transportation of wood and gypsum are fitted with the cast-off sails and cordage of timber-ships. To "dodge along shore" is the only safe course for these vessels to pursue, as none can deny. To allow them to do so, is but an act of common humanity. To deny them the "boon," would be to involve many in certain destruction.

And now, suppose that the legislature of Maine should remonstrate to our government on the subject, and insist that the people of that State suffer great wrong, because colonial vessels, when bound to Portland, Boston, and other northern ports, instead of keeping broad off at sea, "hug the shore" and pass through Edgemaroggin and Moosepeck Reaches, over Bass-harbor bar, through Fox Island thoroughfare, and between Monhegan and the main land. Suppose, too, that the legislatures of New York and Connecticut should join the frontier State and demand the exclusion of British vessels from Long Island Sound? Suppose, further, that finally the Attorney General of the United States should submit an opinion to the President, in which he should say that no stipulations giving the right to navigate these straits and this sound exist, either in the treaty of 1783, in Jay's treaty in 1794, in the treaty of peace in 1814, in the treaty of commerce in 1815, in the convention of 1818, in the McLane arrangement in 1830, or in the last, the treaty of Washington in 1842; who would fail to see the inhumanity—nay, the outright wickedness—of the whole proceeding? Yet, were all this to be done, they would do no *more* than has actually been done by the political leaders of Nova Scotia and the crown lawyers of England. As a matter of right, the British colonists *can* be treated precisely as they require the government of England to treat us. If—as they aver, and quote international law to prove—the Strait of Canso is not open to *our* vessels under sail and passing to and from the Gulf of St. Lawrence, then, and for the same reasons—geographical and political—the "reaches," sounds, straits, and "thoroughfares" along the coast of the United States, are not open to *them*. Can this position be denied?

In reply to Lord Falkland's fifth query, the law officers of the crown say: "With reference to the claim of a right to land on the Magdalene islands, and to fish from the shores thereof, it must be observed that, by the treaty, the liberty of drying and curing fish (purposes which could only be accomplished by landing) in any of the unsettled bays, &c., of the southern part of Newfoundland, and of the coast of Labrador, is specifically provided for; but such privilege is distinctly negatived in any settled bay, &c. And it must therefore be inferred that, if the liberty of landing on the shores of the Magdalene islands had been intended to be conceded, such an important concession would

have been the subject of express stipulation, and would necessarily have been accompanied with a description of the inland extent of the shore over which such liberty was to be exercised, and whether in settled or unsettled parts; but neither of these important particulars is provided for, even by implication. And that, among other considerations, leads us to the conclusion that American citizens have no right to land or conduct the fishery from the shores of the Magdalene islands. The word 'shore' does not appear to be used in the convention in any other than the general or ordinary sense of the word, and must be construed with reference to the liberty to be exercised upon it, and would therefore compromise the land covered with water as far as could be available for the due enjoyment of the liberty granted."

Will these *learned* gentlemen explain why the word "*shores*" is used in the convention in connexion with the right which we enjoy at these islands, while the terms "*coast*" and "*coasts*" are employed when defining our rights at Newfoundland and Labrador? The reason is very obvious to practical men. The Newfoundland and Labrador fisheries are *cod*-fisheries: the principal Magdalene fishery is a *herring*-fishery. The "*shores*" of the Magdalene islands are not wanted for the purpose of "drying and curing fish," as the crown lawyers seem to suppose, but for using nets and seines. With all deference, then, their argument is not sound. The right to use the implements employed by British subjects at these islands is indispensable to our success in the herring-fishery there. The herring is never split and dried like the cod, nor is it cured on the shores of the Magdalenes. Hence there are no conclusions to be drawn from a statement of the limitations of "drying and curing" in the cod-fishery on other and distant coasts. Yet this is the reasoning by which we are to be deprived of the right to land and fish on the shores of the Magdalene islands. But I insist that the change of the terms "*coast*" and "*coasts*" to "*shores*" was meant to give the precise right which it is urged we cannot enjoy. To have said, in the convention, that we might take fish on the *coast* and *coasts* of these islands, as really *is* said when speaking of the *cod*-fishery, would have been a vain use of words; but since the *herring*-fishery requires the use of *shores*, and without the use of shores cannot be prosecuted in the common way, the reason why the term was used in relation to that fishery is too manifest to need further illustration.

Still, as it is argued that, "if the liberty of landing on the shores of the Magdalene islands had been intended to be conceded, such an important concession would have been the subject of express stipulation," &c., it may not be amiss to consider the suggestion. And I reply that, if "a description of the inland extent of the shore over which" we may use nets and seines in catching the herring is necessary, it is equally necessary to define our rights of drying and curing the cod elsewhere, and as stipulated in the convention. Both are *shore* rights, and both are left without condition or limitation as to the quantity of beach and upland that may be appropriated by our fishermen. It was proclaimed in the House of Commons, more than two centuries ago, by Coke—that giant of the law—that "FREE FISHING" included "ALL ITS INCIDENTS." The thought may be useful to the Queen's advocate

and her Majesty's attorney general when next they transmit an opinion across the Atlantic which is to affect their own reputation and the reputation of their country. The right to take fish "on the shores of the Magdalene islands," without conditions annexed to the grant, whatever these profoundly ignorant advisers of the crown of England may say to the contrary, includes, by its very nature and necessity, all the "incidents" of a "free fishery," and all the privileges in use by and common among fishermen, and all the facilities and accommodations, on the land and on the sea, which conduce to the safety of the men employed in the fishery, and to an economical and advantageous prosecution of it.

We have cause of thankfulness, however, that we possess the right to do at least one thing, under the convention, without being liable to the pains and penalties of her Majesty's court of vice-admiralty. The sixth query of Lord Falkland is answered in our favor, and as follows: "By the convention, the liberty of entering the bays and harbors of Nova Scotia, for the purpose of purchasing wood and obtaining water, is conceded in general terms, unrestricted by any condition, expressed or implied, limiting it to vessels duly provided at the commencement of the voyage; and we are of opinion that no such condition can be attached to the enjoyment of the liberty."

But Lord Falkland is not to be excused for proposing the inquiry. That his question may not be lost sight of, (though once inserted,) it is here repeated. "Have American fishermen," he asked, "the right to enter the bays and harbors of this province, [Nova Scotia,] for the purpose of purchasing wood or obtaining water, having provided neither of these articles at the commencement of their voyages in their own country; or have they the right only of entering such bays and harbors in cases of distress, or to purchase wood and obtain water after the usual stock of those articles for the voyage of such fishing craft has been exhausted or destroyed?"

Did his lordship really believe that our fishing vessels ever, and under any circumstances, depart from home "without providing" wood and water? But, on the supposition that they always do make a voyage of three hundred miles with stocks of neither, what then? Common charity might dictate that their improvidence should not be punished with an interdiction against procuring articles of so indispensable necessity at the earliest possible moment. Lord Falkland lives in the middle of the nineteenth century: he is a British peer: he is yet the governor of a British colony: he is the husband of a daughter of a British king: and he never should have said, substantially, that an American fisherman, when found in a British colonial harbor bargaining with a subject of her Majesty for a boat-load of fuel, or craving leave to fill his water-cask at a well, or presuming to dip a few gallons from a running brook, would be adjudged a lawful prize, unless able to prove to her Majesty's judges of vice-admiralty that the "usual stock of those articles for the voyage" had been "exhausted or destroyed."

The sixth query was, however, necessary to complete the series, and illustrate the spirit of the whole. The seventh and last answer requires no comment, as it merely announces that—

“The rights of fishery ceded to the citizens of the United States, and those reserved for the exclusive enjoyment of British subjects, depend altogether upon the convention of 1818, the only existing treaty on this subject between the two countries; and the material points arising thereon have been specifically answered in our replies to the preceding queries.”

That this opinion is not conclusive against us, and that, indeed, it has no binding force whatever, hardly need be said; especially since there is probable cause to believe that it was paid\* for in the common course of professional duty. But whether the Queen’s advocate and her Majesty’s attorney general did or did not appear in the “case” submitted to them as the counsel of Nova Scotia, is a matter of no moment to us. The judgment which they have rendered, and the examination of which is now concluded, deserves no respect either for its law, its common sense, its humanity, or its justice. Its only claim to the notice bestowed upon it consists in the fact that it is relied on to prove that we are in the wrong and England in the right, in the controversy which has arisen as to the intent and meaning of the convention of 1818.

We are now ready to inquire what, up to 1841, was the British construction? First, however, let us glance at the British pretension prior to the concluding of the convention. In 1817, in the orders of Admiral Milne to Captain Chambers, under which several American vessels were seized, it is said: “On meeting with any foreign vessel fishing or at anchor in any of the *harbors or creeks* in his Majesty’s North American provinces, or *within our maritime jurisdiction*, you will seize,” &c. Here is the extent of the British claim. Captain Chambers, in reporting his doings to his commander-in-chief, remarked that he “did not receive any intelligence of foreign vessels being *within our jurisdiction* until the 3d instant,” (June 3, 1817,) when he was informed “that they constantly resorted to the *creeks* on this coast in order to catch their bait, clean their fish, wood, water, &c.” The *harbors* of Cape Negro and of the Ragged Island, he said further, were visited by such vessels; and in these *harbors* and for resorting to these *harbors* he captured eleven American fishermen.

