

to demand that the penalty imposed on actual poachers should not be severe; but this article provides that only the cargo aboard at the time of the offense can be forfeited, and the provincials can not lie back until a vessel has taken a full cargo, and then sweep in the earnings of the entire trip for an offense committed perhaps at its inception. Moreover, the article provides the penalty shall not be enforced until reviewed by the governor-general in council, giving space for the passing away of temporary excitement and for a calm consideration of all mitigating circumstances.

Also, from the passage of the statute of 1819 the penalty for illegally "preparing to fish" has been forfeiture. This has at times been construed to extend not only to preparing to fish illegally, but also to a preparation within the Dominion waters for fishing elsewhere. The J. H. Nickerson, already referred to, was forfeited in A. D. 1870 on this principle, without any specific protest from the United States or any subsequent reclamation.

If the plenipotentiaries had been working new ground, in view of the indefiniteness of the words and of the fact that preparation is ordinarily accepted as of lower grade than actual acceptance, it may be that the penalty of forfeiture under any circumstances for this offense would have been surrendered; but a statute which has stood for nearly seventy years without successful objection, cannot easily be wholly overthrown. The treaty, however, clearly eliminates every principle on which was based the forfeiture of the "J. H. Nickerson," and the proceedings against the "Adams" and the "Doughty," and also, taking into consideration the other elements already referred to, it makes forfeiture the extreme penalty, but directs that the punishment shall be fixed by the court not exceeding the maximum, so that, if circumstances justify in any case, it may be reduced to a minimum. In lieu of all the other penalties rising to forfeiture, imposed by the Dominion statutes concerning the fisheries for technical offenses known and unknown, the maximum for all all such will be \$3 for every ton of the boat or vessel concerned. Under the provisions of this treaty the "Ella M. Doughty," caught in the ice, would have gone free, and the "David J. Adams," which ran across from Eastport into Digby basin for bait, if she had found herself snarled in the intricacies of foreign statutes and legal proceedings, had the option to pay \$3 per ton, or less than \$200—in other words, less than the amounts heretofore required as security for costs and to pay expenses of defence in the vice-admiralty court and go free—or she could have demanded a summary and inexpensive trial at the place of detention.

It should be borne in mind that the statute of Canada which we have been discussing are not aimed particularly at vessels of the United States, but includes all foreign fishing vessels. While in all respects, even with the modifications which the thirteenth article imposes on them, they are not our statutes, and therefore not what we would make them, yet several of these modifications are concessions from principles and provisions which are found in our own statutes and concessions which we ourselves would not willingly make in behalf of foreign vessels. On the whole, a careful examination of this section, taken in the light of the ordinary methods of criminal proceedings wherever the common law exists, will show a present desire on the part of Great Britain and Canada to remove just cause of offence, and to cultivate the friendship of the United States; and take it by and large, the net result must be a modicum of those evils and misfortunes, through legal proceedings, which inevitably await strange vessels in foreign ports."

Further Explanation About the Fishery Lines Established by the New Treaty.

Therefore, under the convention of 1818, the question arises in every case: What is a jurisdictional bay, that is, a British bay, or, in other words, a bay which was then a

interest of the United States to afford protection to our extensive coasts, and admitting the necessity of finding some practical method of delimitation, this rule seems on the whole convenient, wise, and not unjust. Moreover considering the inability of our mackerel vessels, substantially all of which use the purse seine to fish in shallow waters along the coast, and that very few American fishermen, perhaps none, in the pursuit of halibut or cod desire to fish there, it is impossible to believe that this rule surrenders anything of essential value to us.

It is fair to add that the ten-mile rule was apparently not congenial to Canada. In the proposals made to Great Britain in the autumn of A. D. 1886, Mr. Bayard, after reciting substantially the suggestions made by Mr. Seward, and elaborating them, offered this rule; but the Marquis of Salisbury, in his reply of March 24, 1887, commented that this "would involve a surrender of fishing rights, which have always been regarded as the exclusive property of Canada."

The specific delimitations at several smaller bays will, on examination, be found to be in harmony with the views of the United States as to the proper results of the general rules of 1818. On the whole, by this part of the treaty a long and troublesome dispute affords promise of being ended without either party giving up anything of value."

Concerning the Arrangement of 1830.

