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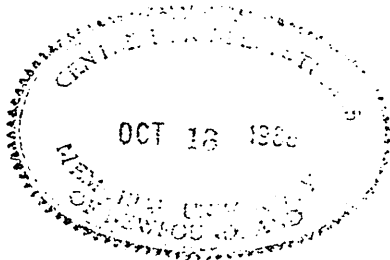
CORRESPONDENCE

RESPECTING THE



NORTH AMERICAN FISHERIES.

(Beginning 23rd March, 1869, to October, 1870.)



*Colonial Office,
January, 1871.*

LONDON:

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FOR HER MAJESTY'S STATIONERY OFFICE.

1871.

SCHEDULE.

PAPERS respecting the NORTH AMERICAN FISHERIES, printed confidentially for the use of the COLONIAL OFFICE. Beginning 23rd March, 1869, that being the date of a letter from the Delegates (Sir G. E. Cartier and Mr. McDougall), urging Imperial assistance in protection of Fisheries for 1869.

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30	Foreign Office	30 June, 1870	Canadian Fisheries.—Forwards copy of a further Despatch from Mr. Thornton, reporting the result of his subsequent correspondence with the United States Government on this question - - - -	174
31	Colonial Office	5 July, 1870	Canadian Fisheries, correspondence relating to - - - -	178
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3	Colonial Office -	13 Dec. 1869	Earl Granville would be glad if Naval Officers visiting the French shore of Newfoundland would endeavour to ascertain whether any definition of the limits of French Fishery in the rivers could be framed - - - - -	218

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2	29 May, 1869 (No. 51) (6724)	Commissions issued under the Local Act, 6 Vict. cap. 14, for preventing encroachments on the fishing grounds.—Forwards a copy, and reports having issued Commissions to the Commanders of the Canadian vessels "Druid" and "La Canadienne;" states also that six blank Commissions have been furnished to the Admiral commanding on the station, to be filled up as he may think fit - - - - -	219

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5	1 June, 1870 (No. 33) (6392)	Alleged opening of the Fisheries of Prince Edward Island to foreign fishermen.—Acknowledges Despatch No. 14, of 25th April last, enclosing an extract from the "Montreal Herald" on the subject in question. States that the Report is untrue. The Fisheries have not been thrown open, and no steps have been taken for that purpose. The Local Government do not intend to grant any Fishery Licences this season	221
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CORRESPONDENCE

RESPECTING THE

NORTH AMERICAN FISHERIES.

Despatches from the Governor-General.

No. 1.

Sir John Young to Lord Granville.

(No. 52.)

Government House, Ottawa,
13th May, 1869.
(Received 27th May, 1869.)

CANADA.
No. 1.

MY LORD,

With reference to your Lordship's Despatch (No. 76)* of the 30th April, enclosing an extract of a letter from the Board of Admiralty in reference to a communication addressed to your Department by Sir E. Cartier and Mr. McDougall, requesting that assistance should be afforded this year by Her Majesty's Navy in the protection of the Fisheries, I have the honour to transmit to you, herewith, a copy of a Despatch which I received on the subject from Vice-Admiral Sir Rodney Mundy, together with a copy of my reply.

* Page 77.

5th March,
1869.

May 3rd,
1869.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl Granville, K.G.,
&c. &c. &c.

Enclosure 1 in No. 1.

Enclosure 1 in
No. 1.

VICE-ADMIRAL SIR R. MUNDY to the GOVERNOR-GENERAL.

"Royal Alfred," Bermuda,
5th March, 1869.

SIR,

I have the honour to acquaint your Excellency that I have directed Commodore Phillimore, the senior officer at Jamaica, to send to Bermuda the "Niobe," "Royalist," "Dart," and "Mullet," which vessels I propose to employ in the ensuing summer for the protection of the Fisheries in Newfoundland and the Gulf of St. Lawrence.

I have also ordered the "Phœbe" frigate, Captain Bythesea, to join my flag at this island from Barbados, and she will be ready to proceed to Quebec on the opening of the navigation, should the Lords Commissioners of the Admiralty desire me to afford a vessel of war of her class to that part of my command.

The "Minstrel" gunboat will also be stationed on the Northern division.

I shall be glad if your Excellency will inform me, at your earliest convenience, if these arrangements meet your wishes; and any information your Excellency may be able to afford me in reference to the state of the Fishery question with the United States will be of service to me in framing my instructions to the cruisers.

The "Britomart" gunboat, now employed in the West Indies, might come to the northward, if actually necessary, though her services, on account of the disturbed state of Haiti and Cuba, are useful in the south.

I have, &c.,
(Signed) RODNEY MUNDY,
Vice-Admiral.

Sir John Young Bart., G.C.B.,
&c. &c. &c.

CANADA.
Enclosure 2 in
No. 1.

Enclosure 2 in No. 1.

The GOVERNOR-GENERAL to VICE-ADMIRAL SIR RODNEY MUNDY.

Government House, Ottawa,
3rd May, 1869.

SIR,

In reference to your communication of the 5th ultimo, I have the honour to state that the mode in which you propose to employ Her Majesty's vessels for the protection of the Fisheries in Newfoundland and the Gulf of St. Lawrence during the ensuing summer appears to me quite satisfactory.

It will be desirable that the "Phœbe" should come to Quebec, but under present circumstances there seems to be no necessity for withdrawing the "Britomart" from Haiti.

I am promised further information on the Fishery question in a few days, and will lose no time in transmitting it to you.

I have, &c.,
(Signed) JOHN YOUNG.

Sir Rodney Mundy,
&c. &c. &c.

No. 2.

No. 2.

Sir John Young to Lord Granville.

(No. 64.)

Government House, Ottawa,
10th June, 1869.

(Received 23rd June, 1869.)

(Answered, No. 141, 22nd July, 1869, page 78.)