The bodies of sea-water of more than six miles in width were not claimed, then, in 1817, and pending the negotiations; and Admiral Milne acted in strict conformity to Lord Bathurst’s suggestion to Mr. Adams in 1815, that we must relinquish “the harbors and creeks,” and the “maritime jurisdiction three marine miles from the shore.” If the construction of the crown lawyers is just, it follows that the convention of 1818 is an injury rather than a benefit, for the simple reason that previous to that year we were allowed to fish in the bays which, it is pretended by these gentlemen, we cannot enter under the stipulations of that instrument.

What, in the second place, has been the course pursued *since* 1818? Some of the colonial writers have affirmed during the present year,

\* When Lord Falkland solicited Lord John Russell to submit his queries, he said: “I am authorized by the House of Assembly here to defray any expense that may be incurred obtaining such opinion,” &c.

(1852,) that the act of Parliament of 1819 (cited in this report) asserts the British construction as now maintained. It is not so. The act does indeed recite the first article of the convention, and was passed in consequence of it; but it does not contain a word which defines the term "bays," or which indicates the manner of measuring the three-mile interdiction. It authorizes the seizure of vessels that should violate its provisions. The proceedings of British naval officers on the American stations, who have always been furnished with a copy of the act, and with a copy of the convention, and whose orders from the Lords of the Admiralty have always been founded on both, will enable us to ascertain whether or not the ships-of-war have allowed our vessels to fish anywhere and everywhere, in the bays and outside of the bays, more than three miles from the shore.

While my home was on the eastern frontier, hardly a year passed without my seeing one or more ships of the royal navy which were employed on this service in the Bay of Fundy; and I am sure that a case of seizure for "fishing broad" in that bay never occurred previous to the year 1843. Even Captain Hoare, of the *Dotterel*, who, as we have seen, spread consternation among our fishermen in 1824, and subsequently, informed Admiral Lake, his commander-in-chief, that his orders to the officers in command of his armed boats had been to capture only such American vessels as "they found within three marine miles of the shore," and to except those "in evident distress, or in want of wood and water." The same was observed elsewhere. The report of Captain Fair, of her Majesty's ship *Champion*, in 1839, shows that he passed through a fleet of six or seven hundred American vessels in various positions—some within the headlands of the bays, and some along the shores; but none within the three-mile interdiction. His frank declaration on the subject is honorable to him. While cruising in the vicinity of Prince Edward Island he states that there was not "a single case which called for our interference, or where it was necessary to recommend caution; on the contrary, the Americans say that a privilege has been granted them, and that they will not abuse it." That, in allowing several hundreds of our fishermen to pursue their avocation without molestation, his conduct was in accordance with his instructions, we have positive evidence; for Lieutenant Paine, who visited the fishing grounds the same year in command of the *Grampus*, stated after his return, in a letter to the Secretary of State, that the orders of "Admiral Sir Thomas Harvey, as he informed me, were only to prevent" our countrymen from "fishing nearer than three miles." But the authorities of Nova Scotia, said Lieutenant Paine, "*seem* to claim a right to exclude Americans from all bays, including those large seas—such as the Bay of Fundy and the Bay of Chaleurs; and also to draw a line from headland to headland, the Americans not to approach within three miles of this line."

Here, then, two years before the crown lawyers gave the opinion under examination, is our first knowledge of the "headlands." It was but whispered even in 1839. The naval officers knew nothing about it. Our government knew nothing about it until 1841, when Mr. Forsyth, in a despatch to Mr. Stevenson, our envoy to the Court of St. James,

called his attention to it. "From the information in the possession of the department," he observed :

"It appears that the provincial authorities assume a right to exclude American vessels from all their bays, even including those of Fundy and Chaleurs, and to prohibit their approach within three miles of a line drawn from headland to headland. These authorities also claim a right to exclude our vessels from resorting to their ports unless in actual distress, and American vessels are accordingly warned to depart, or ordered to get under weigh and leave a harbor, whenever the provincial custom-house or British naval officer supposes, without a full examination of the circumstances under which they entered, that they have been there a reasonable time."

As yet, however, the colonists had not ventured to enforce the pretension they had set up. Lord Falkland, in a despatch to Lord Stanley dated in May, 1841, affirms this; for he says :

"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."

Besides, how happens it that if the "King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons" in Parliament assembled, meant to exclude—and by the act of 1819 actually did exclude, as far as the action of one government could do so—our vessels from the bays now in dispute; how happens it, I ask, that in 1841, twenty-one years afterwards, the queries of Lord Falkland before us were submitted to the crown lawyers? On the ground that Parliament had *already* construed the convention as his Lordship desired that it should be interpreted, why did not the British minister to whom these queries were transmitted so state in reply? The act of 1819 was the supreme law of the realm; and if the commanders of the ships of the royal navy on the American station had been instructed year after year, and for twenty-one years, to execute it, and to consider it as a construction of the convention in the sense *now* contended for, why were every one of these commanders so very unfaithful to their duty? Why was the fact that their orders from the admiralty required them to hunt up and to drive out all American fishermen from these bays unknown to everybody, in England and America?

Three years previously (1838) Lord Glenelg, the Secretary for the Colonies, in a communication to Sir Colin Campbell, lieutenant governor of Nova Scotia, in answer to a joint address to the Queen from the Legislative Council and House of Assembly of that colony, complaining of the habitual violation by American citizens of the convention of 1818, promises that an armed force shall be kept, annually, on the fishing grounds; and states that "her Majesty's minister at Washington had been instructed to invite the friendly co-operation of the American government" to enforce a more strict observance of that convention. Here was a very proper opportunity to refer to the provisions of the act of Parliament of 1819, and to give our government Lord Glenelg's construction of it. But instead of this, he tempers the expectations of the

colonists by saying, that "The commanders of these vessels will be cautioned to take care that, while supporting the rights of British subjects, they do not themselves overstep the bounds of the treaty."

Lord Aberdeen, April, 1844, in a letter to Mr. Everett, adopts the opinion of the crown lawyers. This, I suppose, was the first unqualified official avowal to a functionary of our government of the headland construction of the convention. His lordship, in March, 1845, in another communication addressed to Mr. Everett, reaffirms this construction, and distinctly states that with reference to the Bay of Fundy and the other bays on the British American coasts, "no United States fisherman has, under that convention, the right to fish within three miles of the entrance of such bays as designated by a line drawn from headland to headland at that entrance."

Our right, therefore, to the bays in dispute rests upon the British interpretation of the treaty, as well as our own.

Nor are we unsupported by colonists. Some, with great fairness, admit all that we claim. Two examples will suffice. A respectable colonial newspaper, in commenting, in 1845, upon Lord Stanley's despatch of March 30, of that year, which, it will be remembered, opens the Bay of Fundy, objects to the measure on the ground that our privileges were already ample: for, it remarks, "in the convention of 1818, it is stipulated that the citizens of the United States shall be allowed to fish within three nautical miles *around* all our coasts;" that instrument, it argues, "should have reserved to us [to British subjects] the quiet and undisturbed possession of our *bays and inlets*." The article from which this extract is made is able, and was copied into several other colonial newspapers.\*

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\* Some of the colonial newspapers still maintain similar views. The St. John New Brunswicker said, in August, 1852, in commenting on Mr. Webster's despatch or "proclamation," that "it will be seen that Mr. Webster labors under the impression that her Majesty's government are about to enforce the convention strictly, according to the opinions of the law officers of England. We believe that such is not the case. For some years past there has been a tacit understanding that American fishing vessels should only be excluded from those bays or inlets of our coasts which were less than six miles wide, and within which American vessels could not fish unless within three miles of the land, either on the one side or the other. There is not the slightest necessity for straining the terms of the convention, for it is notorious that American fishing vessels pursue everywhere near the shores of these provinces, within three miles of the land, where only in the autumn they get the best fishing; and it is to prevent this flagrant and acknowledged breach of the convention that the present movements are taking place."

The St. John News, in the same month, disavowed the *new* construction of the convention in these words:

"Now all this tempest in a tea-pot amounts to just nothing at all, and we think the American press will find out before a very great while that they have been wasting their powder, and getting nothing in return but pity for their ignorance. They will learn that the legislatures of these provinces have not attempted to give a new reading to the treaty—neither has England; that they do not refuse to American fishermen the privilege of taking fish in the Bay of Fundy; whether right or wrong, is another thing.

"All that we intend to do is nothing more nor less than we have been doing for the last thirty years—and that is, to seize vessels caught within three miles of the shore, taking fish contrary to the treaty, as *thoroughly understood* both by England and America, and also by the fishermen themselves. Whenever it can be shown that an American vessel has been taken outside of the prescribed limits, then it will be time enough for our neighbors to get in a pucker."

