

especially in view of the passage of the Convention which provides that the American fishermen shall be under such restrictions as shall be necessary to prevent them from abusing the privileges thereby reserved to them.

There is a passage in Mr. Bayard's despatch to which they have particularly called the attention of Her Majesty's Government. It is the following :—

“The numerous seizures made have been of vessels quietly at anchor in established ports of entry, under charges which up to this day have not been particularized sufficiently to allow of intelligent defence; not one has been condemned after trial and hearing, but many have been fined, without hearing or judgment, for technical violation of alleged Commercial Regulations, although all commercial privileges have been simultaneously denied to them.”

In relation to this paragraph the Canadian Government observe that the seizures of which Mr. Bayard complains have been made upon grounds which have been distinctly and unequivocally stated in every case; that, although the nature of the charges has been invariably specified and duly announced, those charges have not in any case been answered; that ample opportunity has in every case been afforded for a defence to be submitted to the Executive authorities, but that no defence has been offered beyond the mere denial of the right of the Canadian Government; that the Courts of the various provinces have been open to the parties said to have been aggrieved, but that not one of them has resorted to those Courts for redress. To this it is added that the illegal acts which are characterized by Mr. Bayard as “technical violations of alleged Commercial Regulations,” involved breaches, in most of the cases not denied by the persons who had committed them, of established Commercial Regulations which, far from being specially directed or enforced against citizens of the United States, are obligatory upon all vessels (including those of Canada herself) which resort to the harbours of the British North American coast.

I have thought it right, in justice to the Canadian Government, to embody in this note almost in their own terms their refutation of the charges brought against them by Mr. Bayard; but I would prefer not to dwell on this part of the controversy, but to proceed at once to the consideration of the six Articles of Mr. Bayard's Memorandum in which the proposals of your Government are embodied.

Mr. Bayard states that he is “encouraged in the expectation that the propositions embodied in the Memorandum will be acceptable to Her Majesty's Government, because, in the month of April 1866, Mr. Seward, then Secretary of State, sent forward to Mr. Adams, at that time United States' Minister in London, the draft of a Protocol which, in substance, coincides with the 1st Article of the proposal now submitted.”

Article 1 of the Memorandum no doubt to some extent resembles the draft Protocol submitted in 1866 by Mr. Adams to Lord Clarendon (of which I inclose a copy for convenience of reference), but it contains some important departures from its terms.

Nevertheless, the Article comprises the elements of a possible accord, and if it stood alone I have little doubt that it might be so modelled, with the concurrence of your Government, as to present an acceptable basis of negotiation to both parties. But, unfortunately, it is followed by other Articles which, in the view of Her Majesty's Government and that of Canada, would give rise to endless and unprofitable discussion, and which, if retained, would be fatal to the prospect of any satisfactory arrangement, inasmuch as they appear, as a whole, to be based on the assumption that upon the most important points in the controversy the views entertained by Her Majesty's Government and that of Canada are wrong, and those of the United States' Government are right, and to imply an admission by Her Majesty's Government and that of Canada that such assumption is well founded.

I should extend the present note to an undue length were I to attempt to discuss in it each of the Articles of Mr. Bayard's Memorandum, and to explain the grounds on which Her Majesty's Government feel compelled to take exception to them. I have therefore thought it more convenient to do so in the form of a counter-Memorandum, which I have the honour to inclose, and in which will be found, in parallel columns, the Articles of Mr. Bayard's Memorandum, and the observations of Her Majesty's Government thereon.

Although, as you will perceive on a perusal of those observations, the proposal of your Government as it now stands is not one which could be accepted by Her Majesty's Government, still Her Majesty's Government are glad to think that the fact of such a proposal having been made affords an opportunity which, up to the present time, had not been offered for an amicable comparison of the views entertained by the respective