

*The Canadian Statute of 1886.*

Mr. Phelps is again under an erroneous impression with regard to the Statute introduced at the last Session of the Dominion Parliament.

He is informed that "since the seizure" the Canadian authorities have pressed, or are pressing, through the Canadian Parliament, in much haste, an Act which is designed, for the first time in the history of the Legislature, under this Treaty, to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them therefor.

The following observations are appropriate in relation to this passage of Mr. Phelps' letter:—

1. The Act which he refers to was not passed with haste. It was passed through the two Houses in the usual manner, and with the observance of all the usual forms. Its passage occupied probably more time than was occupied in the passage through the Congress of the United States of a measure which possesses much the same character, and which will be referred to hereafter.

2. The Act has no bearing on the seizures referred to.

3. It does not make any act illegal which was legal before, but declares what penalty attaches to the offences which were already prohibited. It may be observed in reference to the charges of "undue haste," and of "legislating for the first time in the history of the legislation under the Treaty," that before the Statute referred to had become law the United States' Congress passed a Statute containing the following section:—

"That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his Proclamation, excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of each foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such Proclamation for it to take effect, if the master, officer or agent of any vessel of such foreign country excluded by said Proclamation from the exercise of any commercial privileges shall do any act prohibited by said Proclamation in the ports, harbours, or waters of the United States for or on account of such vessel, such vessel and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this Act, or aiding and abetting any other person in such opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanour, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years."—Sec. 17 of Act No. 85 of Congress, 1886.

This enactment has all the features of hostility, which Mr. Phelps has stigmatized as "unprecedented in the history of legislation under the Treaty."

*Enforcement of the Acts without Notice.*

Mr. Phelps insists upon what he regards as "obvious grounds of reason and justice" and "upon common principles of comity, that previous notice should have been given of the new stringent restrictions" it was intended to enforce.

It has been already shown that no new restrictions have been attempted. The case of the "David J. Adams" is proceeding under the Statutes which have been enforced during the whole time when the Treaty had operation.

It is true that for a short time prior to the Treaty of Washington, and when expectations existed of such a Treaty being arrived at, the instructions of 1870, which are cited by Mr. Phelps, were issued by the Imperial authorities. It is likewise true that under these instructions the rights of Her Majesty's subjects in Canada were not insisted on in their entirety. These instructions were obviously applicable to the particular time at which and the particular circumstances under which they were issued by Her Majesty's Government.

But it is obviously unfair to invoke them now under wholly different circumstances as establishing a "practical construction" of the Treaty, or as affording any ground for claiming that the indulgence which they extended should be perpetual.

The Fishery Clauses of the Treaty of Washington were annulled by a notice from the