

Mr. Herbert to Lord Tenterden.—(Received July 15.)

Sir, *Downing Street, July 14, 1882.*

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 10th instant, inclosing the draft of a despatch which Earl Granville proposes to address to Her Majesty's Minister at Washington, upon the subject of the Memorandum drawn up by the State Department of the United States' Government, upon certain Acts of the Legislature of Newfoundland for the regulation of the fisheries in the waters of the Colony.

Lord Kimberley desires me to request that you will inform Lord Granville that he concurs in the terms of this draft despatch.

I am, &c.
(Signed) ROBERT G. W. HERBERT

Earl Granville to Mr. West.

(No. 212.)

Sir, *Foreign Office, July 15, 1882.*

I HAVE to acknowledge the receipt of your despatch No. 207 of the 9th May last, transmitting a Memorandum drawn up by the State Department of the United States' Government upon certain Acts of the Legislature of Newfoundland for the regulation of the fisheries in the waters of the Colony.

This Memorandum was communicated to you by Mr. Frelinghuysen in answer to the request of Her Majesty's Government to be favoured with any suggestions which the United States' Government might be prepared to offer with a view to the friendly consideration by the two Governments of such amendments of the Fishery Regulations as might be reasonably called for in the interests of both countries.

Her Majesty's Government regret to find that the Memorandum contains no suggestion of any kind tending to that object, but that it reopens a discussion on the construction of the Treaty of Washington which it was hoped had been exhausted in the previous correspondence.

The Memorandum cites the following extract from a despatch written by Mr. Evarts in 1878, as representing the views of the United States' Government:—

"This Government conceives that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland, now set up as authority over our fishermen, and from every other regulation now in force, or that may hereafter be enacted by that Government."

Her Majesty's Government, however, have never accepted that construction of the Treaty, and on this point I have nothing to add to the views expressed in the note which I had the honour to address to Mr. Lowell on the 27th October, 1880.*

In that note I used the following language:—

"Without entering into any lengthy discussion on this point, I feel bound to state that, in the opinion of Her Majesty's Government, the clause in the Treaty of Washington which provides that the citizens of the United States shall be entitled, 'in common with British subjects,' to fish in Newfoundland waters within the limits of British sovereignty means that the American and the British fishermen shall fish in these waters upon terms of equality, and not that there shall be an exemption of American fishermen from any reasonable regulations to which British fishermen are subject.

"Her Majesty's Government entirely concur in Mr. Marcy's Circular of the 28th March, 1856. The principle therein laid down appears to them perfectly sound, and as applicable to the fishery provisions of the Treaty of Washington as to those of the Treaty which Mr. Marcy had in view; they cannot, therefore, admit the accuracy of the opinion expressed in Mr. Evarts' letter to Mr. Welsh of the 28th September, 1878, 'that the fishery rights of the United States conceded by the Treaty of Washington are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland,' if by that opinion anything inconsistent with Mr. Marcy's principle is really intended. Her Majesty's Government, however, fully admit that, if any such local

* See Parliamentary Papers "United States No. 1 (1881); and "No. 2 (1881)," p. 55, No. 39.