

*Ad interim Arrangement proposed by the
United States' Government.*

Observations on Mr. Bayard's Memorandum.

ARTICLE II.

Pending a definitive arrangement on the subject, Her Britannic Majesty's Government agree to instruct the proper Colonial and other British officers to abstain from seizing or molesting fishing-vessels of the United States unless they are found within 3 marine miles of any of the coasts, bays, creeks, and harbours of Her Britannic Majesty's dominions in America, there fishing, or to have been fishing or preparing to fish within those limits, not included within the limits within which, under the Treaty of 1818, the fishermen of the United States continue to retain a common right of fishery with Her Britannic Majesty's subjects.

This Article would suspend the operation of the Statutes of Great Britain and of Canada, and of the provinces now constituting Canada, not only as to the various offences connected with fishing, but as to Customs, harbours, and shipping, and would give to the fishing-vessels of the United States privileges in Canadian ports which are not enjoyed by vessels of any other class, or of any other nation. Such vessels would, for example, be free from the duty of reporting at the Customs on entering a Canadian harbour, and no safeguard could be adopted to prevent infraction of the Customs Laws by any vessel asserting the character of a fishing-vessel of the United States.

Instead of allowing to such vessels merely the restricted privileges reserved by the Convention of 1818, it would give them greater privileges than are enjoyed at the present time by any vessels in any part of the world.

ARTICLE III.

For the purpose of executing Article I of the Convention of 1818, the Government of the United States and the Government of Her Britannic Majesty hereby agree to send each to the Gulf of St. Lawrence a national vessel, and also one each to cruize during the fishing season on the southern coasts of Nova Scotia. Whenever a fishing-vessel of the United States shall be seized for violating the provisions of the aforesaid Convention by fishing or preparing to fish within 3 marine miles of any of the coasts, bays, creeks, and harbours of Her Britannic Majesty's dominions included within the limits within which fishing is by the terms of the said Convention renounced, such vessel shall forthwith be reported to the officer in command of one of the said national vessels, who, in conjunction with the officer in command of another of said vessels of different nationality, shall hear and examine into the facts of the case. Should the said commanding officers be of opinion that the charge is not sustained, the vessel shall be released. But if they should be of opinion that the vessel should be subjected to a judicial examination, she shall forthwith be sent for trial before the Vice-Admiralty Court at Halifax. If, however, the said commanding officers should differ in opinion, they shall name some third person to act as Umpire between them, and should they be unable

This Article would deprive the Courts in Canada of their jurisdiction, and would vest that jurisdiction in a Tribunal not bound by legal principles, but clothed with supreme authority to decide on most important rights of the Canadian people.

It would submit such rights to the adjudication of two naval officers, one of them belonging to a foreign country, who, if they should disagree and be unable to choose an Umpire, must refer the final decision of the great interests which might be at stake to some person chosen by lot.

If a vessel charged with infraction of Canadian fishing rights should be thought worthy of being subjected to a "judicial examination," she would be sent to the Vice-Admiralty Court at Halifax, but there would be no redress, no appeal, and no reference to any Tribunal if the naval officers should think proper to release her.

It should, however, be observed that the limitation in the second sentence of this Article of the violations of the Convention which are to render a vessel liable to seizure could not be accepted by Her Majesty's Government.

For these reasons, the Article in the form proposed is inadmissible, but Her Majesty's Government are not indisposed to agree to the principle of a joint inquiry by the naval officers of the two countries in the first instance, the vessel to be sent