

the Collector. The master having explained that his presence in the harbour had been occasioned by stress of weather, and that his failing to report was inadvertent, and this explanation having been telegraphed to the Minister at Ottawa, the vessel was at once allowed to proceed to sea; her release took place at noon on the day following that of her detention.

5. In the case of the "Pearl Nelson" it is not denied that nine of her crew were landed in Arichat Harbour at a late hour on the evening of her arrival, and before the master had reported to the Custom-house. It is obvious that if men were to be allowed to go on shore under such circumstances, without notification to the authorities, great facilities would be offered for landing contraband goods, and there can be no question that the master, by permitting his men to land, was guilty of a violation of sections 25 and 180 of the Customs Act. There seems to be reason to doubt his statement that he was driven into Arichat by stress of weather; but, be this as it may, the fact of his having entered the harbour for a lawful purpose would not carry with it a right to evade the Law to which all vessels frequenting Canadian ports are amenable. In this case, as in that of the "Everitt Steele," already referred to, the statement of the master that his offence was due to inadvertence was accepted, and the fine imposed at once remitted.

6. I observe that, in his despatch relating to the first of these cases, Mr. Bayard insists with much earnestness upon the fact that certain "prerogatives" of access to the territorial waters of the Dominion were specially reserved under the Convention of 1818 to the fishermen of the United States, and that a vessel entering a Canadian harbour for any purpose coming within the terms of Article I of that Convention has as much right to be in that harbour as she would have to be upon the high seas; and he proceeds to institute a comparison between the detention of the "Everitt Steele" and the wrongful seizure of a vessel on the high seas upon the suspicion of being engaged in the Slave Trade. Mr. Bayard further calls attention to the special consideration to which, from the circumstances of their profession, the fishermen of the United States are, in his opinion, entitled, and he dwells upon the extent of the injury which would result to them if they were debarred from the exercise of any of the rights assured to them by Treaty or Convention.

7. I observe also that in Sir Julian Pauncefote's letter inclosed in your despatch it is stated that the Secretary of State for Foreign Affairs wishes to urge upon the Dominion Government the great importance of issuing stringent instructions to its officials not to interfere with any of the privileges expressly reserved to United States' fishermen under Article I of the Convention of 1818.

8. I trust that the explanations which I have already been able to give in regard to the cases of these vessels will have satisfied you that the facts disclosed do not show any necessity for the issuing of instructions other than those already circulated to the local officials intrusted with the execution of the Customs and Fishery Law.

9. There is certainly no desire on the part of my Government (nor, I believe, does the conduct of the local officials justify the assumption that such a desire exists) to curtail in any respect the privileges enjoyed by United States' fishermen in Canadian waters. It cannot, on the other hand, be contended that because these privileges exist and are admitted by the Government of the Dominion, those who enjoy them are to be allowed immunity from the Regulations to which all vessels resorting to Canadian waters are, without exception, subjected under the Customs Act of 1883 and the different Statutes regulating the fisheries of the Dominion.

10. In both of the cases under consideration there was a clear and undoubted violation of the law, and the local officials would have been culpable if they had omitted to notice it. That there was no animus on their part or on that of the Canadian Government is, I think, clearly proved by the promptitude with which the circumstances were investigated, and the readiness shown to overlook the offence and to remit the penalty incurred as soon as proof was forthcoming that the offence had been unintentionally committed. In support of this view I would draw your attention to the letter (see inclosure to my despatch of the 29th November) of Mr. Phelan, the Consul-General for the United States at Halifax, who has expressed his own satisfaction at the action of the authorities in the case of the "Pearl Nelson," and who also refers to a communication received by him from the Department of State, in which it is stated that the conduct of the Assistant Commissioner of Customs in dealing with two other cases of a somewhat similar complexion "shows a proper spirit."

I have, &c.
(Signed) LANSDOWNE.