

The Treaty stipulates that the fishermen shall be under "necessary restrictions" to prevent the doing of the things forbidden by the Treaty, but what may be "necessary" to prevent the prohibited fishing is a political and diplomatic question for the two Signatory Governments to decide. The Treaty permits American fishermen to enter and remain for—

1. "Shelter," which includes a refuge from fogs, winds, storms, and whatever may imperil fishing.
2. "Repairing damages," which includes every damage to fishing-boat or fishing-gear.
3. "Purchasing wood."
4. "Obtaining water."

Conceding that Canada can place an officer on every arriving fisherman as soon as found, the Treaty does not even then authorize a twenty-four hour limit with the result of forfeiture. Nor does the Treaty authorize forfeiture for "preparing to fish."

The Customs Circular issued at Ottawa on the 7th May, 1886, and called a "Warning," recited the 1st Article of the Treaty of 1818, together with the two sections of the Law of 1868 just quoted, and adds:—

"Having reference to the above, you are requested to furnish any foreign vessels, boats, or fishermen found within 3 marine miles of the shore, within your district, with a printed copy of the Warning inclosed herewith.

"If any fishing-vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or hovering within the 3-mile limit, does not depart within twenty-four hours after receiving such Warning, you will please place an officer on board of such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

(Signed)

" J. JOHNSON, *Commissioner of Customs.*

"To the Collector of Customs at

Thus, twenty-four hours after finding the American fisherman is made the limit.

Not satisfied with the severity of this legislation of 1868, the Canadian Dominion, in 1870, and while preliminary negotiations for the Joint High Commission and the Treaty of Washington were in progress, amended it so as to enable seizures of our vessels to be made on sight, and without any warning or any notice to depart. The following is a text of the enactment of 1870:—

(33 Victoria, chap. 15.)

*"An Act to amend the Act respecting Fishing by Foreign Vessels. Assented to May 12, 1870.*

"Whereas it is expedient, for the more effectual protection of the inshore fisheries of Canada against intrusion by foreigners, to amend the Act entitled 'An Act respecting fishing by foreign vessels,' passed in the thirty-first year of Her Majesty's reign: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

"1. The third section of the above-cited Act shall be, and is hereby, repealed, and the following section is enacted in its stead:

"3. Any one of such officers or persons as are above-mentioned may bring any ship, vessel, or boat being within any harbour in Canada, or hovering (in British waters) within 3 marine miles of any of the coasts, bays, creeks, or harbours in Canada, into port and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination he shall forfeit 400 dollars; and if such ship, vessel, or boat be foreign or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing or preparing to fish, or to have been fishing (in British waters) within 3 marine miles of any of the coasts, bays, creeks, or harbours of Canada, not included within the above-mentioned limits, without a licence or after the expiration of the period named in the last licence granted to such ship, vessel, or boat, under the 1st section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

"2. This Act shall not be construed as one with the said Act 'respecting fishing by foreign vessels.'"

But this is not all. Canadian officials endeavoured, during the last summer, in the fury of their malevolence, to forfeit American vessels for acts which, if committed, their