MY LORD,

I beg to draw your attention to the following paragraph which appeared in the 'Spectator' of May 22nd last:

"The Canadian Parliament is, we fear, preparing trouble for us all. Hitherto licences have been granted to Americans to fish within Canadian waters; but the colonial fishermen complain that the Americans crowd them out, and no more licences will be granted. The result of that will be that the American fishermen will go without licences, and that there will be incessant sensation headings in the New York journals about Canadian outrages on citizens of the Union. Have we not enough to quarrel about without squabbling over the value of a few cod?"

The 'Spectator' is usually so well informed, and so much weight attaches to its statements, that I was surprised by this inaccuracy, and, therefore, thought it right that you should be furnished with an authoritative statement in explanation. I applied accordingly to the Premier, Sir John A. Macdonald, who sent me the enclosed letter, which Mr. Mitchell, the Minister of Marine and Fisheries, has addressed to him on the subject.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

5th June,
1869.

Enclosure in No. 2.

The MINISTER of MARINE and FISHERIES to the MINISTER of JUSTICE.

Department of Marine and Fisheries,
Ottawa, 5th June, 1869.

MY DEAR SIR JOHN,

A paragraph appears in the London 'Spectator,' of the 22nd of May, stating that the Canadian Parliament declines to grant any more licences to American fishing vessels, and that as a result of such refusal American fishermen will persist in fishing without licences, and trouble may ensue between Great Britain and the United States. This causeless apprehension is founded on an entirely erroneous assumption.

The system of issuing fishery licences to American vessels at nominal rates as tonnage fees has not been discontinued. It has, on the contrary, been for this year renewed with additional facilities provided for foreign fishermen to procure these formal licences. The Government of Canada, having adopted the licensing system under sanction of the Canadian Parliament, has exhibited also the greatest possible forbearance in administering

it, notwithstanding that it imposes a very considerable expense on the Dominion without yielding any compensatory returns, and that it has so continued in the face of a prohibitory United States tariff injurious to the interests of our own fishermen and heavily burdening trade. There has been no disposition shown to insist on the maintenance of those strict rights of exclusive use of the inshore fisheries, which, it should be recollected, are not at all in dispute, either as affecting the interpretation of treaties between Great Britain and America or the definition of limits in subordination to such treaties, unquestionably possessed by the Canadians. This liberal and neighbourly policy has been carried out during four years past in accord with the conciliatory dispositions of Her Majesty's Government towards the American people. And all that British subjects in Canada have desired is, that the temporary nature of their arrangements regarding the admission of foreigners to an almost free participation in their own valuable and extensive fishings might be replaced by something more permanent and satisfactory, and combined with reciprocal trade relations mutually beneficial to both countries.

CANADA.

I have, &c.,
(Signed) P. MITCHELL.

Sir J. A. Macdonald, K.C.B.,
&c. &c. &c.

No 3.

No. 3.

Sir John Young to Lord Granville.

(No. 76.)

Government House, Ottawa,
2nd July, 1869.

(Received 14th July, 1869.)

MY LORD,

I would beg to draw your Lordship's attention to that portion of your Despatch No. 104,* 5th June, 1869, which has reference to the number of warnings to be given to foreign fishing vessels before either enforcing the acceptance of licences or compelling them to depart from the inshore fishing grounds on pain of seizure.

2. I brought this Despatch under the notice of the Ministers, and enclose a copy of a Minute of Council which conveys their views on the subject.

3. You will perceive that Mr. Mitchell, the Minister for Fisheries, states that "such condition has been suggested by the officers in command of Her Majesty's ships engaged in the Fishery service," and refers to a Despatch from the Colonial Office, of 9th May, 1868, wherein I find the following paragraph:—"The Lords Commissioners of the Admiralty have been requested to authorize the Admiral to instruct the Naval Officers under him that one previous warning will henceforward be sufficient," &c.

4. Mr. Mitchell therefore hopes that the improved practice may be sanctioned, and instructions issued to the Admiral accordingly. In conclusion, he suggests that copies of the Reports of the Naval Officers engaged in the Fishery Service should be forwarded to the Dominion Government, as they contain "particulars regarding the state of the Fisheries, and suggestions affecting their protection and development, of great practical interest and value."

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in No. 3.

Enclosure in
No. 3.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 24th June, 1869.

The Committee have had under consideration the accompanying Report of the Honourable the Minister of Marine and Fisheries on the Despatch No. 104, dated 5th June inst., relating to the number of warnings to be given to masters of foreign fishing vessels in Canadian waters, prior to detaining them for non-acceptance of licences; and they respectfully advise that the said Report be approved, and that a copy thereof be transmitted to Earl Granville, for the information of Her Majesty's Government.

(Certified) WM. H. LEE, Clerk P.C.

CANADA.

The Despatch from the Secretary of State for the Colonies, No. 104, dated 5th inst., refers to that part of the Minute in Council of the 29th ultimo which relates to the number of previous warnings to be given to the masters of foreign fishing vessels in Canadian waters, prior to detaining them for non-acceptance of fishing licences. The proposal adopted and approved by the Governor-General in Council, to which reference is now made in Earl Granville's communication, is to the effect that only one instead of three warnings be given to Foreign fishing vessels, before compelling them either to accept licences, or to depart from the inshore fishing grounds, on pain of seizure.

The undersigned has the honour to observe, that such condition has been, on several occasions, suggested by the Canadian Government and by the Officers in command of Her Majesty's ships engaged in the Fisheries service; and it appears that, in accordance with a Despatch from the Colonial Office, dated 9th May, 1868, instructions were given by Vice-Admiral Mundy to Officers in command of Her Majesty's ships engaged in protecting the Fisheries, that one previous warning will be sufficient before seizing any vessels fishing in transgression of the law.

The Canadian Government, not having received any Official Reports relative to the operations of Her Majesty's vessels during last year, is unaware if the amended practice was actually enforced. In suggesting its formal renewal, as a condition of again extending, for the present season, the temporary licensing system, the Minister has had in view the fact that it is probable such notice of it will have been given as should obviate the objection stated by Earl Granville, and he has issued instructions to the Fishery Officers in charge of Canadian vessels employed to protect the Fisheries in pursuance of the policy and conditions adopted for the current year, and already carried out.