A newspaper published at Charlottetown, Prince Edward Island, (also in August, 1852,) in an article in answer to the question "Is war probable?" advocates the policy of permitting the Americans to have access to the colonial shores, and remarks: "But a very pretty quarrel with America is by no means improbable, if our cruisers insist on capturing all Yankee fishing

The second instance is from the letters of the Hon. G. R. Young (a distinguished gentleman of Nova Scotia) to Mr. Stanley.\*

"As early as the month of March," wrote Mr. Young, "if any stranger approached the coasts of Nova Scotia, his observations would induce him to believe that he was advancing to the territory of some great commercial state. At a short distance from the shore, and on the banks and most productive fishing grounds, he would perceive fleets or continuous lines of small shallops; and if the day and season were auspicious, he would discover that their crews were busily employed in drawing forth the treasures of the deep. *Seeing them thus anchored within view, nay, within almost the shadow of the shore,* and employed in appropriating the resources which would appear to belong to it, the deduction would be irresistible that they had recently left the neighboring harbors, and were manned by their inhabitants. He would, however, be in error. On inquiry he would learn that they have come a distance of three hundred miles, to avail themselves of the privilege—that they belonged to a rival state, and that they enjoyed the right by virtue of a treaty, which the government have bestowed without necessity and without return. He would learn, also, that this liberal concession was highly disadvantageous to the inhabitants on the coast by lessening the productiveness of the fishing grounds."

That the ministry consented to act on the opinion of the Queen's advocate and her Majesty's attorney general, with much reluctance, is very obvious. The first proof is found in their delay in transmitting it to the colonial governor who furnished the "case" on which it is founded. In the despatch which accompanied it at last, Lord Stanley remarks that "the subject has frequently engaged the attention of myself and my colleagues, with the view of adopting further measures, if necessary, for the protection of British interests in accordance" therewith. But he adds: "We have, however, on full consideration, come to the conclusion, as regards the fisheries of Nova Scotia, that the precautions taken by the provincial legislature appear adequate to the purpose, and that being now practically acquiesced in by the Americans, no further measures are required." The opinion thus disposed of in November, 1842, was suffered to rest until the capture of the Washington and the Argus. Mr. Everett's arrangement in 1845 was, in effect, an abandonment of the whole matter.

Seven years of comparative quiet on the fishing grounds elapse, and we are brought to the exciting events of 1852.

There is another remarkable circumstance connected with this controversy, which should not escape notice—namely, that New Bruns-

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*vessels nearer the shore than three miles outside of a line drawn from opposite headlands of a bay. Notwithstanding the opinion of the English crown law officers, this interpretation of the treaty will throw the argument entirely into the hands of the Americans. If the headlands be low, or the bay wide, like the entrance to the Bay of Chaleur, it is not possible for the fishermen to know, or to estimate, their true position in regard to those headlands. The horizontal line of vision, from the deck of a schooner, is intercepted by the convexity of the earth at a distance of six or eight miles. It is not to be concealed that a capture made, or a shot fired, under these circumstances, might produce war. And if war be the result, can Britain rely on the hearty co-operation of the provincials? Exceedingly doubtful. Will the Canadians submit to have their flourishing towns and villages destroyed, and their families slaughtered, in order to protect a few unprofitable fisheries in the Gulf of St. Lawrence?"*

\* Now the Earl of Derby.

wick, Prince Edward Island, and Canada, up to the time of the Toronto agreement in 1851, remained almost passive spectators of the belligerent attitude of their sister colony of Nova Scotia. The subject of "American aggressions"—as we have shown—has been one of profound interest to the last mentioned dependency of the crown for a long period. To find commiseration neither at home nor abroad, is a grievance hard to be borne. To show, year after year, and for an entire generation, in petitions to the throne, in legislative reports, and in newspaper essays, that the most ruinous consequences had resulted, and would continue to follow the permission to Americans to pass through the Strait of Canso, and to fish in the bays of British America, and yet, after all, to awaken no sympathy on the part of fellow-colonists, and no determined action on the part of the ministers of the Queen, is a misfortune which even the aggressors themselves are bound to appreciate.

But I may say that fishermen, without treaty stipulations to favor and protect them, have sometimes fared far better than it is possible for ours to do, if the views of the crown lawyers are carried out in their most obvious sense.

The fishermen of almost every civilized nation have pursued their business either on implied or written sanctions. They have been permitted to follow their calling even in war. The hostile relations between England and Holland—though the ocean was stained with the blood of the subjects of each for several generations—did not, except in particular cases and for short periods, break up the Dutch fishery on the English coast. In the war of our own Revolution, "rebels" though we were, Berkeley, of the Scarborough frigate, while occupying the Piscataqua, allowed the fishermen of that river free pass, out and in; and so, too, Admiral Digby, moved with compassion for the sufferings of the people of Nantucket, gave them written permits to resume whaling; and the fact that a vessel\* thus protected by his humanity was the first to bear our new-born flag to the Thames, and to draw out all London to see it, will be remembered, perhaps, when the records of battles shall be torn and scattered.

Nor did the war of 1812, with all the desolation and bad feeling which it caused, form an exception to the rule so commonly observed. I refer for instances to the passports of Admiral Hotham to the people of Nantucket; to the permissions granted by Sir George Collier to all fishing-boats and vessels under thirty tons; and to the ordinary and almost universal practice of British commanders along our coast, of allowing the taking of fish to be carried to our towns and cities, and to be consumed fresh. And yet, our public and private armed ships, as these very officers knew, were manned in a good measure by the class of men to whom these indulgences were granted. How many in the same service with Digby, Hotham, and Collier are there *now* in commission, who will "crowd sail alow and aloft" to hunt up and drive out such of our fishermen as shall continue to visit the "bays" inter-

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\*Her arrival was announced in Parliament. Mr. Hammet said he "begged leave to inform the House of a very recent and extraordinary occurrence." After stating the name—"the Bedford, Moores, master"—he adds, she "wears the *rebel* colors, and belongs to the island of Nantucket, in Massachusetts."

dicted in consequence of colonial importunities and representations, by the present prime minister of England, while holding the office of Secretary for the Colonies?

In the course of frequent researches among state papers, I do not remember to have seen a public document of such a singular character as his lordship's despatch to Lord Falkland. The American people are distinctly told in it that colonial interference has alone prevented the home government from executing a determination already formed, to put an end to all difficulties on the fishing grounds within British jurisdiction. How often has it happened that an English statesman, while assuming the political responsibility of an act, has cast the moral responsibility of it upon the subjects under his special care? When has a secretary for the colonies made known to the world that the representations of colonists have set aside the "intentions" of the cabinet ministers of the crown? I do not ask how often colonial remonstrances have actually prevailed with the ministry; but how frequently has colonial opposition to a course of policy been *avowed* by ministers as their reason for a change of purpose? The common form of announcing a cabinet decision is not that employed by Lord Stanley, in his despatch of March 30th to Sir William Colebrooke;\* still that decision was deemed honorable and liberal. The motive there stated for opening the Bay of Fundy is, "*the removal of a fertile source of disagreement*" between the United States and Great Britain. But in the despatch to Lord Falkland, of September 17th, though the same inducements existed in full force for her Majesty's government to execute the "intention" of opening the other "bays" to our fishermen in order to perfect and perpetuate harmonious feeling, yet that "intention was abandoned" on account of Lord Falkland's "statements."

This despatch has been once quoted; but since it should be continually kept in view, it may be cited again:

"DOWNING STREET, *September 17, 1845.*

"MY LORD: \* \* \* \* Her Majesty's government have attentively considered the representations contained in your despatches, Nos. 324 and 331, of the 17th June and the 2d July, respecting the

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\* This document has not been previously inserted. It bears date March 30, 1845, and is addressed to Sir William Colebrooke, lieutenant governor of New Brunswick. It was the first official annunciation to the people of that colony of the arrangement with Mr. Everett. The colonial newspapers commented upon the course of the ministry in terms of great severity, directly, and for some time after its publication.

"SIR: I have the honor to acquaint you, for your information and guidance, that her Majesty's government have had under their consideration the claim of citizens of the United States to fish in the Bay of Fundy—a claim which has hitherto been resisted on the ground that that bay is included within the British possessions.

"Her Majesty's government feel satisfied that the Bay of Fundy has been rightly claimed by Great Britain as a bay within the treaty of 1818; but they conceive that the relaxation of the exercise of that right would be attended with mutual advantage to both countries: to the United States as conferring a material benefit on their fishing trade, and to Great Britain and the United States conjointly and equally by the removal of a fertile source of disagreement between them. It has accordingly been announced to the United States government that American citizens would henceforward be allowed to fish in any part of the Bay of Fundy, provided they do not approach, except in the cases specified in the treaty of 1818, within three miles of the *entrance* of any bay on the coast of Nova Scotia or New Brunswick.

I have, &c.,

"STANLEY."

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."

There are fish enough in the American seas for *all* who speak the Saxon tongue—for *all* of the Saxon stock. England, we may hope, will not maintain a position so likely to produce troubles like those of olden time which existed between us, as colonists, and the French, and of which I have elsewhere spoken. Fishermen are but poor interpreters of international law and of unreal and fictitious distinctions. To them, the open sea, the great "bays," are but one—but a continuous fishing ground; and few of them, I apprehend, will ever see or respect the lines which colonial ingenuity has "drawn from headland to headland" of these "bays."

