

There is, also, the objection in the Newfoundland case that the rules are made by the Legislature of a colony, a merely subordinate body, not recognized by the Government of the United States. It is a very forcible contention that all matters not regulated by the treaty itself must subsequently be agreed to by both contracting powers in order to have binding force on the subjects of both countries, and that in the absence of such agreement, new regulations can only affect the subjects of the power which adopts them.

On the other hand, it is very cogently argued that the "inhabitants of the United States" are to exercise the liberty granted to them "in common with His Britannic Majesty's subjects," and that these words are wide enough to mean that the regulations binding on British subjects from time to time shall be equally binding upon American subjects exercising the granted liberty in British waters. In other words, it is contended that, while exercising the liberty granted, the American comes into hotchpot with the Britisher, and for the purpose of fishing in the prescribed water can act only as if he were for the time being a British subject. Why, it is asked, should foreigners, exercising a mere servitude, have greater freedom of action in the territorial waters of a country than the very subjects of the Sovereign power. It is said by those who thus reason that the liberty granted to the inhabitants of the United States is merely this—that he may do as British subjects do. Upon the whole the claim of the colony to the right to prohibit the use of nets, etc., is more strongly based and sounds better than the assertion that inhabitants of the United States may not employ foreign fishermen to do their work for them in the treaty waters.

Newfoundland has now a law—the Bait Act—under which it is made illegal to aid in the export of herrings and other bait fish, except under license, and it is said that the Government of the colony has decided to prosecute under this law those Newfoundlanders who ship on board American vessels and help take fish for them. But the Act in question expressly says that it shall not affect the treaty rights of any foreign country, and as taking herrings in treaty waters is not illegal for the American