It is therefore respectfully recommended, inasmuch as the improved practice has been sanctioned for last year, and that it would be impolitic now to revert to the former practice, the Secretary of State for the Colonies be requested to instruct the Admiral accordingly.

The undersigned would beg leave to remark that, as the usual instructions furnished to the Commanding Officers serving under Vice-Admiral Mundy are very comprehensive, and besides requiring full information of the operations of the cruisers and the movements of foreign fishermen, they are framed to elicit particulars regarding the state of the Fisheries, and suggestions affecting their protection and development, of great practical interest and value to this Department, it is highly desirable that copies of all these documents should be, whenever convenient, supplied to the Government of Canada.

The whole respectfully submitted.

Department of Marine and Fisheries,
Fisheries Branch, Ottawa, 21st June, 1869.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

No. 4.

No. 4.

Sir John Young to Lord Granville.

(Confidential.)

Quebec, 30th July, 1869.

MY LORD,

(Received 11th August, 1869.)

(Answered confidentially, 25th August, 1869, page 78.)

In consequence of the invitation addressed to me on the 14th ultimo, by Mr. Thornton, "to send down a gentleman to confer with Mr. Fish, in concert with him, upon the subject of commercial intercourse with Canada, of the Fisheries, and of the navigation of the St. Lawrence," Mr. Rose, the Finance Minister of Canada, was deputed to attend at Washington accordingly.

I have the honour to enclose, for your Lordship's information, a copy of the Confidential Report of the proceedings which Mr. Rose furnished on his return to the Canadian Government.

Mr. Thornton thinks "the result satisfactory, though to a small extent, and hopes it may lead to something more practical and tangible by and by." He speaks of Mr. Rose in high terms, as "a charming person to have to deal with, and an excellent man to deal with the Americans: he has the necessary *suaviter in modo* and *fortiter in re*, and being perfectly well acquainted with Canada, he dispels with great effect some of the pleasant illusions entertained by Americans with regard to that country."

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in No. 4.

(Strictly confidential.)

On his arrival in Washington, on the 8th July, 1869, Mr. Rose waited on His Excellency Mr. Thornton, the British Minister, and after some conversation of a general character on the points referred to in the Resolution of the House of Representatives, they together proceeded to the Department of State, where they were received by Mr. Secretary Fish. Mr. Thornton informed the Secretary that Mr. Rose had come in accordance with the request contained in his Despatch to the Governor-General of Canada, written in consequence of the note of Mr. Secretary Fish, and that he and Mr. Thornton were now prepared to enter informally on the discussion, with a view of devising means for completing a satisfactory arrangement of the several matters embraced in the Resolutions of the House of Representatives.

Mr. Fish stated that he was anxious that these matters should be adjusted, to the mutual advantage of both countries. That he presumed the question of the Fisheries and the navigation of the St. Lawrence would necessarily be the subject of treaty stipulation with Great Britain, and that it was desirable that the element of permanence should attach to any arrangement that might be come to in reference to them. That with reference to the subject of trade and commercial intercourse between the Dominion and the United States, he apprehended that the House of Representatives would be reluctant to permit any questions affecting the revenue to be dealt with by treaty, and that any assumption by the Executive of that power might delay, if it did not defeat the object. That he considered it would be impolitic to take any step which might by possibility have the effect of frustrating arrangements, and that his wish was that any negotiations which might be entered on should be carried to a successful termination, and meet with the approval of the people of the two countries.

Mr. Rose replied that the British Government had given instructions to Her Majesty's Representative at Washington, some years ago, to act in concert with Canada in these matters, and Mr. Thornton stated that he was present as British Minister in accordance with these instructions. Mr. Rose further added that he had no doubt that if arrangements satisfactory to Canada could be come to on the subject of commercial intercourse between the two countries, Canada would be willing to make such provisions, touching the Fisheries and the navigation and improvement of the St. Lawrence and other inland waters of Canada, as would be acceptable to and be readily embodied by Her Majesty's Government in a treaty between it and the United States. That he concurred with the Secretary in the opinion that the character of permanency should be given to any stipulation regarding the Fisheries and the navigation of the St. Lawrence and inland waters of Canada; but he (Mr. Rose) also thought that the like character of permanency should attach to the arrangements in respect of commercial intercourse between the two countries, for without such element of permanency it would be impossible for the people of either country to make such arrangements as would ensure to them the full benefit of the provisions that might be made. That touching the reluctance of the House of Representatives to permit any question affecting the revenue to be dealt with by treaty, while it was not his province to make any comment on the relative measure of power which the several branches of the state might constitutionally exercise, he (Mr. Rose) ought to remark, that it would seem by the terms of the Resolution of the Committee of ways and means, which had been adopted by the House, that that body had actually delegated to the Executive the duty certainly of initiating, apparently of carrying to completion, by treaty, the arrangements respecting commercial intercourse, inasmuch as it was well known that such arrangements were inseparable from those touching the navigation or Fisheries; that any concessions to the United States on the two latter points were in fact dependent on what might be done by the United States to liberalize the relations with Canada, and the Provinces not yet embraced in the Dominion, in matters of trade.

Mr. Thornton remarked that it appeared that by the Resolution the Executive had been constituted the proper medium through whom negotiations should be had or carried to completion, and that he besides understood informally, in the House of Representatives, when the Resolutions were passed, that though some members of the Committee had at one time been averse to negotiate in the sense of liberalizing the commercial relations, they had ultimately given in their adhesion to what appeared to him (Mr. Thornton) the obvious spirit of the Resolution.

Mr. Rose trusted that some means might be found of overcoming the difficulty in the way of procedure that had been suggested by the Secretary, since it appeared to be the

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wish of the House of Representatives that negotiations should be carried on by the Executive in the sense conveyed by the Resolution.

