

America, as aforesaid, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act, every such person so refusing or otherwise offending against this Act shall forfeit the sum of 200*l.*, to be recovered, &c."

It will be seen that not forfeiture, but a fine to be recovered by a suit, is inflicted for refusing or neglecting to depart on notice. The Statutes of Canada are not, as the Canadian Privy Council asserted (p. 32), "expressed in almost the same language" as the foregoing Imperial Statute.

The Prince Edwards' enactment of 1844 gives the key-note of Canadian enactments. It declares:—

"Whereas by the Convention (made between His late Majesty King George III and the United States of America, signed at London, on the 20th day of October, in the year of our Lord 1818), and the Statute (made and passed in the Parliament of Great Britain in the 59th year of the reign of His late Majesty King George III), all foreign ships, vessels, or boats, or any ship, vessel, or boat other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coast, bays, creeks, or harbours whatever, in any part of His Majesty's dominions in America not included within the limits specified in the 1st Article of the said Convention, are liable to seizure; and whereas the United States did by the said Convention renounce for ever any liberty enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within the above-mentioned limits: provided, however, that the American fishermen be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them; and whereas no Rules or Regulations have been made for such purpose, and the interests of the inhabitants of this island are materially impaired; and whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the Articles of the Convention aforesaid, and the enactments of the Statute aforesaid, on being taken possession of, profess to have come within said limits for the purpose of shelter and repairing damages therein, or to purchase wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this island, and the fishery carried on contrary to the said Convention and Statute."

The Canadian enactment of 1868 came next, the second and third sections of which say:—

2. Any commissioned officer of Her Majesty's navy serving on board of any vessel of Her Majesty's navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat 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, and stay on board so long as she may remain within such place or distance.

3. If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbour or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat 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.