

down any principles of international law, and no advantage would, I think, be gained by doing so to a greater extent than the facts in question absolutely require. . . . Her Majesty's Government will readily admit what is, indeed, self-evident—that British sovereignty, as regards those waters, is limited in its scope by the engagements of the Treaty of Washington, which cannot be modified or affected by any municipal legislation." It is with the greatest pleasure that the United States' Government receives this language as "the frank disavowal," which it asked, "of the paramount authority of provincial legislation to regulate the enjoyment by our people of the inshore fishery." Removing, as this explicit language does, the only serious difficulty which threatened to embarrass this discussion, I am now at liberty to resume the consideration of these differences in the same spirit and with the same hopes so fully and properly expressed in the concluding paragraph of Lord Salisbury's despatch. He says: "It is not explicitly stated in Mr. Evarts' despatch that he considers any recent Acts of the Colonial Legislature to be inconsistent with the rights acquired by the United States under the Treaty of Washington. But, if that is the case, Her Majesty's Government will, in a friendly spirit, consider any representations he may think it right to make upon the subject, with the hope of coming to a satisfactory understanding."

It is the purpose, therefore, of the present despatch to convey to you, in order that they may be submitted to Her Britannic Majesty's Government, the conclusions which have been reached by the Government of the United States as to the rights secured to its citizens under the Treaty of 1871 in the herring fishery upon the Newfoundland coast, and the extent to which those rights have been infringed by the transactions in Fortune Bay on the 6th January, 1878.

Before doing so, however, I deem it proper, in order to clear the argument of all unnecessary issues, to correct what I consider certain misapprehensions of the views of this Government contained in Lord Salisbury's despatch of the 7th November, 1878. The Secretary for Foreign Affairs of Her Britannic Majesty says:—

"If, however, it be admitted that the Newfoundland Legislature have the right of binding Americans who fish within their waters by any laws which do not contravene existing Treaties, it must be further conceded that the duty of determining the existence of such contravention must be undertaken by the Governments, and cannot be remitted to the discretion of each individual fisherman. For such discretion, if exercised on one side, can hardly be refused on the other. If any American fisherman may violently break a law which he believes to be contrary to Treaty, a Newfoundland fisherman may violently maintain it if he believes it to be in accordance with Treaty." His Lordship can scarcely have intended this last proposition to be taken in its literal significance. An infraction of law may be accompanied by violence which affects the person or property of an individual, and that individual may be warranted in resisting such illegal violence, so far as it directly affects him, without reference to the relation of the act of violence to the law which it infringes, but simply as a forcible invasion of his rights of person or property. But that the infraction of a general municipal law, with or without violence, can be corrected and punished by a mob, without official character or direction, and who assume both to interpret and administer the law in controversy, is a proposition which does not require the reply of elaborate argument between two Governments whose daily life depends upon the steady application of the sound and safe principles of English jurisprudence. However this may be, the Government of the United States cannot for a moment admit that the conduct of the United States' fishermen in Fortune Bay was in any—the remotest—degree a violent breach of law. Granting any and all the force which may be claimed for the Colonial Legislature, the action of the United States' fishermen was the peaceable prosecution of an innocent industry, to which they thought they were entitled. Its pursuit invaded no man's rights, committed violence upon no man's person, and if trespassing beyond its lawful limits could have been promptly and quietly stopped by the interference and representation of the lawfully-constituted authorities. They were acting under the provisions of the very statute which they are alleged to have violated, for it seems to have escaped the attention of Lord Salisbury that section 28 of the title of the Consolidated Acts referred to contains the provision that "Nothing in this chapter shall affect the rights and privileges granted by Treaty to the subjects of any State or Power in amity with Her Majesty." They were engaged, as I shall hereafter demonstrate, in a lawful industry, guaranteed by the Treaty of 1871, in a method which was recognized as legitimate by the award of the Halifax Commission, the privilege to exercise which their Government had agreed to pay for. They were forcibly stopped, not by legal authority, but by mob violence. They made no resistance, withdrew from