

**THE ARGUMENT OF THE UNITED STATES  
BEFORE THE PERMANENT COURT OF  
ARBITRATION AT THE HAGUE UNDER THE  
PROVISIONS OF THE SPECIAL AGREEMENT  
BETWEEN THE UNITED  
STATES OF AMERICA AND GREAT BRITAIN  
CONCLUDED JANUARY 27, 1909**

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The Argument of the United States Before the Permanent Court of Arbitration at the Hague  
Under the Provisions of the Special Agreement Between the United States of America and Great  
Britain Concluded January 27, 1909 by North Atlantic Coast Fisheries Arbitration

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# **NORTH ATLANTIC COAST FISHERIES ARBITRATION**

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2d copy.

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CONCLUDED JANUARY 27, 1909



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## THE ARGUMENT OF THE UNITED STATES.

### INTRODUCTORY STATEMENT.

The exploitation of the fisheries about the Island of Newfoundland and in the neighboring seas was among the first results of the discoveries made in the North Atlantic Ocean by European voyagers at the beginning of the sixteenth century. While the fishermen of other nations during the early years frequented these waters, the assertion of sovereignty over the adjoining continent and islands and their partial occupation by Great Britain and France resulted in the practical monopoly of the fisheries by these two states. In the rivalry for the mastery of North America, which resulted from this occupation of the coasts, the control of the fisheries played an important part; and in the wars between Great Britain and France, waged in Europe over the successions to the Austrian and Spanish thrones, the conflict in America took the form of a struggle to possess the fisheries even more than one for territorial acquisition. For a century a state of war prevailed between the two great colonizing powers, with occasional periods of peace, Great Britain growing constantly stronger and encroaching more and more upon the colonial possessions of France, until the fall of Quebec brought to an end the contest and the triumph of the British arms was complete.

Thus the coasts and islands, adjacent to the great fishery, were, at the outbreak of the American War for Independence in 1775, possessions of Great Britain. Since the Treaty of Utrecht, in 1713, the Island of Newfoundland had been British territory, although France had reserved for the benefit of French subjects the right to fish along certain portions of the eastern and northern coasts and to use the strand for the purpose of drying and curing their fish. By the treaty of 1763, following the overthrow of the French power in America, the sovereignty of the neighboring continental coasts and islands had passed from France to Great Britain.

In accordance with its policy of monopolizing the colonial trade for the interests of residents of Great Britain, the British Government

discouraged permanent settlements in Newfoundland with the object of preserving the island as a place of resort for British fishermen where they could find shelter in its numerous bays and use the strand for drying and curing their fish before returning to their home ports across the ocean. As a result of this policy, which was continued to a time subsequent to the year 1818, Newfoundland was in 1775 substantially uninhabited. As to the other islands and the shores of the continent, ceded by France to Great Britain in 1763, twelve years of possession had been too brief a period for extensive development, and only a few settlements had been made throughout the thousands of miles of coast stretching from the Bay of Fundy to the Straits of Belleisle.

Previous to the American War for Independence the colonists of New England had engaged extensively in the North Atlantic fisheries as British subjects, and had freely resorted to the harbors of the unsettled coasts of the continent and islands, using them as bases for their fishing operations in the inshore waters and upon the outlying banks. To these hardy settlers had been due, in large measure, the success of Great Britain in the long struggle with France for the sovereignty of America, and it was a just recompense for their patriotic efforts that they should share in all the benefits which accrued to Great Britain from the conquest of New France.

The fishing grounds upon the coasts of Newfoundland were then the resort of two fleets of fishing vessels coming from a distance; one from the British Isles, the other from the ports of the New England colonies lying almost as far distant to the southwest as Great Britain lay to the east. Both fleets were under the British flag, and neither of them was subject to any competition or interference from local fishermen or dwellers upon the shores of Newfoundland. Both in 1783 and in 1818 the problem for the negotiators to solve was to reconcile and adjust the rights of these two bodies of fishermen long accustomed to sailing from distant ports to their common fishing grounds, there to pursue their calling.

The use of the harbors of the coasts, adjacent to the fisheries, for purposes of shelter, and of the protected shores for drying and curing fish, then the only method of preparing them for market, was necessary to the successful prosecution of the industry. When, therefore, the thirteen American colonies had won their independ-