

after disclaiming "any desire to shield any American vessel from the consequences of a violation of international obligations," he assured the British Government that: "Everything will be done by the United States to cause their citizens, engaged in fishing, to conform to the obligations of the treaty (of 1818) and to prevent an infraction of the fishery laws of the British Provinces."⁴⁰ And he also warned a complainant that "it is the duty and manifest interest of all American citizens entering Canadian jurisdiction to ascertain and obey the laws and regulations there in force."⁴¹ And these executive instructions furnish a complete and effective answer to Mr. Secretary Root's novel contentions.

A learned American law writer, while advocating the claims of the United States, has also admitted that: "The provision of the Canadian Statute⁴² than an officer may board an American vessel as soon as she comes into a bay, or harbour, and may remain during her stay therein, is plainly reasonable and proper; it would only be a 'restriction necessary' to prevent the crew taking, curing or drying fish in the territorial waters 'or from in any other manner abusing the privileges reserved to them.' To this extent the Canadian Parliament had a right to go. The claim to lie at anchor in the bays and harbours, and other territorial waters, for the purpose of cleaning and packing fish, or to procure bait therein, by purchase or barter, or to prepare to fish while therein, or to land and tranship cargoes of fish; all of these acts are plainly unlawful, and would be good grounds for the confiscation of the offending vessel, or the infliction of pecuniary penalties."

"Where, from considerations of public policy, statutes are made to declare some final result illegal, the legislature uniformly forbids the preliminary steps which are directly connected with that result and lead up to it, and facilitate its accomplishment."⁴³

⁴⁰Ibid., 1886, page 377.

⁴¹The Fisheries Question, U.S. Ex. Doc., 1887-8, vol. 9, page 467.

⁴²Revised Statutes of Canada (1886), c. 93; now (1906), c. 47.

⁴³American Law Review, 1870-1, vol. 5, pages 408 and 410.