

Apart, however, from the facts, in respect to which there appears to be a material divergence between the evidence collected by the United States' Government and that collected by the Colonial authorities, Mr. Evarts takes exception to my letter of the 23rd on the ground of my statement that the United States' fishermen concerned have been guilty of breaches of the law. From this he infers an opinion on my part that it is competent for a British authority to pass laws, in supersession of the Treaty, binding American fishermen within the three-mile limit. In pointing out that the American fishermen had broken the law within the territorial limits of Her Majesty's dominions, I had no intention of inferentially laying 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.

I hardly believe, however, that Mr. Evarts would in discussion adhere to the broad doctrine which some portions of his language would appear to convey, that no British authority has a right to pass any kind of laws binding Americans who are fishing in British waters; for if that contention be just, the same disability applies *à fortiori* to any other Power, and the waters must be delivered over to anarchy. On the other hand, 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. I cannot anticipate that with regard to these principles any difference will be found to exist between the views of the two Governments.

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 further be conceded that the duty of determining the existence of any such contravention must be undertaken by the Governments, and cannot be remitted to the discretion of each individual fisherman. For such a 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. As the points in issue are frequently subtle, and require considerable legal knowledge, nothing but confusion and disorder could result from such a mode of deciding the interpretation of the Treaty.

Her Majesty's Government prefer the view that the law enacted by the Legislature of the country, whatever it may be, ought to be obeyed by natives and foreigners alike who are sojourning within the territorial limits of its jurisdiction; but that if a law has inadvertently been passed which is in any degree or respect at variance with rights conferred on a foreign Power by Treaty, the correction of the mistake so committed, at the earliest period after its existence shall have been ascertained and recognized, is a matter of international obligation.

It is not explicitly stated in Mr. Ewart's 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.

I have, &c.

(Signed) SALISBURY.

No. 21.

*Mr. Welsh to the Marquis of Salisbury.—(Received November 11.)*

My Lord,

*Legation of the United States, London, November 9, 1878.*

I HAVE to acknowledge the receipt of your Lordship's letter of the 7th instant, in reply to Mr. Evarts' despatch of the 28th September, in relation to injuries sustained by American fishermen in Fortune Bay in January last. I shall transmit to Mr. Evarts, by the mail to-day, the printed copy of your Lordship's communication, for which I am indebted to the courtesy of the Foreign Office.

I have, &c.

(Signed) JOHN WELSH.