He further observed that though Canada fully appreciated the advantage which would be conferred on both countries by a settlement of these questions, and the liberalizing of their commercial intercourse, it must not be supposed that the prosperity of Canada was dependent on it. That the Canadian people were fully aware of the advantages which their position geographically, as the producer of lumber, grain, and agricultural products, &c., nearest to the great consuming points of the United States, gave them, and, he remarked, that irrespective of the United States market, her people had already opened up new markets for their surplus products. He by no means undervalued, but on the contrary placed a high estimate on the advantage of free commercial intercourse, not only in reference to the material prosperity of the two countries, which was thereby promoted, but on higher considerations. But he wished to call the attention of the Secretary of State to one or two points which might have a material bearing on the views of the American Government.

It might not be known that since the repeal of the Reciprocity Treaty Canada had made no material change in her policy in reference to her commercial relations with the United States. She felt the force of the events which had led the United States to terminate the treaty, and made due allowance for them; believing that time and changed circumstances would bring about a renewal of the former relations; that acting in this spirit her Government had, notwithstanding the urgent pressure of many interests, resisted anything like retaliatory measures, and that she had continued to allow the United States the use of the Fisheries on terms practically free, although provincial caught fish were subject to very heavy duties when imported into the United States. The navigation of the St. Lawrence was also practically free to the United States, but Canadian vessels entering American ports on the lakes were subject to onerous charges. American flour, Indian corn, hops, salt, coal, agricultural products, and many other articles were subject to no duty on their admission to Canada, while those of Canada had to pay duties when imported into the United States which were practically prohibitory. Canada had also in the interval used her friendly offices to prevent illicit trade springing up on the border. Mr. Rose thought it was only candid to say that with the most friendly intentions it would be impossible for the Government of Canada to continue the former policy on these questions, if the present attempt to adjust the international difficulties and the commercial relations of the two countries was unsuccessful. The Secretary was doubtless fully alive to the difficulties that might attend a line of policy based wholly on the consideration of self-interests, which circumstances would in that event compel Canada to pursue.

Mr. Fish replied that he had been informed that illicit trade was carried on to a considerable extent on the frontier, and that the provincial fishermen were not indisposed to turn their catch to profitable account by disposing of them to American owners, and asked on what terms Canada would expect her fish to be admitted into the United States.

Mr. Thornton stated that it seemed to him the question was what commercial concessions the United States were prepared to extend for the other equivalents which Canada had to offer. It seemed to him but fair that if Canada opened her Fisheries to the United States, that Government ought in its turn to admit Canadian fish on terms equally free; and Mr. Thornton concluded by inquiring what course, under the circumstances, the Secretary of State was disposed to recommend in reference to the negotiations.

Mr. Fish stated that he thought it better to have a conference with the Secretary of the Treasury on these matters, and proposed a meeting for Friday the 9th, which was agreed to, and Mr. Thornton and Mr. Rose took their leave accordingly.

Friday, 9th July.

The communications to-day were of an informal character, and it was arranged that Mr. Thornton and Mr. Rose should meet the Secretary of State at one o'clock.

Saturday, 10th July.

At the conference this day Mr. Fish inquired whether any suggestion as to the course of proceeding had occurred to Mr. Thornton or Mr. Rose, and he expressed his regret

that Congress was not in session, as the means of ascertaining the views of the members of that body were at the present moment beyond his reach, and that, without communication with them, it would be difficult to arrive at conclusions the acceptability of which to the people at large would be necessary to the satisfactory working and permanence of any arrangements.

Mr. Thornton stated that, in the interval since the last conference, Mr. Rose had prepared a paper, somewhat in the nature of a protocol, which seemed to anticipate the difficulty the Secretary had suggested, but that he (Mr. Thornton) still thought that the Resolution of the House had delegated to the Executive the duty of conducting negotiations.

Mr. Rose called attention to the terms of the Resolution, which seemed to affirm the principle of reciprocity in matters of trade, and which specifically enjoined on the Executive to renew negotiations, and press them if possible to a definite conclusion. But as the Secretary had expressed a wish not to raise this constitutional question, he (Mr. Rose) would suggest that a basis for future action, in reference to the settlement of details, should now be arrived at, and that the complete adjustment of details should take place as soon as the Secretary of State was able to avail himself of the communication he desired to have with members of the two Houses of Congress. The paper, embodying in general terms the leading features of the proposed treaty, had been prepared in that sense; the general indication of the articles to be embraced in the schedule which it was proposed each country should exchange freely embracing those enumerated in the former treaty.

Mr. Fish replied that he thought that under existing circumstances it would probably be necessary to have two schedules; one a free list, and the other embracing articles which might have to be subject to certain rates of duty: he then requested that the paper might be read.

Mr. Rose wished it to be understood as being subject in all respects to the approval of the Government of Canada, and Mr. Thornton made a similar statement with regard to Her Majesty's Government.

The annexed paper was then read, and the articles discussed *seriatim*; some alterations were made in the progress of the discussion, and the propositions were ultimately reduced to the terms set forth in the paper.

Before the paper was read, Mr. Thornton said that British Columbia would probably wish to be included in any treaty of the nature proposed, although he had not as yet received precise instructions upon the point. Mr. Fish, though he did not commit himself, offered no objection to this indication.

After some further discussion, Mr. Fish and Mr. Thornton concurred in the course of proceeding suggested, and both these gentlemen thought it would be better, in the meantime, that the paper should be placed informally in the possession of the Secretary of State.

Mr. Fish stated he would take early occasion to place himself in communication with the parties whose views he desired to ascertain, and that another conference would then be arranged. He inquired when the Parliament of Canada met, and Mr. Rose stated it would probably not be before the month of January or February next.

Mr. Fish then remarked that that would give ample time for further conference and negotiation, and afford him in the interval the opportunity he desired of conferring fully on the subject.

It was then arranged that the paper in question should be engrossed, and transmitted by Mr. Thornton to Mr. Fish, and that the latter would communicate with Mr. Thornton as soon as ever circumstances permitted the negotiations to be resumed.

Mr. Thornton and Mr. Rose then retired.

Memorandum submitted as the basis of proposed arrangement on the subject of the navigation of the St. Lawrence and the other inland waters of British North America. The Fisheries belonging to British North America, and the trade relations between the United States of America, the Dominion of Canada, and the Provinces of British North America, to be embodied in a Treaty between the United States of America and Her Majesty the Queen of Great Britain and Ireland, and to be subject to such ratification and approval on the part of the United States, the Government of her Britannic Majesty, and of the British North American Provinces, as may be proper and customary.

