

or little—a schooner, a sloop, a ship, or a steamer of large tonnage—Canadian ports seem to be wide open. If, however, she be an American fishing-vessel on the high seas, she cannot go into a Canadian bay even to bury those of her dead who in life may have been British subjects with a domicile in Canada and a residence on the land near the bay, and may have expressed a wish not to be committed to the sea, but to be lain at rest by their kindred on the spot which gave them birth.

The Treaty of 1818 gave rights of fishing independent of general commercial rights, although it may be said that, as to shelter, repairs, wood, and water, the Treaty did give to fishermen certain commercial rights, or rather a few rights of humanity. The Treaty did not restrain the granting or the exercising of commercial rights. The right, if it be a right, of an American to buy anything in Canada, does not come of the inshore fishing Treaty of 1818. Your Committee are not aware of any Canadian or Newfoundland law which, having been approved by the British Crown, forbids a British subject to there sell ice, or bait, or anything else, to an American, or to trade with him. If there be such a law, then non-intercourse has to that extent been proclaimed against our countrymen.

Canadian Violations of Treaties.

The contention of your Committee is that the Treaty of 1818 covers differences and disputes about the liberty of American fishermen to take, dry, and cure fish on certain British North American coasts, bays, harbours, and creeks. The Privy Council of Canada, at the bottom of page 32 (Ex. Doc. No. 19, Forty-ninth Congress, second Session), concedes the correctness of this contention. They say:

“The sole purpose of the contention of 1818 was to establish and define the rights of citizens of the two countries in relation to the fisheries on the British North American coast.”

The Treaty is limited to coast fishing, drying, or curing. On certain defined portions of the coast “American fishermen” may fish, but elsewhere on the coast they may not fish, and yet those coast “American fishermen” may, nevertheless, and for certain purposes, enter the bays and harbours in which they cannot fish, under restrictions—to prevent them from doing what? “Taking, drying, or curing fish therein?”

Your Committee contend that the term “American fishermen,” as used in the Treaty of 1818, means the “American fishermen” of and under that Treaty. The rule *noscitur a sociis*, as understood and applied by Judges and lawyers in England and America, limits and defines the term. They have a Treaty right to enter “such bays and harbours” and to remain there, subject, and subject only, to such restrictions “as may be necessary to prevent their taking, drying, or curing fish therein.” The restrictions can only apply to the prevention of such fishing in those bays or harbours. Whatever concerns or is preparation for fishing elsewhere is not thereby to be prevented. It is true that, by the Treaty of 1818, we have stipulated that our fishermen “shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein,” but the Treaty says nothing of “preparing to fish” somewhere else. A fair presentation of the opinions of the Vice-Admiralty Court of Canada, in regard to the meaning of the Canadian phrase “preparing to fish”—which is a stranger to the Treaty of 1818—can be seen in Dr. Wharton’s “International Law Digest,” vol. iii, section 304.

If it be said that our view of the Treaty is strict, severe, and rigid as against Canadian Statutes and officials, your Committee answer that when Canada proposes and endeavours to use a Treaty to arrest and fine American fishermen, seize and confiscate American vessels for the benefit of Canadian seizers, the Government of the United States is entitled to stand on such an interpretation. But even if the Treaty of 1818 covers (which it does not) every American fisherman entering a Canadian harbour, on whatever sea or ocean he may cast a line or draw a seine, the Canadian Statutes do not preserve and enforce the Treaty. They destroy it, so far as the privileges are concerned that are given to American fishermen by the Treaty.

First of all, in order of time and authority, is the Imperial legislation at London in 1819 to enforce the Treaty of the previous year. After forbidding every one, excepting British subjects and American citizens (who could do so within defined limits), to fish, dry, or cure fish anywhere within 3 miles of British coasts in America, that Law of 1819 punishes by forfeiture any offending vessel, and all the articles on board.

Then comes this:—

“That if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor, in any other parts of His Majesty’s dominions in