

had in September 1878 pointed out to Her Majesty's Government that the question was a serious one, and that it was the opinion of the United States' Government that a false construction had been given to the Treaty, to the prejudice of the United States' fishermen. He had maintained from the beginning of the discussion that the right of fishing given by the Treaty was free from all restrictions which might have been imposed upon native fishermen by local laws either anterior or subsequent to the date of the Treaty. He thought that Her Majesty's Government had not sufficiently considered the gravity of the case, had paid but little attention to it, and had unnecessarily delayed replying to the representations of the United States' Government. He asserted that until the season of 1878 no American fishermen had visited the coasts of Newfoundland for the purpose of fishing, and that when they did so, they had met with such a reception that until an answer should be received from Her Majesty's Government they had not ventured to repeat the visit. This answer had now arrived, just as the fishermen were preparing their equipments for this season, and were anxious to know whether they would be allowed to fish on the coasts of Newfoundland. But Lord Salisbury in his note of the 3rd ultimo had maintained that in the affair at Fortune Bay the Americans had violated both the local laws and the provisions of the Treaty, and that the native fishermen were therefore justified in attacking them, and preventing them from pursuing their ordinary mode of fishing. It was therefore impossible that, as the natives were thus encouraged to resist the rights of the Americans, the latter could again expose themselves to such losses as they had suffered in Fortune Bay.

It would have been very different, Mr. Evarts argued, if the authorities had taken the matter in hand, and if the question had been settled by a Court of Justice, but that it could not be that American fishermen should be exposed to the violence of a mob, and he expressed his surprise that Her Majesty's Government should have justified the means which were used for preventing Americans from enjoying their rights under the Treaty.

Under these circumstances, as it appeared that Her Majesty's Government had finally determined to interpret the Treaty in a manner entirely at variance with the expressed opinion of the United States' Government, and to justify the Newfoundland fishermen in taking the law into their own hands and forcibly preventing American fishermen from exercising the rights to which their own Government considered them entitled, Mr. Evarts declared that there was no ground for the charge which I had made, that he was now the first to recommend to Congress a violation of the Treaty. On the contrary, he maintained that it was we who had allowed and sustained an infraction of the Treaty by the Newfoundland fishermen, looking at the interpretation given to it by the United States. There was then nothing left but one of two things: either to protect the American fishermen by the presence of men-of-war, which might have led to a conflict, or to re-impose the duty on fish, the taking off of which had been part of the price paid by the United States for the free enjoyment of the right of fishing.

I asked Mr. Evarts whether he could conscientiously assert that, if British subjects had availed themselves of the privilege of fishing on the United States' coasts, they would have been allowed advantages, either as to the mode or time of fishing, over the native fishermen? He replied that if the former had attempted to take any such advantages, the United States' Government would immediately have recommended that the same rights should be allowed to the natives. "But," I said, "such a step would have led to the entire destruction of the fisheries." This idea Mr. Evarts ridiculed; indeed, it seems to be the firm conviction of those in this country who have most studied the matter, that no amount of catching will lead to any perceptible diminution in the quantity of fish; but that there are other causes, not yet well understood, arising from local circumstances, storms, &c., which occasionally drive the fish away from the points which they have been in the habit of visiting.

Mr. Evarts thinks that there has been unnecessary delay in replying to his representations, and that sufficient attention has not been paid to his arguments; and that Lord Salisbury's note of the 3rd ultimo seemed to imply that the Newfoundland fishermen were justified in their attack upon the Americans, and would be encouraged to a repetition of similar conduct on future occasions.

There is also a strong desire on the part of the United States' Government, in view of the approaching end of the term for which fishing rights were granted by the Treaty, that it should not be supposed that the value which has been assigned to the fisheries by the Treaty and the Halifax Award is one which can ever be admitted or acknowledged by the United States as a precedent for any future arrangement.