I conclude the topic with expressing the conviction—to which all practical men will assent—that, if the *new* construction of the convention of 1818 be persisted in and actually enforced, we shall lose quite one-third of our cod and mackerel fisheries. Let not our colonial brethren press us too far. Self-conquest is the noblest of all victories; and, in all kindness, let them be urged to subdue their hatred of "the Yankees." The children of the whigs of a former day demand free access to all the seas of British America. They require the use of every sheet of sea-water six miles wide all around the colonial coasts—not by courtesy, but as a matter of right; and they will be satisfied with nothing less. The attempt to exclude them has already caused much unneighborly feeling, and, if continued, will occasion wrangling and quarrelling on the fishing grounds. The end, no one is wise enough to foresee.

The colonists have toiled a whole generation to move the British government to "protect them from the aggressions of the Americans." They have apparently, and for the moment, accomplished their object. But will they themselves catch a fish the more, or become a single guinea the richer, in consequence of the opinion of the crown lawyers and of Lord Stanley's two despatches? They have achieved a state-paper victory, at the expense of right and of humanity. Some of our countrymen have neither the money nor the credit to procure and fit out the class of vessels required in the Newfoundland and Labrador fisheries, and are compelled by the necessities of their position and condition to resort, in the smaller craft, to the coasts of New Brunswick and Nova Scotia to earn subsistence. Exclusion to such, is a great wrong. Nay, it is a wrong to colonists themselves, and to hungry and starving women and children, whom they *always* meet on particular parts of the colonial coasts when making their "spring fare," and whose necessities they seldom refuse to relieve, even to their own

deprivation. The fact is not to be disputed. Nor is this all. Our fishermen are often of service in other respects. I have room for but a single instance. In a gale, in 1845, at Shippigan\*—within one of the interdicted “bays,” be it remembered—upwards of one hundred British fishermen, exposed to the fury of the storm in open boats, were preserved from death by the courage and exertions of the Americans there, who were fishing in decked vessels.

The act of Nova Scotia, passed in 1836, claims our attention. Under this law an American vessel “preparing to fish” within three miles of the coast is liable to be forfeited; *the owner or claimant of such vessel, in case of seizure for an alleged violation of this or of any other provision of the law, is required to show that there was no ground of seizure or to pay treble costs*; the owner or claimant is also compelled to appeal from the seizing officer to the admiralty court, and try his action there within three months, or to lose all remedy; the owner or claimant is compelled to give one month’s notice of his intention to contest the legality of the seizure, and to embody in such notice every fact and circumstance on which he means to rely to prove the seizure without good cause, and to show, before trial, that the seizing officer has been notified in form, and within the time prescribed. The seizing officer, on the other hand, may inflict the most wanton injury, and escape unharmed. The 13th section provides, “that in case any information or suit shall be brought to trial on account of any seizure made under this act, and a verdict shall be found for the claimant thereof, and the judge or court before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be

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\* This gale was on the 18th of July. The *Miranichi Gleaner*, of August 9, thus spoke of it and of the unknown humane American captain: “On the 18th ultimo this place was visited with one of the most fearful gales ever remembered by the oldest fisherman. On the morning of that day the wind blew lightly from the southwest, and the appearance of the day so fine that every boat belonging to Shippigan, Carraquet, and Miscow, put off for the fishing grounds, with every prospect of a fine catch. Up to this time not a cloud was to be seen, and the horizon gave no indication of an approaching storm, when about 10 a. m. the wind veered round to the northwest and blew a perfect hurricane. The violence of the wind carried everything before it: schooners, boats, and flats were upset and driven on shore. Amongst the boats which had proceeded to sea, fear and consternation prevailed. They had no alternative but to weigh anchor and be driven before it off the land; the sea was running mountains-high, and as, from the violence of the wind, they were unable to carry sail, every succeeding sea threatened to engulf their tiny barks. By this time they had lost sight of land, when, fortunately, some American schooners, fishing for mackerel on the Bradille and Orphan banks, hove in sight, and, on seeing the perilous situation of the boats, these humane men immediately got under weigh and stood towards them. As the gale was increasing, and the schooners considerably to leeward, they signalled them to bear down, and by skill and good seamanship happily rescued every soul on board, and made fast as many as possible to the schooners, and directed their men to anchor the remainder on the banks and leave them to their fate. By this noble act every soul, amounting to one hundred, was saved. On Saturday, after the violence of the gale had somewhat subsided, the schooners stood in for the shore and landed the men and boats in safety. A small vessel was immediately procured and despatched in search of the boats which had been left at anchor on the bank at Miscow island, (twelve in number,) and, strange to say, found them all safe. As some of the men had lost their clothes, the American captains generously distributed a quantity of wearing apparel amongst them.

“One of the strange captains reports, that at the commencement of the gale he perceived several boats laboring heavily, and bore up to render some assistance, but as they disappeared suddenly it is feared they have all gone down; it is supposed they belonged to the Canada side. It is much to be regretted that neither the names of the schooners nor of the captains are known here, in order that they may be publicly thanked.

liable to any action, indictment, or other suit or prosecution, on account of such seizure; and if any action, indictment, or other suit or prosecution, shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized, or the value thereof, shall be entitled to no more than twopence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling." No American citizen can speak of this infamous law with calmness. Well did Mr. Forsyth\* say that some of its provisions were "violations of well-established principles of the common law of England and of the principles of all just powers and all civilized nations, and seemed to be expressly designed to enable her Majesty's authorities, with perfect impunity, to seize and confiscate American vessels, and to embezzle, almost indiscriminately, the property of our citizens employed in the fisheries on the coasts of the British possessions." Well, too, did Mr. Everett† stigmatize it as possessing "none of the qualities of the law of civilized States but its forms;" and Mr. Davis,‡ as being "a law of a shameful character," and "evidently designed to legalize marauding upon an industrious, enterprising class of men, who have no means to contend with such sharp and unwarrantable weapons of warfare."

These are strong expressions; but they were uttered by gentlemen who measure their words, and are entirely true. Nay, more; for I shall presume to add that the politicians of Nova Scotia remind us of the theory of Hobbes, who maintained that the natural state of man is a state of war against all; since these very *loyal* gentlemen are in continual dispute with one another, with the government of the mother country, with British subjects in other colonies, and with the people of the United States. In fact, these persons, in their various contests, have succeeded in making Nova Scotia the Barbary power of this hemisphere. It was contended in England, as late as the opening of the present century, that the capture and sale of an English ship by Algerines was a piratical seizure. I am disposed to regard the proceedings against American fishing vessels, under the authority derived from the act of 1836, as open to the same objection. When, in 1824, young Howard and his associates rescued the Ruby and the Reindeer from the possession of the captors, the British government—as we have seen—made formal and repeated demands for reparation; but it may be difficult to show what other or greater right to interpret the convention of 1818 can possibly belong to a British colony than was exercised by this party of American youth. If Nova Scotia may lawfully interfere with, and legislate upon, a matter which is entirely national, so may Massachusetts and Maine. That colony is but a dependency of the British crown; the colonial armed cutters are mere corsairs, and their seizures of our property are acts of piracy. The sea-robbers hold our vessels at their mercy. The act of 1836 places them above responsibility, and screens them from punishment. The term "*preparing to*

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\* Despatch to Mr. Stevenson, February 20, 1841.

† Letter to Lord Aberdeen, April 2, 1845.

‡ Letter of Hon. John Davis to the fishermen of Massachusetts, September 1, 1852.

*fish*," allows them to seize our vessels under every imaginable pretence. The repairing of damages to sails, rigging, and boats; the arranging or reeling of lines; the preparation of bait; the eating of food; the mending of garments, are all prohibited—for all are performed with reference to the main objects of the voyage. An American vessel, when within three miles of the coast, or when in a harbor for shelter, cannot escape seizure, if the colonial cutters enforce the law; for it is obvious that everything done on board may be embraced in the comprehensive words—"preparing to fish." The act is a flagrant violation of the convention, which restricts us in certain particulars, when within three marine miles of the colonial shores; but "preparing to fish" is not among the interdictions. The convention provides, "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 reserved to them." What, then, is the common sense construction of these words? I reply, that a fishing vessel at home, secured at her owner's wharf, is said to be "preparing to fish," when, among other things, her crew are "repairing" her, and are taking in "wood" and "water;" and that a repetition of these acts, when in a colonial harbor, constitutes the same preparation. If this interpretation is just, it follows that while our vessels cannot take, dry, or cure fish within the colonial harbors, or within three miles of certain colonial coasts, they can *prepare* to do one and all, whenever necessity arises; responsible only for "*abusing* the privileges reserved to them."

