

(12th October, 1870) that the transshipment of fish and obtaining supplies could not be regarded as a "substantial invasion of British rights" such as was contemplated by Mr. Cardwell's instructions of 1866.

Writing subsequently to the Governor-General on the 12th of April, 1871, Lord Kimberley again referred to the same point in reference to instructions to the Commanders of Canadian cruisers. He stated that the Admiral had reported that the suppression of illegal fishing was not materially facilitated by the prohibition of trade, and he added that if the negotiations at Washington should be still pending when the fishery season commences, the enforcement of this exclusion might seriously endanger their success, and he could not therefore doubt that the Canadian Ministers would agree with Her Majesty's Government in the necessity of, at all events, suspending that part of the instructions referred to until the result of the negotiations should be known.

Canada gave way upon this point for the season of 1871, but it will be seen that this was done in view of the negotiations for the Washington Treaty.

It may here be stated that in May, 1870, the British Naval Officers were instructed not to seize any United States vessel, "unless it should be evident, and could be clearly proved that the offence of fishing had been committed, and the vessel itself was captured within three miles of the land."

The instructions issued by Canada to the Commanders of cruisers in 1871 (copy annexed), were brought into harmony with those issued to Her Majesty's Naval Officers as amended in the particulars above referred to.

During the fishing season of 1871 and 1872 the instructions to the Imperial officers were suspended in anticipation of the coming into force of the Treaty of Washington, but the Colonial Office informed the Admiralty that it was the "desire of Her Majesty's Government that during the suspension of those instructions the Officers commanding Her Majesty's ships should be directed, whilst abstaining from taking active measures to enforce the exclusion of United States fishermen from the fisheries in question, to assist the local authorities in preserving order amongst the fishermen, and to protect the Colonial Revenue vessels from being interfered with by any armed force." The fishery articles of the Treaty of Washington came into force in Canada on the 1st of July, 1873, but United States fishermen were admitted to the privileges of the Treaty from the commencement of the fishing season that year.

The fishery articles were abrogated on the first of July, 1885, and an *ad interim* arrangement was made with the Government of the United States, under which American fishermen continued to enjoy the use of the fisheries up to the end of that year on the understanding that Congress should be invited to consent to the appointment of a Commission with a view to the negotiation of

Canadian Instructions.
25th Feb., 1871. Annexure II.