

of Newfoundland can regulate our fishermen's enjoyment of the Treaty right as striking at the Treaty itself. It asserts an authority on one side, and a submission on the other, which has not been proposed to us by Her Majesty's Government, and has not been accepted by this Government. I cannot doubt that Lord Salisbury will agree that the insertion of any such element in the Treaty of Washington would never have been accepted by this Government, if it could reasonably be thought possible that it could have been proposed by Her Majesty's Government. The insertion of any such proposition by construction now is equally at variance with the views of this Government.

The representations made to this Government by the interests of our citizens affected, leave no room to doubt that this assertion of authority is as serious and extensive in practical relations as it is in principle. The rude application made to the twenty vessels in Fortune Bay of this asserted authority, in January last, drove them from the profitable prosecution of their projected cruizes. By the same reason the entire inshore fishery is held by us upon the same tenure of dependence upon the Parliament of the Dominion or the Legislatures of the several Provinces.

I cannot but regret that this vital question has presented itself so unexpectedly to this Government, and at a date so near the period at which this Government, upon a comparison of views with Her Majesty's Government, is to pass upon the conformity of the proceedings of the Halifax Commission with the requirements of the Treaty of Washington. The present question is wholly aside from the considerations bearing upon that subject, and which furnishes the topic of my recent despatch.

In the opinion of this Government it is essential that we should at once invite the attention of Lord Salisbury to the question of Provincial control over the fishermen of the United States, in their prosecution of the privilege secured to them by the Treaty. So grave a question, in its bearing upon the obligations of this Government under the Treaty, makes it necessary that the President should ask from Her Majesty's Government a frank avowal or disavowal of the paramount authority of Provincial legislation to regulate the enjoyment by our people of the inshore fishery, which seems to be intimated, if not asserted, in Lord Salisbury's note.

Before the receipt of a reply from Her Majesty's Government it would be premature to consider what should be the course of this Government should this limitation upon the Treaty privileges of the United States be insisted upon by the British Government as their construction of the Treaty.

You will communicate this despatch to Lord Salisbury by reading the same to him, and leaving with him a copy.

I am, &c.  
(Signed) WM. M. EVARTS.

No. 20.

*The Marquis of Salisbury to Mr. Welsh.*

Sir,

*Foreign Office, November 7, 1878.*

HER Majesty's Government have had under their consideration the despatch from Mr. Evarts, dated the 28th September, and communicated to me on the 12th ultimo, respecting the complaints made by the Government of the United States of the injuries sustained by American fishermen in Fortune Bay in January last.

This despatch is in reply to my letter of the 23rd August, in which I forwarded a copy of the Report furnished by Captain Sullivan, of Her Majesty's ship "Sirius," on the occurrences in question. Mr. Evarts now remarks that the United States' Government have not been put in possession of the depositions which form the basis of that Report, and are unable, therefore, to say whether, upon their consideration, the view which the Government of the United States takes of these transactions upon the sworn statements of their own citizens would be at all modified.

Her Majesty's Government have not had the opportunity of considering the statements in question; but the depositions which accompanied Captain Sullivan's Report, and which I now have the honour to forward,\* appeared to them, in the absence of other testimony, to be conclusive as regards the facts of the case.

\* Inclosures 2 to 11 in No. 13.