

and the hon. gentleman had no right to take exception to the question put him, because it would be in the highest degree preposterous to suppose that we should here go into committee to consider the various propositions of the Bill, and confirm what was done in Washington in negotiating the treaty, and, at the same time, refuse to consider the meaning and purport of each of its propositions. Now the hon. gentleman has stated the meaning, and I do not think he has imperilled the fate of the treaty here or at Washington by that statement. The hon. gentleman has told us under what circumstances the American fishermen might buy bait under this 6th section. There is no doubt that a certain contingency may arise when that may be done, and that it is not of universal application under the treaty, or else its other provisions would be wholly unnecessary. The other provisions preclude the possibility of putting a construction on this section other than this, that when the vessel loses part of its outfit by stress of weather, and is obliged to put into port, it may have an opportunity of supplementing what remains by purchasing the necessary supplies. Well, the hon. gentleman might as well have said that, without the indignant denunciation he made of my hon. friend, as to say it now. We were quite right in endeavoring to ascertain precisely what was intended by this treaty; and it does seem to me that the discussion having thrown some light upon the intention of the parties to it, the hon. gentleman has nothing of which to complain in the criticisms of my hon. friend.

On section 9,

Mr. DAVIES (P.E.I.) I wish to ask what is the reason for the modification or limitation of the penalties which, up to this day, have attached to the offence of preparing to fish within the prescribed waters. The hon. gentleman knows that under the Imperial Act the two offences of fishing and preparing to fish were accompanied with forfeitures in both instances; and it seems to me that the offence of actually preparing to fish, the vessel being in prohibited waters, ought to be punishable with forfeiture just as much as actual fishing.

Sir CHARLES TUPPER. My hon. friend is quite familiar with the fact that very great difficulties have arisen in connection with the question of preparing to fish, and he will observe that under this clause a vessel may be forfeited for preparing to fish. But this gives to the judge, if he thinks that the question is not sufficiently clear, that the preparing to fish had not gone to the extent of making it necessary to forfeit the vessel, the power to apply a lesser penalty; but, inasmuch as the clause still contains a provision leaving it in the discretion of the judge to forfeit the vessel and everything appertaining to her, my hon. friend will see, I think, that it is more calculated for the efficient and vigorous carrying out of the law than if it were left without giving the judge the discretion which is given under this clause.

On section 10,

Mr. DAVIES (P.E.I.) I notice that Mr. Joseph Chamberlain, the chief plenipotentiary on the side of Great Britain, in several speeches and representations in regard to this treaty, seemed to take great credit because the proceedings had been rendered more easy and more cheap than they were previously. What is the meaning of the words "shall be conducted in a summary manner?" Surely these proceedings must be conducted under the Vice-Admiralty Court, which every one knows has an exceedingly summary mode of procedure.

Mr. THOMPSON. Undoubtedly the proceedings must be conducted according to the practice of the Vice-Admiralty

Court, but the hon. gentleman will remember that that court has discretion in matters of procedure.

Mr. DAVIES (P.E.I.) I do not see that the judges of that court can lay down any practice which is not prescribed by statute.

Mr. THOMPSON. I do not think anything further could be done by this Parliament than simply to enact the words of the treaty in this regard, whatever weight they may have, and it is possible that, if the procedure of the court is not found to be of sufficiently summary character, and if any further powers are required for the Vice-Admiralty judges to modify the practice, legislation elsewhere may be necessary, but, in the meantime, it is well that our statute should embody the words of the treaty. I have no doubt that, without any enactment of the kind, if the Vice-Admiralty judges are willing to do so, the proceedings can be made very summary and comparatively inexpensive. Practically, if the proceedings are made summary, they are inexpensive, and it is only when the proceedings are of a more formal character as regards the pleadings, which may extend to great length, as they sometimes do, that the expenses become large; but, if it is necessary to enforce upon the court any amendments to their practice, until we have legislation in England to transfer to us the jurisdiction over the Vice-Admiralty courts, it may be necessary to seek special legislation.

Mr. WELDON (St. John). The question is whether we have any power over the Vice-Admiralty courts.

Mr. THOMPSON. I think we have not.

Mr. WELDON (St. John). The practice now is really as summary as it possibly can be. Does the hon. gentleman propose that the Vice-Admiralty Court should sit in any one place—for instance, in St. John for New Brunswick, and in Halifax for Nova Scotia? I think the statute provides that these courts shall sit in those places. Now it is provided, as I understand, that the court shall be an ambulatory court, but I think that will add to the expense much more than if they sat in the same place, because we know that the great expense of these courts is incurred in the travelling of the judges and their officers. I do not exactly understand what is meant by the provision of this clause. Does it mean that if a vessel is seized at Pictou, for instance, the court shall sit there?

Mr. THOMPSON. Yes, for the purposes of the trial, though the hearing might take place at the capital.

Mr. WELDON (St. John). At present the trial is mostly by affidavits.

Mr. THOMPSON. Not always now.

Mr. WELDON (St. John). Of course, there is a *viva voce* examination also, but the great expense now is incurred by the travelling.

Mr. THOMPSON. I think it is contemplated that power should be given to the judge to go to the place of the detention of the vessel, but I quite agree that in most cases there would be less expense in trying the matter at the capital than there would be in trying it at the place of detention. It is easier for the witnesses for the vessel to go to the capital, where the owners can get the advice and assistance of their consul and where they can get counsel; but it is discretionary with the judge on the application of the defence to go to the place of detention. That is, that the Crown shall not apply to fix the place of trial.

Mr. DAVIES (P.E.I.) Must not that power be given by Imperial statute?

Mr. THOMPSON. It is quite possible that that will be so. In all probability, before long, we shall have jurisdiction over these courts.