"Much has been said by the opponents of the treaty concerning the reciprocal arrangement of A. D. 1830; and indeed some of them apparently suppose a treaty with Great Britain was then made. The most convenient way of understanding that arrangement is to turn to Jackson's proclamation of May 29, A. D. 1830, by which it was brought to its completion; and its entire practical effect is made clear from the circular of the Secretary of the Treasury to the collectors of customs of October 6, A. D. 1830, and by the order in council of November 5 of the same year.

While this marked a long step forward in reciprocal arrangements with the neighboring provinces, so that it afforded the Secretary of State, Mr. Bayard, very just and persuasive arguments in favor of the most liberal treatment by Canada of our fishing vessels, yet its very letter, as well as its spirit, related exclusively to vessels engaged in commerce and to merchandise carried from the ports of one country to the ports of another. Not only did it not contemplate the purchase of fishing supplies to be used on the ocean and other facilities for fishing vessels, but its phraseology clearly excluded any such purpose. Are we any more entitled to demand under it as a right reciprocity in matters of this sort than Great Britain or Canada can demand under it reciprocity in the coasting trade or in the registering of vessels? And is there anything either in this reciprocal arrangement or in any other between the United States and Great Britain or Canada which renders the refusal to our fishermen of the special benefits of the near locality of Nova Scotia to the fishing grounds more unfriendly, in that sense which justifies retaliation, than our refusal to permit British, including Canadian, vessels to enter our coasting trade, while ours freely engage in the larger coasting trade of the British Empire; or than the refusal to permit the sale by the British, including the Canadians, of their vessels to our citizens with registration, while we may freely sell and register our vessels in any part of the British possessions? There is a wide gulf between this class of privileges which nations grant or refuse in accordance with their own broad or narrow views of their own interests and that class which affects the comfort of strangers and their property in foreign ports. All the latter the treaty just negotiated secures and perpetuates."

The Treaty is in the Line Marked Out by Mr. Seward and Mr. Fish.

In the dispatch of Mr. Seward, then

different political parties, to visit and "deliver an address on the occasion of the purpose of the treaty recently submitted to the United States Senate for ratification."

The "settlement upon just and equitable terms of the questions in dispute between Great Britain and the United States concerning the rights of American fishermen in British North American waters" is a subject upon which I have bestowed anxious care ever since I assumed the duties of my present office, and the resolute efforts to promote such a settlement embodied in the treaty now before the Senate. But the treaty has been preceded by a voluminous correspondence, and the treaty for complete publication has been prepared, and its printing has been ordered by the Senate. The whole matter will be laid before the American people, and will be fully and publicly debated in the Senate.

I am convinced that the welfare and interests of our country and a just treatment of the British-American population on our Northern frontier alike call for the adoption of the treaty. In its negotiation and conclusion I can truly say for my associates and myself, no view of those of single-minded, patriotic interest has been allowed place or expression, no trace or suggestion of partisanship being alleged.

The sole and difficult question to which the treaty relates—"The fishery rights of one nation in the jurisdictional waters of another"—began with the first dawn of recognized independent existence as a nation, and ever since has conspicuously asserted itself at intervals, exciting bitter controversy, and never has been satisfactorily or permanently disposed of. Many of the surrounding circumstances have constantly changed and advanced with rapidity, but the treaty of 1818 is unaltered, and remains unaffected in its provisions by seventy years of such material progress and development in this continent, as to-day are the witnesses.

Unless the treaty of 1818 shall be abrogated and recurrence necessary to the dangerous status that John Adams so ably but unavailingly discussed with the Earl of Bathurst in 1818, which had resisted all efforts of the plenipotentiaries at Ghent in the year previous to manifest that a joint and equitable solution, in consonance with their existing relations and mutual needs, must be upon between Great Britain and the United States, and this I affirm, is done by the present treaty. There is not a reasonable cause of just and reasonable complaint against an American fisherman against Canadian administration since 1886 for which the treaty does not provide a remedy, and a safeguard in the future will receive the published record of years that have elapsed since the signing of the treaty of 1871, when we were obliged to fall back upon the treaty of 1818, and you can select any case or cases of just treatment of our fishermen as shown by my statement by the terms of the treaty now proposed.

Many Canadian contentions have been put forth with more or less insistent withdrawal. Imaginary lines upon the map drawn from one distant headland to another—neither being visible from the other—can no longer cause doubt and an