The absurdity, the inhumanity, of the pretensions set up by Nova Scotia, can be shown by the report of one of her own officers. "I have seen," says Paul Crowell,\* (February, 1852,) "instances where American vessels had been fishing the whole of the day, and towards evening, a gale springing up, they were forced to run for a harbor with fifty or sixty barrels of fresh mackerel on deck; and if salting those fish is understood curing fish—which I think is the only way in which mackerel can be cured—under those circumstances these people must cast their fish into the sea again, or run the risk of having the vessel and cargo seized."

And again: "When cruising in the schooner *Telegraph*, last fall, being in Little Causo, an American vessel lay near. Observing the men busily employed on deck, I manned my boat and boarded her; I found them employed grinding bait for mackerel. The captain appeared quite innocent, and said he had been so careful that he had not taken a lobster while in the harbor. This might be understood 'preparing to fish.'"

This gentleman, to his honor, refused to seize the vessels to which he refers; but, under the new construction of the convention, they were all prizes. He states truly, that mackerel caught on the eve of a gale, and not dressed and salted at sea at the peril of human life, cannot be "saved" in a colonial harbor resorted to for shelter, without

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\*The Crowells of Cape Cod are of the same lineage.

involving the loss of vessel and cargo; and that confiscation also awaits those who, in the same barbarous precincts, presume to use a bait-mill! The degree of civilization in colonial legislation is wonderful, and without a parallel, except in Tunis or Tripoli.\*

As the concluding topic, we pass to examine into the causes of the seizure of our vessels, by ships of the crown and by the colonial cutters, for alleged "aggressions."

Chronological order is not material to the inquiry, and will be disregarded. In many cases we have the seizing officer's own account. Thus says one:

"I found the said American schooner Rebecca at anchor, cleaning fish and throwing the offal overboard. It being fine weather, and they having three barrels of water on board, with a sufficient quantity of wood, I detained her, and took her to St. John."

Again, reports the same officer to his superior:

"I found the American fishing schooner William anchoring in Gull cove; the weather was fine until after she got in, when it came on foggy, with light breezes; and they having two barrels of water on board, which myself, Mr. Tongeau, and boat's crew subsequently used from, and plenty of wood, I detained her."

Still again:

"I received information from the fishermen at Gull cove, as well as from the master and crew of the fishing schooner Minerva, of Grand Menan, that an American schooner was at anchor at Beal's passage. I went out from Gull cove, and saw her there; at nine o'clock in the evening I boarded her, which proved to be the American fishing schooner Galeon, and found all the crew asleep. On questioning the master the reason of his being there, he told me he had come to throw the gurry (offal of the fish) overboard. They not being in want of wood or water, and a fine fair wind for them, I detained her, got her under weigh, and ran for Gull cove, a direct course for their fishing ground. What the crew of the last mentioned vessel asserted in their protest is not true. I never said that I would release their vessel, but told them that it was not in my power to do it, as they had decidedly violated the treaty of convention between England and the United States; but as they pleaded poverty, saying their vessel was their sole support, I told them I would recommend their case to Captain Hoare, of the Dotterel, my commanding officer."

The schooner Battelle was seized for setting nets in a harbor, and for

\* As an instance of the falsehoods resorted to in Nova Scotia to inflame the minds of the colonial fishermen, I cite the following paragraph which appeared in a Halifax paper in 1845:

"*Mackerel fishery.*—About four hundred vessels engaged in the mackerel fishery (from the coast of Nova Scotia and Cape Breton) arrived at the port of Gloucester (United States) on Sunday, September 27. Their cargoes averaged one hundred barrels. Thus this fleet had upwards of forty thousand barrels of fish—pretty pickings enough! The whole catch of our provincial fishermen will not exceed ten thousand barrels."

There is one other "fish story" equal to this, namely: Some six hundred years ago, a *woman-fish* direct from the ocean made her appearance among the fishermen of Holland, with whom she lived awhile in great amity; but desiring finally to see her children, she took affectionate leave of the kind Dutchmen, and returned to her old home in the sea, where, for aught that appears in history, she is alive at this day. The skippers above mentioned reported falling in with her on the "coast of Nova Scotia and Cape Breton" in 1845, but the veracious Halifax editor suppresses the important fact.

this offence was condemned; the Hero was seized because one of her crew dressed some fish on shore; the Hyder Ally was seized and condemned for using nets within three miles of the coast; the capture of the Madison was solely upon the suspicion that her master had been engaged previously in an affray with the boat of a British man-of-war.

Mr. Towneau, a midshipman of the Dotterel, in his examination, gives the following account of the seizure of the schooners Reindeer and Ruby:

“I recollect while in Gull cove of having received information on a Sunday, from some men and a Mr. Franklin, that several American fishing vessels were at anchor in White Head harbor, and that they anchored there the evening before; that on their anchoring one of them fired three muskets, and said they were armed and manned and would oppose our boarding them. I acquainted Mr. Jones with the information I had received, who went immediately in the small boat to cruise, and returned in the evening. He told me that he had boarded an English fishing schooner (Industry) near White Head, who gave him information that several American schooners were at anchor at Two Island harbor, and that they got their wood and water at White Head. They fired several muskets on their anchoring, and told the crew of the Industry they would not allow a man-of-war’s boat to board them; and after they completed their wood and water, they shifted to Two Island harbor. We got the yawl under weigh about nine o’clock in the evening and went towards Two Island harbor, and anchored about two o’clock in the morning. At daylight we observed several vessels at anchor at Two Island harbor, and shortly after got under weigh, when we chased them. Observed three of them lashed together, and all the crews collected on board the middle one. We ordered them to separate, which at first they refused to do, until Mr. Jones threatened to fire on them. They dropped clear of each other. We boarded them, and detained the American schooners Reindeer and Ruby.”

These vessels were rescued, as has been related, off Eastport. Mr. Jones, the prize-master, in his report of the affray, states that—

“It being fine weather, and they not being in want of wood or water, I detained the Reindeer and Ruby, and put their men, with the exception of the masters, on board the two American schooners, with provisions for a passage to Lubec, and made sail in the Reindeer and Ruby for St. Andrew’s, through East Quoddy. About 6 p. m., when abreast of harbor De Lute, I observed two schooners, and an open boat full of armed men, muskets and fixed bayonets, hoisting American colors; one of them went alongside Mr. Towneau, in the Ruby, boarded, and took the arms from him and his three men: the one abreast of me was kept off for about a quarter of an hour, when they commenced firing into us. Though with great reluctance, I thought it most prudent to surrender to such superior force, having but four men, one musket, and three cutlasses.

“On delivering them up, I found there were in the two schooners about a hundred armed men, (including the crews of the schooners, about thirty in number,) the rest having the appearance of militiamen,

and headed by a Mr. Howard, of Eastport, said to be captain in the United States militia."\*

The *Magnolia* was charged with fishing while at anchor in a harbor, but the master averred that he caught no fish within fifteen miles of the coast; that he went into the harbor for shelter, and for wood and water; and that his only offence consisted in the purchase of a barrel of herrings for bait. The *Magnolia* was, however, condemned.

The *Independence*, on her way from the fishing ground to a colonial port to get a compass repaired, and to procure water, encountered a gale which required her to put into an intermediate harbor, where she lent her nets, for a single night, to a British fisherman, and was seized and confiscated.

The master of the *Shetland*, importuned by a lad, sold him a pair of trousers, one pound of tea, and six or eight pounds of tobacco, for which he received four dollars. The seizing officer himself confessed to the American consul at Halifax that he gave the boy the money to induce the master to sell the articles mentioned. The *Shetland* "escaped condemnation," says the consul, "by the merest accident;" she was released on payment of about six hundred dollars expenses.

The complaint against the *Amazon* was for selling goods on the coast. The charge was denied, and was not proved. She was restored on payment of \$138 88, as follows:

Captain TAYLOR, *master of the schooner Amazon,*

	TO DUNCAN McMILLAN,	DR.
1839. To sundry attendance on said vessel.....	£21	10 0
James Turnbull's fees.....	1	3 4
Mr. John Bullam's charges for wharfage, storage, &c.	7	11 1
Lauchlin McLean's bill for watching vessel.....	3	10 0
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Captain Taylor deposed before the American consul at Pictou, that being reduced to the alternative of paying this enormous demand, or of "leaving his vessel in the hands of said McMillan, chose the former, and gave a draft on his owners for the amount; on which his vessel and stores were delivered to him by said McMillan, with the exception of a rifle and a musket, which the said officer took possession of, because "he thought they would get rusty on board the vessel, and he would take care of them; and they were not returned, \* \* although he demanded them from said McMillan. \* \* \* That the said vessel was detained in the possession of the said officer from the 7th day of July last until the 21st day of the present month, being forty-five days, which detention has ruined his voyage, deprived the owner of the power of procuring the bounty for the vessel for this season, and, together with the other heavy expenses incurred, \* \* the whole loss to the owners and crew of the said vessel, in consequence of such seizure, cannot amount to less than from two thousand to two thousand five hundred dollars."

\* This statement we have shown to be incorrect in several particulars.

The consul, in a communication to Mr. Forsyth, after the Amazon had proceeded to sea, remarked, that "the (as I apprehend it) unjustifiable detention of that vessel led not only to the destruction of her intended voyage, but, as I am informed, to her total loss in a gale on the coast of Cape Breton, soon after she was released."

