curing fish on the portion of the Newfoundland and Labrador coasts made free to our citizens. It should be noticed that the proviso finally adopted omitted the right originally demanded by the Americans of entering other bays and harbors for bait, and is identical with the one at first submitted by the British plenipotentiaries, strengthened by the addition of the word "whatever" after the clause "for no other purpose." It is evident, therefore that the British Government is not estopped from opposing the claim now set up by American fishermen, and sustained by the President, and any thing that occurred during the negotiations preliminary to the treaty.

"We must fall back, then, upon the accepted doctrines of International Law. Every nation has the undoubted right to prescribe such regulations of commerce carried on its waters, and with its citizens, as it deems expedient, even to the extent of excluding entirely some or all foreign vessels and merchandise. Such measures may be harsh, and under some circumstances a violation of inter-state comity, but they are not illegal. At all events, it does not become a government to complain, which now maintains a tariff prohibitory as to many articles, and which at one time *passed a general embargo and non-intercourse Act.* There seem to be special reasons why the Dominion authorities may inhibit general commerce by Americans engaged in fishing. Their vessels clear for no particular port; they are accustomed to enter one bay or harbor after another as their needs demand; they might thus carry on a coasting trade; they would certainly have every opportunity for successful smuggling. Indeed, this would legitimately belong to the local customs and revenue system, and not to the fisheries. *We are thus forced to the conclusion that American fishermen have no right to enter the bays and harbors in question and sell goods or purchase supplies other than wood and water.*"

It is not necessary to add a word to the able and impartial language quoted, except to suggest that if the author had been now writing, he might have found a more forcible example of inhospitable legislation than the "general embargo and non-intercourse act," namely, the attempt to evade the plighted promise of the nation, to remove the taxation from fish, by taxing the cans,—useless for any other purpose,—in which the fish are sent to market.

While restoring to the legislation of Nova Scotia its true character, this article shows also which of the two decisions rendered, one by Mr. Justice Hazen, the other by the distinguished and learned Chief Justice, Sir William Young, must be held to be the correct one, on *preparing to fish.* The latter's judgment receives from this impartial source an authority which it did not require to carry conviction to all unprejudiced minds.

The necessity for the Nova Scotia Statute of 1836, so much complained of became apparent within a pretty short period.

In 1838, as mentioned in the United States Brief, p. 9, several American vessels were seized by British cruisers, for fishing in large bays. Between the dates of the Nova Scotia Statute and these seizures, the American Secretary of State had issued circulars enjoining American fishermen to observe the limits of the treaty, but without saying what these limits were. Why did he abstain from giving his countrymen the text of the Convention of 1818, Article 1st? They could have read in it that the United States had renounced forever the liberty of taking, drying or curing fish within three marine miles of any coast, bay, creek or harbor, and that they could not be admitted *to enter such bays or harbors*, except for shelter, or repairing damages, or obtaining wood and water, *and for no other purpose whatever.* Every fisherman would have understood such clear language. Statesmen only could imagine that "bays" meant large bays, more than 6 miles wide at their entrance.

It was the privilege of eminent politicians, but not of the fishermen, to handle that extraordinary logic which involves the contention—1st, That for the purpose of fishing, the territorial waters of every country along the seacoast extend 3 miles from low-water mark. 2nd, That "in the case of bays and gulfs, such only are territorial waters as do not exceed 6 miles in width at the mouth upon a straight line measured from headland to headland. 3rd, That "all larger bodies of water connected with the open sea, form a part of it." These words are taken from the Answer to British Case, pp. 2, 3). The framers of the Convention of 1818 must have meant those large bays, when they excluded American fishermen from *entering* into any bay, etc. The most that the fisherman could have said, after reading the text, would be that it must have been an *oversight*,—and he would never have thought of taking the law in his own hand and disregarding a solemn contract entered into by his Government. But, with his common sense, he would have said: The Convention could not mean the small bays, since I am told by American lawyers that it did not require a treaty to protect the small bays against our interference. (See the Answer to the Case at page 2.) The word bay could not mean anything but those large bays, which, in the absence of Treaty stipulations, might by some be considered as forming part of the open sea. And acting on this plain interpretation of the most clear terms, the fisherman would have abstained from entering into any bay except for the purposes mentioned in the Convention. Old fishermen would, in addition, have taught the younger ones that there was a paramount reason why the American framers of the Convention of 1818 could have no desire to open the large bays to their fishermen, for the reason that up to 1827 or 1828, that is until ten years after the Convention, Mackerel had not been found in large quantities in the Gulf of St. Lawrence.

If then the circulars of the Secretary of the Treasury, to American fishermen, failed to put the latter on their guard, when the Nova Scotia Legislature showed such firm determination to enforce the rights of her fishermen and coerce the American to obedience to law and treaties, the responsibility of any possible conflict fell upon the American and not upon the British authorities.

Our friend, Mr. Dana, expressed with vehemence of language which impressed us all, the serious consequences which would have followed, if a drop of American blood had been spilt in these conflicts. We have too good an opinion of our American cousins to think that they would have been much moved if one of their countrymen had been killed, while in the act of violating the law, in British Territory. The United States have laws as well as other nations against trespass, piracy and robbery, and it is not in the habit of nations to wage war in the protection of those of their countrymen who commit any of these crimes in a foreign land. The age of fillibustering has gone by and no eloquence can restore it to the standard of a virtue.

However, a state of things which is calculated to create temptations such as were offered to American fishermen, in Canadian waters, should be at all times most carefully avoided, and it was the desire of both British and American statesmen to remove such dangerous and inflammable causes of conflict, which brought us to the Reciprocity Treaty of 1854.

By that Treaty, British waters in North America, were thrown open to United States citizens, and United States waters north of the 36th degree of north latitude were thrown open to British fishermen, excepting the salmon and shad fisheries, which were reserved on both sides. Certain articles of produce of the British Colonies and of the United States were admitted to each country, respectively, free of duty.

That Treaty suspended the operation of the Convention of 1818, as long as it was in existence. On the 17th of March, 1865, the United States Government gave notice that at the expiration of twelve months, from that day, the Reciprocity Treaty was to terminate. And it did then terminate and the Convention of 1818 revived, from the 17th March, 1866.

However, American fishermen were admitted, without interruption, to fish in British American waters, on payment of a license, which was collected at the Gut of Canso, a very narrow and the nearest entrance to portions of these waters. Some American vessels took licenses the first year, but many did not. The license fee having been raised afterwards, few vessels took a license and finally almost all vessels fished without taking any. Every one will understand the impossibility of enforcing that system. All American vessels having the right to fish in British American waters, under the Convention of 1818, those who wanted or professed to limit themselves to fishing outside of the 3 miles limit had the right to enter on the northern side of Cape Breton without taking a license. As long as that license was purely nominal, many took it in order to go everywhere without fear of cruisers or molestation. When our license fee was doubled and afterwards trebled, the number of those who took it gradually dwindled to nothing. The old troubles and irritation were renewed, and many fishermen have explained, before the Commission