

3. The undertaking on the part of His Majesty's Ministers not to bring into force the Foreign Fishing Vessels Act of 1906, an Act regarded by the Legislature of the Colony as essential in order to control the conduct of British fishermen and effectively enforce the provisions of the Bait Act of 1887;
4. An undertaking on the part of His Majesty's Ministers to limit the operation of a law of the Colony (the Foreign Fishing Vessels Act, 1905) by the non-enforcement of the first part of section 1 and the whole of section 4.

Fifteenth Day.
14 May 1907.

NEWFOUNDLAND
FISHERY.

(Sir R. Bond.)

With the validity of the *modus vivendi* of 1906, I do not propose to deal. Suffice it to say that the Supreme Court of Newfoundland has decided that it could not override local statutes as intended. With the humiliating circumstances that attended its enforcement I shall not trouble this Conference. I shall content myself by stating that the concessions contained in the *modus vivendi* were placed there to satisfy the demands of the Government of the United States of America.

The contentions of the American Government were as follows :—

1. That there should be no interference on any grounds by officers of the Newfoundland Government with American fishermen.
2. That the Convention of 1818 justifies no interference.
3. That the fishing laws of the Colony are not binding upon United States fishermen.
4. That American fishermen are not obliged to conform to our Revenue and Custom laws.

Now I would draw attention to the fact that the assertion of the United States Government "that the Convention of 1818 justifies no interference on "any grounds with American citizens exercising a right to a fishery in "common with His Majesty's subjects," is equivalent to a declaration that American citizens can do as they please and violate our fishing and other laws with impunity.

In answer to that position, I would refer to the opinion of the Law Officers of the Crown, Messrs. W. Atherton and Roundell Palmer, who, on the 6th January, 1863, declared as follows :—

"That, in our opinion, inhabitants of the United States, fishing within waters in the territorial jurisdiction of the Legislature of Newfoundland, are bound to obey, and are legally punishable for disregarding, the laws and regulations of the fisheries enacted by or under the authority of the provincial Legislature. The plain object of the Treaties above referred to was to put the inhabitants of the United States as regards the 'liberty to take fish' within the parts described of the British Dominions on the same footing as 'subjects of His Britannic Majesty' 'in common with whom' under the terms of the Treaty, such liberty was to be enjoyed. The enactments subsequently passed would not confirm the Treaties and provide for the suspension during the operations of those Treaties of such laws, &c., as were or would be inconsistent with the terms and spirit of the Treaty, which 'terms and spirit' are, it appears to us, in no respect violated by the regulations *bonâ fide* made by the Government for the conduct of the fishery and applicable to British subjects so employed."

My contention is that the Colony (subject to the King) is the Sovereign Power, and that the Sovereign Power has the right to enact *bonâ fide* legislation for the preservation of its fisheries, and also all legislation inherent in its