The Charles, drifting from her anchorage under a fresh wind and heavy sea, (according to the account of her master,) put into a harbor for shelter, and was seized. The British minister at Washington, who considered that she was a lawful prize, alleges no offence, except that a ship-of-war found her "at anchor in Shelburne harbor, into which she had not been driven by stress of weather. From that harbor she had already sailed once, after having previously anchored there, and had returned a second time, before she was captured by the Argus,\* the weather being fine and moderate the whole time. She was accordingly detained by Captain Arabin, for a breach of the act 59 George III, chapter 38, passed for the protection of the British fisheries, in conformity with the stipulations of the convention concluded between his Majesty and the United States on the 20th October, 1818. On the same grounds that vessel was subsequently condemned by the vice-admiralty court, at St. John, in the province of New Brunswick.

"With regard to the equipping of the said schooner by the captain of the Argus, and despatching her in quest of smugglers, you will observe, sir, that Admiral Fahie acknowledges that act to have been irregular; but he, at the same time, states that irregularity to have been practised then for the first time, and announces that he has taken measures for preventing the recurrence of it." But the Charles was condemned.

The Hart, while in a harbor for wood and water, assisted one Brown, a British subject, (as fishermen often do,) and was seized and condemned. Her master made oath that he had "never, at any one time, remained in any harbor or place for a longer period than twenty-four hours; that neither he nor his crew, since her departure from Deer island, have taken or prepared to take fish of any kind or description, with nets, lines, or in any manner, at a distance from the coast less than fifteen miles." And Brown deposed that the Hart had frequented the Tusket islands, "when, in his belief, shelter was necessary;" that she "was always brought to anchor close to his own vessel;" that "he verily believed that no herring or other kinds of fish were taken by the crew within or near to the said islands;" that when at these islands, "had her crew attempted to fish, or to set nets, he must have been aware of it;" and that he gave the master, and one of the men, "two and a half barrels of herring as a recompense for assisting him, at his request, in picking herrings from his nets, and in dressing and salting fish."

The Eliza carried away one of her main chains, and put into a harbor to repair the damage; she was seized, but released on payment of a claim of three hundred and thirty-nine dollars and fifty-six cents, the amount of expenses incurred during her unlawful detention.

The Mayflower was carried into port, but finally restored on pay-

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\* Formerly of the United States navy; captured in the war of 1812.

ment of a bill of three hundred and one dollars and twenty-five cents, "assessed" against her by her unjust captors; the agent preferring to liquidate the claim rather than to risk further difficulty.

The Three Brothers, relates Lieutenant Paine, in a letter to Mr. Forsyth, (1839,) "having met with some injury by grounding, commenced lightening; but the captain was advised to apply for permission, and did so: the permission was refused, and the articles landed (some barrels of salt) were seized. This was afterwards ordered to be restored to the owners, but had already been sold; and the proceeds are now in the hands of the collector of customs at Charlottetown, subject to the orders of the honorable the board of customs in London, and cannot be claimed by the owners without first entering into bonds—probably ten times the amount of the salt seized."

A second vessel, called the Charles, having fitted for the Magdalene herring fishery, (says the collector of the customs of the district of Frenchman's Bay, Maine, in a communication to Mr. Forsyth,) "after making her fare, on her return put into the harbor called Pirate Cove, near the Big Gut of Canso, and had not lain there twenty-two hours, when the schooner was boarded by an officer of the revenue, called a seizing officer, and by him taken possession of and carried to Guysborough. The only pretence for this seizure was, that the schooner was under cod-fishing license, and had on board herrings. The vessel, after a detention of nineteen days, was given up by directions from Halifax. That at the time of said seizure, the officer took from him ten barrels of his herrings, which have never been returned; and the remainder of his cargo, by the detention, has been nearly all lost. The name of the seizing officer was John G. Marshall." The master of the Charles, he adds, "is a very poor man, and totally unable to bear such a loss. It is at his request I write to solicit the aid of the government in his behalf, knowing of no manner in which he can obtain compensation for his losses from this British officer, but through his own government."

The allegation against the Pilgrim was that her lines were cast, and fish caught, within one and a half mile of the shore. After her capture, her master, assisted by one of the prize crew, rescued her. The Director and Pallas were seized for "aggressions," which do not distinctly appear in the official papers, and were "ultimately wholly lost to their owners," who claimed redress; but, as is believed, none was obtained.

The Java, the Hero, and the Combine, were probably condemned for good cause. With regard to the first, however, it may be said, that the American consul at Halifax, feeling a deep sympathy for her owners, gave directions for her purchase at the government sale, "if it was possible, by so doing, to save these poor men from ruin."

In the case of the Washington, there was no pretence whatever that she had committed any offence under the convention. When captured, she was ten miles from the coast; but being within the headlands of the Bay of Fundy, was made prize of, merely on the claim set up that we could not rightfully fish in the waters of that bay. The Argus was seized off the coast of Cape Breton, and fifteen miles from the shore, upon the same general ground. Her owners, in a letter to Mr. Calhoun, Secretary of State, say that she "had two hundred and fifty quintals of fish on board;" that "the vessel was valuable to them and to her

crew, who were turned on shore without funds or means to help them home."

The Hope was captured without cause; was tried in the court of admiralty, and restored. Her master and crew had previously exerted themselves to save the lives of the crew of an English vessel.

The Commerce was seized in the Gulf of St. Lawrence. The captain states the facts as follows: "While employed," he says, in dressing the mackerel which they had caught (on that day,) "there came on a gale so severe that the vessel was hove down on her beam-ends; part of the fish, to the amount of fifteen barrels, was washed overboard, the rest being stowed in the hold; the only boat was carried away, and the gib was split in two." The next morning, being near the harbor of Port Hood, he thought "it prudent to put in to repair sails, and procure a boat. On arriving there he came to anchor, at 9 o'clock; and while salting the fish, to keep them from spoiling, and waiting for the sails to dry," the commander of a colonial cutter came on board, from an old black fishing-shallop, with eleven men, and told him that he "had violated the treaty by salting his mackerel in the harbor." The colonial officer "put the men, except two, on shore, without money or friends, and took the vessel, with the captain and the two other men, to the Gut of Causo, where his cutter was lying, and on the following day to Arichat. The vessel was here stripped of her sails and rigging." On a hearing before the admiralty court, the Commerce was released; and, continues the captain, he "received an order, which was sealed up, addressed to the officer at Arichat, directing, as he was informed, the clearance of his vessel free of all expenses, and leaving him to get back as he could. On arriving at Arichat, he found one anchor taken from his vessel, and he was compelled to pay \$22 for wharfage, and for taking care of the vessel." The American consul for Cape Breton, Nova Scotia, and Newfoundland, corroborates the captain in the most important particulars. He remarks: "Off Prince Edward Island, one of our fishing-vessels lost her boat and injured her sails, and was obliged to put into Port Hood for a harbor. While there the captain was cleaning some of his mackerel, when his vessel was seized by the British revenue cutter and taken into Arichat, where the vessel was stripped of all her sails. As soon as I heard of the particulars from my consular agent at Port Hood, I immediately informed our government of the facts, and laid the case before the authorities at Halifax, who, after a delay of some three months, concluded to release the vessel; the consequence was, the owners were put to great expense, and the captain and crew, *many of whom had large families, lost their whole fishing season.*"

The number of our fishing vessels seized between 1818 and 1851 was fifty-one; of which, twenty-six were released without trial or by decree of the admiralty court, and twenty-five were condemned. The cases which we have examined embrace upwards of one-half of the whole number captured during a period of more than thirty years. Fifteen or sixteen thousand voyages, at the lowest computation, must have been made to the coast of Nova Scotia, New Brunswick, and Prince Edward Island; and yet, notwithstanding the hostile spirit which has been manifested by the first-named colony, from the first, and notwithstanding

the inducements held out to the colonial officers by the provisions of the act of 1836, there have been barely fifty-one prizes. In view of this fact, the story of "American aggressions," with which the world has rung for upwards of a generation, becomes a mere fable.

Of the cases which we have noticed somewhat minutely, there is not one of a flagrant nature. Those of the Reindeer and Ruby are seemingly such; but whoever reads the statement of the British officer with care, will hardly find satisfactory proof, even by his own showing, that the muskets of which he speaks were fired from these very vessels, or that *they* were concerned in the outrages of which he complains. Certain it is, that the masters and owners, who were known to me, denied the allegations made against them; and that the injustice of the seizure, and the tardy redress to be obtained by an application to our government—as understood at the time—were the causes of the rescue.

The pretences upon which *some* of the twenty-eight vessels included in our examination were seized, are disgraceful beyond degree; and that of the number, several were condemned without the shadow of a reason, beyond the poverty of the owners, the iniquitous provisions of the act of 1836, and the enormous expenses which attend litigation, cannot be doubted.

