

proclamations. Not only did Canada know this, but a perverse disposition has induced her, while continuing in their unrestricted use and enjoyment, to endeavor to deprive our fishermen of their similar right in Canada.

There was, after 1830, no law prior to this of 1886, which excluded our fishermen from trading or transshipping cargoes in Canadian ports destined for the United States. Canada, however, claims that the British act of 1819 excludes American fishermen from "buying bait" in her ports. By that statute, if a foreign vessel, within the waters where the right to fish has been renounced by the United States, or any persons on board, "shall be found fishing or to have been fishing, or preparing to fish" within such distance of the coasts, etc., the vessel shall be seized, prosecuted, condemned, etc.

The clause states that the method of proceeding shall be the same as in proceedings under customs or navigation acts. The preamble of the statute reads, "to make regulations respecting the taking and curing of fish," etc. This does not look like a law to prevent the buying and exporting of bait, a matter at that time decisively covered by the act of 12 Charles II., then in full force.

Careful examination was made at the time of the Halifax Commission, of all the records of seizures of American fishermen, and it was found that, prior to 1870, not one had been charged with "buying bait" as a violation of the clause "preparing to fish."

In 1870, for the first time, this construction was set up, and two American vessels seized, and, among other matters, libeled for buying bait in open port, in alleged infringement of the act of 1819.

In one court, the judge (Young), said incidentally, "I take it that is a preparing to fish," and discussed the construction no further. In the other case, the White Fawn, another judge (Hazen) possessed of high legal acumen, gave a carefully considered opinion. He said: "Assuming the fact that such purchase establishes a preparing to fish, which I do not admit, I think, before a forfeiture can be incurred, it must be shown that the preparations were for an illegal fishing in British waters."