It may be well to note that this decision has no bearing whatever upon the construction of the *Convention*. It was not strictly necessary for the Judge to refer to that, and he left it unmentioned. He did not take the course pursued by Sir William Young, as he could have done,—try to obtain the clue to the construction of the statute from the obvious terms of the convention which the statute was passed to make effective. The Convention, and the object which the Legislature had in view in making the enactment, were not improper subjects for judicial consideration.

The judge was mistaken in assuming that the term "preparing to fish" only included arranging nets, lines and fishing tackle for fishing, though not actually applied to fishing. Such acts clearly come within the other expression in the statute "found fishing," and effect must be given to every word. At least, if the Legislature had intended to be so minute it would have used the expression "attempting to fish," which would aptly express the acts mentioned by the judge, not the term "preparing to fish."

In a case reported in 14 California Reports, p. 140, the Supreme Court of California, presided over by Chief Justice Field, now of the Supreme Court of the United States, held that:—

The preparation consists in devising or arranging the means necessary for the commission of the offence; while the attempt is the direct movement towards the commission of the offence after the preparations are made.

Chief Justice Field says:—

The attempt must be manifested by an act which would end in the commission of the particular offence but for the intervention of circumstances independent of the will of the party. A purchase of a gun with the intention to shoot is an illustration of preparation as distinguished from attempt.

If then such a necessary proceeding as obtaining bait is "preparing to fish," and the Legislature did intend to prevent entering the prohibited waters for that purpose under pain of forfeiture, it is clear that the judge was wrong in the chief ground of his reasoning, viz., the distinction made between bait for fishing in prohibited waters, and bait for fishing outside.

Entering the fishing limits for any purpose other than for one of the four specified, was, for obvious reasons, the thing to be prevented, and what difference would it make in what waters the bait was to be used?

After the termination of the Washington Treaty, when it again became necessary to administer the statutes which had been debated in the foregoing cases—pending immediately before it was framed—it was proper to create a remedy for what was deemed a conflict of decisions in two courts of equal jurisdiction. A conflict of decisions, or even differences of opinion in a divided court, when the reasons of dissenting judges are weighty, have frequently called forth the intervention of the legislature. Not only is Parliament justified in such interference when it does not affect existing litigation, as this statute did not in any pending case, but it is its duty to remedy such an evil, and it does, as it apparently did in this case, adopt what it considered to be the more correct of the opposing contentions and by legislation establish what was its original intention although defectively expressed.