The American consul at Halifax, addressing the executive of Nova Scotia on the subject, observed to his Excellency, that "a claimant must be in a situation to procure funds to employ lawyers, and to pay heavy court expenses under the vice-admiralty table of fees; which cannot be done in any of these cases, as I am informed by professional men, under an advance of at least thirty or forty pounds currency: adding to this the security of sixty pounds, it is evident that the owner of each vessel so seized must either send on funds or letters of credit to the extent of one hundred pounds, before he can oppose the seizure, or, otherwise, the vessel will or may be condemned by default.

"This sum is, perhaps, as much as any of these small vessels are worth, and the claimant, if able to pay it, must actually place at hazard the one hundred pounds mentioned, in addition to his property seized; and although, perhaps, quite innocent of any offence, must depend upon the proverbial uncertainty of litigation for the recovery of any part of the property or money in such danger."

In a communication to the owners of the Argus, he says:

"The expenses in the court are very heavy, and previous to defending a suit, the judge requires security to the amount of three hundred dollars; so that, generally speaking, it is better to let the suit go by default, and purchase the vessel after condemnation."

Lieutenant Paine, previous to his cruise in the Grampus, entertained the opinion which has often been expressed during the disturbances of the present year, (1852,) that "the vessels seized had been generally guilty of systematic violation of the revenue laws;" but he confesses that he "was soon led to suspect that this was not the cause, so much as a pretence for seizing." And he states further, that "a vessel once seized must be condemned, unless released as a favor; because the owners will not claim her under the present laws of Nova Scotia, where the only seizures have taken place."

The consular agent of the United States for the port of Yarmouth,

who is a legal gentleman, and a person of great private worth, gave the opinion, in the cases of the Independence and the Hart, that "the evidence was insufficient to authorize their seizure;" yet we have seen that both were confiscated. Mr. Barnes, the naval officer of Boston,\* in reply to the collector of that port, who desired information in relation to the seizures made in 1839, states, that "while at Yarmouth I had the pleasure of meeting very many highly respectable and intelligent gentlemen of that town, who seemed deeply to regret that their own government officers should have proceeded with so much rigor against the American fishing craft, believing with the consul and the Americans generally, that, in a majority of cases, the seizures had been made for causes of the most trivial character." He adds: "It is perfectly certain that our fishermen must have the right to resort to the shores of the British provinces for shelter in bad weather, for fuel, and for water, unmolested by British armed cruisers, or this important branch of American industry must be, to a very great extent, abandoned. It affords but poor consolation to the fisherman, whose vessel has been wantonly captured, and who finds himself and his friends on shore among foreigners already sufficiently prejudiced against him, without provisions and without money, to be told that the court of vice-admiralty will see that justice is done him, and that, if innocent, his vessel will be restored to him. The expenses of his defence and the loss of the fishing season are his ruin."

The officer who for many years made the greatest number of captures died in 1851. It was the opinion of Lieutenant Paine, in 1839, that he was "prompted as well by his interest as by the certainty of impunity" in his course towards our countrymen. We may now pass lightly over his proceedings, remarking only that, the year previous to his decease, he levied contributions upon some of the masters of fishing vessels he met with, compelling them to give him five, ten, or twenty barrels of mackerel, according to circumstances, on pain of capture for refusal.†

To avoid misapprehension, I deem it proper to observe, in conclusion, that I have not designed to censure the admiralty court. As long ago as the war of 1812, that tribunal restored to the Academy of Arts of Philadelphia a case of Italian paintings and prints captured by a British vessel and sent into Halifax, on the ground that "the arts and sciences were admitted to form an exception to the severe rights of warfare." It has lost none of its character since. Its decisions rest on the law and the testimony. Still, since integrity and learning upon the bench are insufficient to insure justice without honest witnesses upon the stand, American vessels have sometimes been condemned wrongfully.

The discussion may end here. The political leaders of Nova Scotia have succeeded in disturbing the friendly relations which for a long period existed between England and the United States. "We have

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\* In 1839.

† There seems no reason to doubt this statement, which rests on the declarations of the persons concerned. It is said, further, that this officer dared not to dispose of the fish after he had obtained them, and that they were suffered to remain in store a long time. Representations on the subject were made to Mr. Webster, Secretary of State, in March, 1852.

been on the verge of a war," says the London Times, "with a nation which, from its identity in race and language with ourselves, would have proved a truly formidable enemy—a maritime and commercial people, who would have met us with our own arms, on our own element, and visited our commerce with mischiefs similar to those which we should have inflicted upon theirs. *So closely are the two countries united, that every injury we might inflict on our enemy would have been almost as injurious to our merchants as bombarding our towns or sinking our own ships.*" And it continues: "It is no exaggeration to say that with this people we were on the very verge of war; for, had we persevered in carrying out with a high hand, by seizure and confiscation, our own interpretation of the treaty, a collision with the American commodore\* was unavoidable; and such a collision must almost necessarily have been followed by a formal declaration of hostilities. Now, what is the question which has so nearly led to such serious results? It is simply whether a certain quantity of salt-fish consumed in these islands shall be caught by citizens of the United States or natives of our own colonies. *The question whether American fishermen shall be allowed to spread their nets in the Bay of Fundy is one in which the people of this country have no imaginable interest: they will neither be richer nor poorer, stronger nor weaker, more admired nor more feared, should they secure the monopoly of fishing in these northern waters to the inhabitants of the seacoast of our North American colonies.*"

These are significant declarations. Still further, says this powerful press: "We are, in fact, in this disagreeable position, that, according to the present compact between the mother country and her colonies, *she is obliged to take up quarrels in which her interests are in no way involved, and is bound over as surety for the good behavior of governments and legislatures actuated by feelings, principles, and interests totally different from her own, and over whose actions she has renounced all efficient control.*"

It is precisely so; and the London Times might have spoken of one of these colonies as did Mr. Burke.† "The province of Nova Scotia," said he, "is the youngest and favorite child of the board.‡ *Good God! what sums the nursing of that ill-thriven, hard-visaged, and ill-favored brat has cost this wittol|| nation! Sir, this colony has stood us in a sum not less than seven hundred thousand pounds. To this day, it has made no repayment: it does not even support those offices of expense which are miscalled its government. The whole of that job still lies upon the patient, callous shoulders of the people of England.*"

I have not designed, in the strictures which have appeared in this paper, to include the great mass of the people of Nova Scotia. Terms of severity, whenever found, have been designed entirely for the busy, restless politicians of that colony, who originally stirred up, and have kept alive, the existing strife. The people, as a body, I am persuaded, entertain no feelings of hostility towards us. If allowed, *they* would afford us all possible aid in conducting our enterprises in their waters,

\* Commodore Perry, in the steamer Mississippi.

† Speech on economical reform, House of Commons, February 11, 1780.

‡ Board of Trade and Plantations.

|| Witol, wittal, or wittol: an old Saxon word, signifying a *contented cuckold*.

and would deal with us in the most neighborly and liberal manner. *They* are willing to admit that there are fish enough both for themselves and for us. We are to spare our censures of colonial fishermen, then, and to speak harshly of the political men alone who, for purposes of their own, have conceived plans which, if executed, will do vast injury to us, and ultimately to the colonists themselves; for it is not to be overlooked that retaliatory legislation on the part of Congress would utterly ruin the colonial fisheries.

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POSTSCRIPT.

Until the last page of this report was put in type I indulged the design to compile and insert a table, to show the condition of the sea fisheries of the United States during the ten years ending in 1850. The materials which I had obtained from the private sources open to me, as digested to satisfy my own mind, proved the decline in some branches to have been so great, (the increase of the population, and consequently of the consumers of fish, considered,) that I almost doubted the accuracy of the results at which I arrived. The only course, under these circumstances, was to defer the execution of my plan until I could have access to official documents at the seat of government.

On application to J. C. G. Kennedy, esq., Superintendent of the Census Office, I am kindly furnished with the accompanying statistics relative to the cod and mackerel fisheries, which show that these branches of industry were, in 1850, in a more declining state than I had apprehended. In Maine, in New Hampshire, and Connecticut, there has been less change than in Massachusetts. With regard to the latter State, I incline to believe that in the amount of capital invested, and in the number of men employed, as well as in the value of the *catch*, the decrease (to consider the two fisheries together) was one quarter less in 1850 than ten years previously.

Such is certainly the fact, if the statistical matter furnished me by Mr. Kennedy be accurate. This matter is official. To assume that the returns to the Census Bureau are inaccurate, or that, if essentially correct when completed by the respective local officers, important mistakes have been made at Washington in preparing the "abstracts," is to cast suspicion upon the accuracy of the entire statistics to be contained in the census report; since no reason can be given for errors in the figures that relate to the fisheries, which will not apply with equal force to *every* other branch of our industry. But to admit, for the moment, that errors do actually exist, it will not be pretended, I suppose, that the functionaries of the government, anywhere, have been so very remiss as to destroy *all* confidence in the results which, in due time, are to be presented to the country. Without the aid of Mr. Kennedy's statements, I was prepared, as before remarked, to find, by a careful comparison of the two periods, that there had been a sensible decrease in the fisheries mentioned, at least in Massachusetts.