First. Provided and on condition that arrangements satisfactory to Canada and the Provinces of British North America, in reference to the interchange of their natural productions with the United States of America as hereinafter specified in Article five,

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are made, the United States of America shall have the same rights in respect of the Fisheries in the waters of British North America, both maritime and inland, as they enjoyed under the former Reciprocity Treaty, with such extensions thereof as may be necessary under the altered circumstances of the present time.

Second. That, subject to the like provisional condition, the same rights of navigation on the St. Lawrence as existed under the former treaty, and corresponding rights on the other inland waters of British North America, shall be extended to the citizens of the United States, on corresponding rights being extended to Canada, as to the navigation of the inland waters of the United States, and Canada will be prepared to enter into arrangements with the view of improving the access to the ocean by the enlargement and deepening of her canals, on proper assurance of the permanency of the reciprocal commercial intercourse hereinafter mentioned, and that the trade of the Western States will be left free to seek its natural channels, and be not diverted elsewhere by legislation.

Third. That, subject to the like condition and proviso, Canada will be prepared to consider the questions:—

A. Of the existing laws regulating the whole coasting trade, with the view of opening it to the citizens of both countries, when corresponding concessions are made by the United States.

B. Of the Patent and Copyright Laws now in force, with the object of placing them on a liberal and reciprocal footing.

C. The present Extradition Treaties, with the view of making the principle of extradition applicable to all crimes except those of a political nature.

Fourth. That the transit trade across the territories of the United States and of Canada respectively shall be free and unrestricted, and be subject to no other charges than such as may be necessary for the protection of the revenue of each country, and these mutual privileges shall be secured by treaty or legislation.

Fifth. That Canada and the United States will exchange, during such term of years as may hereafter be agreed on, the natural productions of the sea, forest, mines, and of agriculture and animals and their products, on reciprocal terms, as nearly free of duty as possible. The articles enumerated in the schedule attached to the former Reciprocity Treaty shall form the basis of the new arrangements, but the list may be added to by both parties, and may embrace certain articles of manufacture. The measure of duty, if any, to have for its basis the internal taxation of the United States on the several articles that may be included in the schedule.

Sixth. That provided Canada accepts the arrangements in the foregoing articles, that Dominion undertakes to adjust the excise duty on spirits, beer, tobacco, and other cognate articles on the best revenue standard which, after due and mature consideration of the subject by the proper officers of both countries, may be mutually agreed on, and Canada will use every legitimate means, by extending the co-operation of her officers, both of customs and excise and otherwise, to prevent illicit trade between Canada and the United States.

No. 5.

No. 5.

Sir John Young to Lord Granville.

(Confidential.)

Government House, Ottawa,
11th January, 1870.
(Received 28th Jan., 1870.)

MY LORD,

In reply to your Lordship's Confidential Despatches of the 21st June,* and 24th November,† 1869. I have the honour to transmit a Minute of the Privy Council of the Dominion with reference to the Report of the Honourable the Minister of Marine and Fisheries.

Five additional copies of the Report, with several other papers of importance bearing on the matters in hand, are enclosed for your Lordship's use and information.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl Granville, K.G.,
&c. &c. &c.

* Page 78.
† Page 79.
8th Jan. 1870.
See Appendix
I., p. 235.
Report.
On the
protection of
the Fisheries.
Return. B.
Report on
Marine
Interests. C.
These
Enclosures
being very
voluminous
are printed as
Appendix
I., p. 235.

No. 6.

CANADA.

No. 6.

Sir John Young to Lord Granville.

(No. 88.)

Government House, Ottawa,
4th May, 1870.

(Received 13th May, 1870.)

(Answered, No. 138, 6th June, 1870, page 81.)

MY LORD,

I have the honour to state that I lost no time in transmitting your Lordship's telegram of 30th April, for the consideration of the Privy Council of Canada, and I now enclose, in reference to it, a copy of the Minute passed by the Privy Council of the Dominion and copies of the Special Instructions to commanders in Marine Police.

3rd May,
1870. P. 84.

I have, &c.,

The Earl Granville, K.G.,
&c. &c. &c.

(Signed) JOHN YOUNG.

Enclosure 1 in No. 6.

Enclosure 1 in
No. 6.

COPY of a REPORT of a COMMITTEE of the Hon. the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in COUNCIL on the 3rd May, 1870.

The Committee have had under consideration the telegram received by your Excellency from the Right Hon. the Secretary of State for the Colonies on 30th April ultimo, requesting that steps may be taken to secure that American fishing vessels are not seized even between headlands, except within three miles distance of shore.

The Committee advise that Earl Granville be informed that steps have already been taken to provide against the seizure of American vessels under the circumstances above mentioned, and that the instructions to the officers in command of the vessels engaged in the protection of the Fisheries (copies of which have been forwarded to the Colonial Secretary) contain special directions on the subject.

(Certified)

WM. H. LEE, Clerk P. C.

Enclosure 2 in No. 6.

Enclosure 2 in
No. 6.

(Confidential.)

DOMINION OF CANADA.

SPECIAL INSTRUCTIONS to Fishery Officers, ex-officio Magistrates in command of Government Vessels engaged as MARINE POLICE in protecting the Inshore Fisheries of CANADA.

Department of Marine and Fisheries,
Ottawa, 12th April, 1870.

SIR,

The service to which you are appointed is a special and peculiar one: and the exercise on your part of the greatest possible discretion and judgment is required.

The following directions, for your information and guidance, are of a confidential nature.

The DUTIES you will perform, and the POWERS you shall exercise, are defined by the present instructions.

