

**THE FISHERIES DISPUTE, A SUGGESTION
FOR ITS ADJUSTMENT BY ABROGATING
THE CONVENTION OF
1818, AND RESTING ON THE RIGHTS AND
LIBERTIES DEFINED IN THE TREATY OF
1783; A LETTER**

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The Fisheries Dispute, a Suggestion for Its Adjustment by Abrogating the Convention of 1818, and Resting on the Rights and Liberties Defined in the Treaty of 1783; A Letter by John Jay

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With Mr. Jay's Compliments.

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A LETTER

TO

THE HONOURABLE WILLIAM M. EVARTS
OF THE UNITED STATES SENATE

BY

JOHN JAY
LATE MINISTER TO VIENNA

NEW YORK
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THE FISHERIES DISPUTE.

DEAR MR. EVARTS : The necessity of some decisive action by the Government to arrest the vexatious and harassing treatment of our fishermen by the Canadian authorities is recognized by the country, as well for the protection of our own rights as for the avoidance of a breach of our harmonious relations with Great Britain; and the passage in the Senate by 46 to 1 of Senator Edmunds' bill to authorize the President to protect and defend the rights of American fishing vessels, American fishermen, and American trading and other vessels in certain cases for other purposes, seems to show that the Senate shares the judgment of the country that a continuance of the policy under which such annoyances are possible would be a mistake, and that their further toleration is forbidden by a decent regard to the rights of our fishermen, and to the peace, interest, and dignity of the nation.

Upon the question how far the bill is calculated to disturb our friendly relations with Great Britain, the New York *Herald* reports your views as follows :

Mr. Evarts argued in support of the bill, which he said, was not in the nature of a menace or tending at all in that direction. It was the duty of Congress to take the subject away from local disturbance, irritation, and resentments. So far from the bill tending to war or tending to umbrage, it was intended to have a contrary effect. It was an immediate announcement to the people that they had only to trust their protection, not to personal resentment, but to the Government of the United States, and when the opening summer should bring about the recurrence of the fishing season and of the fishing dangers, the

question would be removed from that theatre of collision ; and, if not concluded, it would be under the contract of both governments, in a deliberate consideration of what should be done in order to have stability of intercourse and in order to give stability to the peace and dignity of the two nations, the United States and Great Britain.

I observe an intimation in the papers that some proposition has been made by our Government to which it is awaiting a reply, and I am sensible of the delicacy with which one not thoroughly aware of the state of a negotiation, should venture to offer advice. This question of the fisheries, however, is peculiarly a question for the people, and the recent reports in the Senate and the House, the correspondence on the subject submitted by the President on December 8, 1886, and again on February 8, 1887, with the replies of the Secretary of the Treasury to the House of December 14, 1886, and of February 5, 1887, and the letter of Secretary Bayard to the Senate of January 26, 1887, with the bills proposed by Senator Edmunds and Mr. Belmont, the resolution of Mr. Gorman, and the bill proposed by Secretary Manning, have brought the pending questions so fully before the country, with the facts and correspondence to so late a day, that a suggestion offered for consideration and based upon historic data and recent facts, will hardly I think be regarded as untimely or improper.

RETALIATION AS A REMEDY, TEMPORARY AND INCOMPLETE.

The difficulty which we propose to reach by retaliation seems to arise in great part from a seemingly irreconcilable difference of opinion between the government of Great Britain and that of the United States, touching the extent of the rights of our fishermen under the Convention of 1818. And if that Convention is really the source of the trouble which we have had with intervals during seventy years, is retaliation in truth the most complete and proper remedy? or may not a threat have upon the English people the effect

it would have upon ourselves, disposing us to fight rather than to argue? or if we are forced to retaliation as a last resort, should not its suggestion be accompanied by some proposition looking to a fundamental and permanent readjustment of our rights?

When Mr. Bayard, under the date of November 6, 1886, referring to the seizure of the *Marion Grimes*, held that the Dominion Government was seeking by its action in the matter to "invade and destroy the commercial rights and privileges secured to the citizens of the United States under and by virtue of treaty stipulations with Great Britain," the Governor-General of Canada, the Marquis of Lansdowne held that that statement was "not warranted by the facts of the case," and that the two vessels that had been seized were "fishing vessels and not traders, and therefore liable, subject to the guiding of the courts, to any penalties imposed by law for the enforcement of the Convention of 1818, on parties violating the terms of that Convention."

Nor was this simply the judgment of the Governor-General of Canada, for Earl Rosebery wrote: "I have to add that Her Majesty's Government entirely concurs in the view expressed by the Marquis of Lansdowne."

If the judgment of the British Government on that point, based apparently on a system of interpretation which is held at Washington to be so narrow, strained, and technical that it ignores not only the motives which induced Americans to accept the Treaty of 1818, but ignores also the rights and the duties that belong to international comity and the law of nations—if that judgment has not been changed by the able and courteous arguments of Mr. Bayard and Mr. Phelps, and the grave reports of Senator Edmunds and Mr. Manning, is it likely to yield more readily when the calm of diplomacy shall have been interrupted by the irritating measures of retaliation, which Senator Edmunds' bill, or the yet more stringent bill by Mr. Belmont in the House, extending to Canadian locomotives and cars, goods, wares,