Still, to abandon absolutely the official statistics, and those which I

had previously procured, I yet contend that there has been a positive decline, *unless the producers of fish have increased as fast as the consumers have done*. The population of the United States was several millions greater in 1850 than it was in 1840; while the means of transporting fish and other productions, during this decade, were multiplied beyond example in our history. A corresponding increase in capital and men employed in the cod and mackerel fisheries ought therefore to be shown, in order to prove that our citizens who are engaged in these pursuits were, as a class, in a prosperous condition. This conclusion will not, it is believed, be denied.

From my personal observations, I conclude that there was a slight improvement in a part of Massachusetts in 1851, which continued until the spring of the following year. To again repeat the words uttered in the first Congress by Fisher Ames, many of the fishermen are "too poor to remain, too poor to remove;" and thus compelled, by the necessities of their position, to persevere in their adventures upon the sea, they endeavored, two years ago, by greater industry and skill, by a better use of time and a more economical use of outfits, to compete with the British colonists, and thus to preserve to themselves their ascendancy in the markets of their own country. The course of events on the fishing grounds from July, 1852, to the close of the season, is yet fresh in the public mind, and need not be related here. It is sufficient to remark, that the results to our countrymen were disastrous to a degree never before known in time of peace. The presence of her Majesty's cruisers in the waters in dispute between the two governments nearly ruined some, and injured all, who adventured thither, and was the occasion of despondency and suffering at many firesides in Massachusetts and elsewhere in New England. There can be no change for the better while the controversy as to the intent and meaning of the convention of 1818 shall continue. The fishermen *cannot* remain idle: the fishing vessels *cannot* remain at their owners' wharves to rot. Both, from absolute necessity, *must* be employed; both—to use an emphatic phrase of the needy and starving—both "*must do something*."

Again: the statistics which follow show that the number of men employed in the cod and mackerel fisheries in 1850, in the four States, was 11,860; that the monthly earnings of these men, in Massachusetts, was \$137,995; in Maine, \$51,829; in Connecticut, \$16,082; in New Hampshire, \$3,000. The aggregate, (\$208,906,) divided, is less than eighteen dollars per month to each man. To assume (what, on the average, is not far from the fact) that, including the time of fitting for sea, the fishermen are annually employed eight months, each earned, in 1850, less than one hundred and forty-four dollars; and to add another month, only about one hundred and sixty dollars.

It will be seen that these calculations substantially correspond with the statements which are contained in the body of this report, as ascertained from a different source. I am satisfied that they are essentially correct. It is possible that the fishermen who were employed in 1852, in waters not in dispute, earned the maximum here given; but those who visited the Gulf of St. Lawrence, and the seas adjacent, could not have received, (if "sharesmen," as most of them were,) on

an average, more than one-half of the sum stated as the average in 1850. While at Gloucester (December, 1852) I made a detailed estimate of the aggregate loss of the people of that town during the season just closed, and found that it was *certainly* quite one hundred and fifteen thousand dollars, aside from the wreck of vessels and the ordinary casualties of maritime enterprises. The whole of this large loss I attribute to the course pursued by the colonial authorities, and the officers of her Majesty's ships-of-war. For other fishing towns my data is less complete; but the loss to all New England, from the same sources of annoyance and interruption to our flag, was a quarter of a million of dollars at the lowest computation. Surely, our fishermen cannot long bear this state of things without becoming beggars.

They feel that they have no assurance of the continuance of the bounty to the cod-fishery, and they know by some years of experience, that under the present tariff and the warehousing system, when unmolested by their competitors, their hope of earning a bare subsistence is less than ever before; and they appeal to the country which they have always served, faithfully served, in war, for relief. They are certain that, without more protection than they now receive, they cannot keep the sea.

The duty of twenty per cent. on colonial fish, when put in the government warehouses for export,\* as every one can perceive, is merely nominal. Already the colonists, under this arrangement, enjoy a large share of the export trade of the United States; and, as a consequence of the recent change in the bounty system of France,† the subjects of that empire are to appear in our ports to still further depress the industry of the class whose discouragements are almost insupportable, from the various causes which have been discussed in this report.

I cannot forbear to add, that had our statesmen stood by the doctrine which was asserted and maintained at Ghent by the American commissioners, *one* source of calamity at least would have been spared to our fishermen. The rights guarantied to us formed a part of, and in their very nature were as perpetual as, our independence as a nation. The first article of the convention of 1818 should never have been agreed to by our government. The third article of the treaty of 1783 ought never to have been stricken from that instrument. It is too late to correct the mistake. Our national faith is pledged that our flag shall nowhere interfere with the colonial *shore* fisheries, and we must abide by the contract. But it behooves us to see to it that we part with no more of the rights which, won in the wars between France and England, were bequeathed to us by the men who broke the bonds of our colonial vassalage. Strange it is that we are at this moment willing to offer the colonists the privilege of our market without the payment of any duty whatever on the productions of the sea, when originally, and until 1818, we possessed substantially all the rights to their fishing

\* About 200,000 barrels of pickled fish (foreign caught and cured) were warehoused at Boston, and exported from that port, in 1851. The quantity in 1852 has not been ascertained, but I learn from an official source that it was large.

† The French have, in fact, commenced bringing their codfish to our markets. One house in Boston purchased, in 1852, upwards of six thousand quintals; and several other houses were buyers to a considerable extent. Probably 20,000 quintals were sold in Boston during the last year.

grounds which we can now possibly obtain, and the right also to tax their fish to the extent of entire prohibition. In other words, we could once catch fish where we pleased, and impose what duty we pleased on the produce of the colonial fisheries; but, as the direct result of the convention of 1818, we offer to relinquish the latter right without condition, to get back, to make good, the former one.

*Statistics of the cod and mackerel fisheries of Maine, New Hampshire, Massachusetts, and Connecticut, June 1, 1850, as derived at the Census Office, Washington.*

State.	Capital invested.	Men employed.	Amount of wages or earnings per month.	Quintals codfish.	Barrels mackerel.	Value of products of the fisheries.
Maine*	\$491, 430	2, 732	\$51, 829	173, 094	15, 241	\$558, 250
New Hampshire..	42, 700	300	3, 000	19, 550	1, 060	59, 281
Massachusetts† ..	2, 127, 885	7, 917	137, 995	215, 170	236, 468	2, 188, 441
Connecticut.....	279, 300	911	16, 082	No return.	No return.	261, 683
	2, 941, 315	11, 860	208, 906	407, 814	252, 769	3, 067, 655

\* The return of the herring fishery of Maine is 29,685 boxes of smoked, of the value of \$11,626.

† Note.

County.	Capital.	Men.	Wages or earnings.	Quintals of cod.	Barrels of mackerel.	Value.
Barnstable .....	\$1, 230, 185	4, 719	\$73, 941	83, 860	114, 530	\$1, 031, 027
Dukes (a) .....	12, 400	68	1, 284	2, 000	3, 472	18, 047
Essex .....	699, 500	2, 144	45, 491	126, 530	77, 005	836, 112
Nantucket .....	8, 900	40	650	980	487	6, 156
Norfolk .....	93, 000	607	9, 305	1, 800	15, 329	104, 161
Plymouth .....	73, 900	331	7, 054	No return.	15, 650	112, 938
Suffolk .....	10, 000	8	240	No return.	10, 000	80, 000
	2, 127, 885	7, 917	137, 995	215, 170	236, 468	2, 188, 441

(a) 1,250 barrels of herrings returned from Dukes county.

The statistics of 1840 show that in Maine the *catch* of codfish was 106,062 quintals *more* than in 1850. In Massachusetts the difference was still greater, the quantity in the former year being 389,715 quintals; in the latter, only 215,170.

The returns of 1840 give the catch of mackerel in Maine at 54,171 barrels; and in Massachusetts at 124,755 barrels. By comparing these figures with the above table, it will be seen that the quantity was much diminished in the former State in 1850, and much increased the same year in the latter.

The aggregate decrease in the produce of the cod-fishery in Maine, New Hampshire, and Massachusetts is very large—the table for 1850 showing the *catch* to have been 407,814 quintals, while in 1840 it was 697,128 quintals.

## NOTE.

I hoped to conclude with the welcome annunciation that the controversy between England and the United States, relative to the intent and meaning of the first article of the convention of 1818, had been brought to a close. Such, however, is not the fact.

I may be permitted to remark, also, that as the despatches of the Hon. Abbott Lawrence, our late accomplished envoy to the court of St. James, relative to this subject, have not been made public, an account of his endeavors to effect an adjustment of the difficulties between the two governments could not be embraced in this report. It is understood, unofficially, that Mr. Lawrence (but for circumstances not to be related here) might possibly have concluded an arrangement which would have been satisfactory to his countrymen and have insured future peace upon the fishing grounds.

Should the bill "*To regulate the rights of fishing, and the rights of disposing of the proceeds of the fisheries in and between the British North American provinces and the United States,*" which was introduced into the Senate on the 5th of February, 1853, by the Hon. John Davis, become a law, the object so much to be desired may be accomplished before the opening of the next fishing season. The friends of Mr. Davis cannot wish for him greater honor, at the close of a long and useful public career, than the paternity of a measure so important to his native Commonwealth and to the whole country.











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