DUTIES.—It will be your duty to cruise at all times with the vessel under your command on the various "Stations" to which, from time to time, you may be assigned; and to prevent foreign fishermen and fishing vessels from intruding on the inshore fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

Probably American fishing vessels and fishermen chiefly will be concerned. Therefore, it is requisite for you to be more especially informed of the relation of United States citizens to fishery privileges in British waters, as well those of a common and concurrent nature as those of an exclusively Canadian character. Also, to be instructed to what extent, and for what (other than fishing) purposes American fishing vessels and fishermen are permitted free access to the bays and harbours of the Dominion.

The terms of the First Article of the Convention of the 20th October, 1818, between Great Britain and the United States, has, since the expiration of the Reciprocity Treaty, governed the participation of American fishermen in the Gulf and Labrador fisheries. A copy of the said Article is appended.

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1. United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes.

These purposes are :—for shelter, repairing damages, purchasing wood, and obtaining water. They are to be admitted for no other purpose whatever. And during such admission they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them. You will be careful to observe that such qualified admission to the ports and harbours of Canada be not made a pretext or cloak for transferring cargoes, or transacting any other business connected with their fishing operations.

With regard to the Magdalen Islands, although the liberty to land, and to dry and cure fish there, is not expressly given by the terms of the Convention to United States fishermen, it is not at present intended to exclude them; nor is it desirable to impose a narrow construction on the term “unsettled.” Places containing a few isolated houses might not, in some instances, be susceptible of being considered as “settled” within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation, and the circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the desire of Her Majesty’s Government that rights of exclusion should not be strained, must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Should interference with the pursuits of British fishermen, or the property of Canadians, appear to be inseparable from the exercise of such indulgence, you will withhold it, and insist upon entire exclusion.

Americans when so admitted should be made aware that, in addition to being obliged, in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such Acts and Regulations as exist to ensure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto, they are peculiarly bound to observe peace and order in the quasi settled places to which by the liberal disposition of Canadian authorities they may be admitted.

Wheresoever foreigners may fish in Canadian waters, you will compel them to observe the Fishery Laws. Particular attention should be directed to the injury which results from cleaning fish on board of their vessels, while afloat, and throwing overboard the offals, thus fouling the fishing, feeding, and breeding grounds. The “Fisheries Act” (Sec. 14) provides a heavy penalty for this offence.

Take occasion to inquire into and report upon any modes of fishing, or any practices adopted by foreign fishermen which appear to be injurious to the fisheries.

Copies of the Fishery Laws of Canada accompany the present instructions.

POWERS.—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a Fishery Officer are derived from the following Statutes: “The Fisheries Act” (31 Vic., cap. 60);

“An Act respecting Fishing by Foreign Vessels” (31 Vic., cap. 61), and the subsequent statute, entitled “An Act to amend the Act respecting Fishing by Foreign Vessels,” made and passed in the present session of the Parliament of Canada;

“Chapter 94 of the Revised Statutes (third series) of Nova Scotia” (of the Coast and Deep Sea Fisheries);

The Act entitled “An Act to amend cap. 94 of the Revised Statutes of Nova Scotia” (29 Vic., cap. 35);

An Act passed by the Legislature of the Province of New Brunswick, entitled “An Act relating to the Coast Fisheries, and for the Prevention of Illicit Trade” (16 Vic., cap. 69);

Also from such Regulations as have been passed or may be passed by the Governor-General in Council, or from Instructions from the Department of Marine and Fisheries, under “The Fisheries Act” hereinbefore cited.

In such capacity your jurisdiction must be strictly confined within the limit of "three marine miles of any of the coasts, bays, creeks, or harbours" of Canada, with respect to any action you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed ten geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than ten miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast.

Should you have occasion to compel any American fishing vessels or fishermen to conform to the requirements of the "Fisheries Act and Regulations" as regards the modes and incidents of fishing, at those places to which they are admitted under the Convention of 1818,—particularly in relation to ballast, fish offals, setting of nets and hauling of seines, and use of "trawls" or "bultows," more especially at and around the Magdalen Islands,—your power and authority over such cases will be similar to that of any other Fishery Officer appointed to enforce the Fishery Laws in Canadian waters. (*Vide* "Fisheries Act.")

Certain portions of the foregoing Acts relate to the prevention of illicit trade. Instructions will, therefore, be given you by the Customs Department, authorizing you to act as an Officer of Customs; and it will form part of your duty to see that the Laws and Regulations affecting Revenue are duly observed. In your capacity of a Customs Officer you cannot receive any aid from Her Majesty's vessels to enforce authority under the Customs Laws.

JURISDICTION.—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrance of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor, for the present, to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width. In the case of any other bay, as Bay des Chaleurs, for example, you will not admit any United States fishing vessel or boat, or any American fishermen, inside of a line drawn across at that part of such bay where its width does not exceed ten miles.* *This limit for the convenience of well-known and observable land-marks, is fixed temporarily as from and between Grande Ance, in the County of Gloucester, and Paspébiac Point, in the County of Bonaventure.*

* These are points on either side of the entrance to the Bay of Chaleurs. Struck out.

ACTION.—You will accost every United States vessel or boat actually within three marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek, which is less than ten geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof not wider apart than ten geographical miles, and if either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, *on the first and only on one occasion*, inform the owner, master, or person in charge, of the liability of the vessel or boat and tackle to seizure and confiscation, and require him to depart forthwith. Make it known that such preliminary forbearance in thus allowing him to depart immediately, is not because of any claim to notification, but as a mere act of indulgence, which in the exercise of your discretion, and under your instructions from the Government, you are permitted to extend according to existing circumstances.

Should such owner, master, or person in charge of any foreign ship, vessel, or boat, being clearly within proscribed limits, and so found fishing, preparing to fish, or having fished therein, refuse, or neglect to desist and depart forthwith, or should he still continue wilfully in despite of warning, to fish or hover in Canadian waters, or be again found fishing, preparing to fish, or having fished, or be again found in any actual trespass, abuse of privilege, or evasion of the fishery laws relating to fishing by foreign vessels, you will instantly seize and detain the ship, vessel, or boat, together with the boats, tackle, rigging, apparel, furniture, goods, stores and cargo, for an infraction of the

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statutes of Canada respecting fishing by foreign vessels (31 Vict., cap. 61), and the subsequent statute amending the same, entitled "An Act to amend the Act respecting "Fishing by Foreign Vessels," adopted by the Parliament of Canada at the present session.

Copies of the former and of the latter Acts are furnished herewith for your use and distribution.

These Acts of Parliament subject to summary seizure and to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits, and provide for carrying out of the seizure and forfeiture.

Compulsory means may be employed; but resort to force will be justified only after every other prudent effort has failed.

DIRECTIONS.—If, from threatened resistance and obvious determination to contest the seizure, and because of the relative inadequacy of your own force you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance, and that you are authorised to procure the assistance, if needed, of any of Her Majesty's cruisers. In case of need, you must signal for, or otherwise procure the immediate aid of one of Her Majesty's ships, or of some other of the Canadian Government vessels belonging to the Marine Police. With both the first and last mentioned you will co-operate in all things pertaining to the protection of the fisheries.

If a foreign ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and momentarily effects her escape from the vicinity, she remains always liable to seizure and detention, if met by yourself in Canadian waters, and in British waters everywhere if brought to account by Her Majesty's cruisers. But great care must be taken to make certain of the identity of any offending vessel to be so dealt with.

All vessels seized must be placed as soon as convenient in the custody of the nearest Customs Collector; and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant or mate, and of two at least of the most respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place and the ship, vessel, or boat, was seized. Also, corroborate the bearings taken, by soundings, and by buoying the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and land-marks as shall place beyond doubt the illegal position of the seized ship, vessel or boat. Omit no endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the head-land lines and into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or any other cause independent of the will of the master and crew, you will consider these circumstances, and satisfy yourself with regard thereto before taking the extreme step of seizing and detaining any vessel.

On capture it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel; first substituting a British or Canadian flag for the foreign flag borne at the time of capture. If your ordinary complement of men does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will endeavour to engage a few trustworthy men to supply any such emergency. The portion of foreign crew taken on board the Government vessel you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada, or the other British Provinces, may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations, or in port, shall be met with, you should, if circumstances permit, go on board and confer with the Naval Commander and receive any suggestions he may feel disposed to give, which do not conflict with these instructions, and afford him any information you may possess about the movements of foreign craft, also inform him what vessels you have accosted, and where.

Do not fail to make a full entry of all circumstances connected with foreign vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity where instructions would most probably reach you at stated intervals.

The service in which you are engaged will be subject to the general direction and control of the chief officer, or Master in command, Captain P. A. Scott, R.N., on board the Government steamer "Lady Head," whose orders and arrangements you will

conform to in every respect. He is advised to consult and to act in conjunction with the British Admiral and Naval Officers commanding Her Majesty's ships.

The precise limits of the station on which you are to cruise, and the further details of your duties, will be described in the directions you will receive from Captain Scott.

Considerable inconvenience is caused by Canadian fishing vessels, and those belonging to Prince Edward Island, neglecting to show their colours. You will draw the attention of masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

It cannot be too strongly impressed upon you, nor too carefully enjoined on the officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

The Government relies on your prudence, discretion, and firmness in the performance of the special duties thus entrusted to you.

I have, &c.,

Minister of Marine and Fisheries.

(APPENDIX A.)

ARTICLE 1 of CONVENTION between HIS BRITANNIC MAJESTY and the UNITED STATES of AMERICA, Signed at LONDON, October 20, 1818.

Article 1. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 7.

No. 7.

Sir John Young to Lord Granville.

(Telegram.)

(Received 14th May, 1870.)

(Answered, No. 138, 6th June, 1870, page 81.)

Received your Telegram of yesterday. The instructions you ask for were sent by post on the 6th instant; they conform, or are meant to conform, to the Colonial Office instructions of 12th April, 1866.

CANADA.
No. 8.

No. 8.

Sir John Young to Lord Granville.

(Telegram.)

Dated 15th May, 1870.
(Answered, No. 138, 6th June, 1870, p. 81.)

See the Fishery Instructions sent 6th instant, page 5, line 7. I have had from this limit (? line) to end of paragraph struck out.

No. 9.

No. 9.

Sir John Young to Lord Granville.

(Confidential.)

Government House, Ottawa,
16th May, 1870.

(Received 3rd June, 1870.)

MY LORD,

I had the honour to send to your Lordship to-day the following telegraphic message in cypher:—

“See Fishery Instructions sent 6th instant, page 5, line 7. I have had from ‘this ‘limit’ to end of paragraph struck out.”

The Fishery Instructions as prepared by the Minister of Marine and Fisheries were sent home as soon as they were printed and ready for transmission, after having been read and affirmed by the Council.

I now enclose copies of them as recently amended.

In reference to the alteration which I have caused to be made, I had an opportunity last summer of seeing the Bay of Chaleur, and as the Minister of Marine assured me he and his colleagues meant strictly to adhere to the Imperial instructions of 12 April, 1866 (the latest authority we have to guide us), I pointed out to him that the distance between Paspébiac and Grande Ance must be more than ten miles. It certainly looked a wide stretch of sea as we went into the bay. The maps which I consulted and had measured show the distance to be twelve miles; but some of the people of the Province of Quebec, I believe, were very unwilling to have the whole Bay of Chaleur thrown open to foreigners, and advocated the line of exclusion as first laid down, saying that at low water the distance across is not, or is scarcely, ten miles.

I urged that it was not worth while, or indeed possible, to stand out as against the Americans on a point already conceded to the French, and that it would not look well to assert the right on such narrow or doubtful grounds.

Accordingly the Council decided upon making the alteration and leaving the whole of the Bay of Chaleur open, excepting the three miles from shore limit.

This is in accordance with what the Premier, Sir J. A. Macdonald, told me months ago at one of the frequent conferences I held with him about the Fisheries, and the difficulties to be guarded against in respect to them.

He said the Canadian Government had no wish to exclude foreigners from the Bay of Chaleur.

From all the information I have been able to obtain, and I have made many inquiries, the concession would appear to be of little import. Outside the three miles from shore there is little or no fishing; so if foreigners observe the limit in question, and also conform to the regulations, they can do the Canadian fishermen little injury, but they will reap as little benefit themselves.

It is, however, to be observed that the American fishing vessels are better, and better provided in every respect, than the Canadian, and they will probably be able to take fish where the Canadians would fail.

The fishing to which the Americans chiefly devote their attention is that of the mackerel; next, the cod, in an inferior degree; and lastly, the herring; but they seldom betake themselves to the herring fishing except to fill up time while they are waiting for the mackerel or the cod to come in, or when the temptation offers of a very plentiful take.

The Americans also employ many of the most skilful Canadian fishermen in their boats at good wages, and buy quantities of Canadian-caught fish, which they import as American-caught into the markets of the United States.

In Prince Edward Island there are, I am told, American mercantile firms, or

branches connected with American firms, who buy fish from all comers, and ship it in American steamers to the American market without question.

On the whole, the impression on my mind is that the Canadian fishermen are not very great losers, nor the American fishermen very great gainers by the restrictions, though they are highly obnoxious to the former and highly popular with the latter. The American outfitters make profit, as do also some of their mercantile firms, while the Canadian outfitters are at a loss.

The American outfitters are the chief supporters of the restrictions, and the consumers, the fish-eating population, are heavily taxed.

The operation of the restrictions, apart from the gain of the outfitters, is for the most part injurious to the community in the United States, and the unprofitable source of bickering and ill-will between them and the Dominion.

I have, &c.,
(Signed)

JOHN YOUNG.

The Earl Granville, K.G.,
&c. &c. &c.

Enclosure in No. 9.

Enclosure in
No. 9.

(Confidential.)

DOMINION OF CANADA.

SPECIAL INSTRUCTIONS to Fishery Officers, ex-officio Magistrates in command of Government Vessels engaged as MARINE POLICE in protecting the Inshore Fisheries of Canada.

Department of Marine and Fisheries,
Ottawa, 14th May, 1870.

SIR,
The service to which you are appointed is a special and peculiar one: and the exercise on your part of the greatest possible discretion and judgment is required.

The following directions, for your information and guidance, are of a confidential nature.

The DUTIES you will perform, and the POWERS you shall exercise, are defined by the present instructions.

DUTIES.—It will be your duty to cruise at all times with the vessel under your command on the various "Stations" to which, from time to time, you may be assigned; and to prevent foreign fishermen and fishing vessels from intruding on the inshore fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

Probably American fishing vessels and fishermen chiefly will be concerned. Therefore it is requisite for you to be more especially informed of the relation of United States citizens to fishery privileges in British waters, as well those of a common and concurrent nature as those of an exclusively Canadian character. Also, to be instructed to what extent, and for what (other than fishing) purposes American fishing vessels and fishermen are permitted free access to the bays and harbours of the Dominion.

The terms of the First Article of the Convention of the 20th October, 1818, between Great Britain and the United States, has since the expiration of the Reciprocity Treaty governed the participation of American fishermen in the Gulf and Labrador Fisheries. A copy of the said Article is appended.

1. United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes.

These purposes are:—for shelter, repairing damages, purchasing wood, and obtaining water. They are to be admitted for no other purpose whatever. And during such admission they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them. You will be careful to observe that such qualified admission to the ports and harbours of Canada be not made a pretext or cloak for transferring cargoes, or transacting any other business connected with their fishing operations.

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With regard to the Magdalen Islands, although the liberty to land and to dry and cure fish there is not expressly given by the terms of the Convention to United States fishermen, it is not at present intended to exclude them; nor is it desirable to impose a narrow construction on the term "unsettled." Places containing a few isolated houses might not, in some instances, be susceptible of being considered as "settled" within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation, and the circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the desire of Her Majesty's Government that rights of exclusion should not be strained, must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Should interference with the pursuits of British fishermen, or the property of Canadians, appear to be inseparable from the exercise of such indulgence, you will withhold it, and insist upon entire exclusion.

Americans when so admitted should be made aware that in addition to being obliged, in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such Acts and Regulations as exist to ensure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto, they are peculiarly bound to observe peace and order in the quasi settled places to which by the liberal disposition of Canadian authorities they may be admitted.

Wheresoever foreigners may fish in Canadian waters, you will compel them to observe the Fishery Laws. Particular attention should be directed to the injury which results from cleaning fish on board of their vessels, while afloat, and throwing overboard the offals, thus fouling the fishing, feeding, and breeding grounds. The "Fisheries Act" (Sec. 14) provides a heavy penalty for this offence.

Take occasion to inquire into and report upon any modes of fishing, or any practices adopted by foreign fishermen which appear to be injurious to the fisheries.

Copies of the Fishery Laws of Canada accompany the present instructions.

POWERS.—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a Fishery Officer are derived from the following Statutes: "The Fisheries Act" (31 Vic., cap. 60);

"An Act respecting Fishing by Foreign Vessels" (31 Vic., cap. 61) and the subsequent statute entitled "An Act to amend the Act respecting Fishing by Foreign Vessels," made and passed in the present session of the Parliament of Canada;

"Chapter 94 of the Revised Statutes (third series) of Nova Scotia" (of the Coast and Deep Sea Fisheries);

The Act entitled "An Act to amend cap. 94 of the Revised Statutes of Nova Scotia" (29 Vic., cap. 35);

An Act passed by the Legislature of the Province of New Brunswick, entitled "An Act relating to the Coast Fisheries, and for the Prevention of Illicit Trade" (16 Vic., cap. 69);

Also from such Regulations as have been passed or may be passed by the Governor-General in Council, or from Instructions from the Department of Marine and Fisheries, under "The Fisheries Act" hereinbefore cited.

In such capacity your jurisdiction must be strictly confined within the limit of "three marine miles of any of the coasts, bays, creeks or harbours" of Canada, with respect to any action you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed ten geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than ten miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast.

Should you have occasion to compel any American fishing vessels or fishermen to conform to the requirements of the "Fisheries Act and Regulations" as regards the modes and incidents of fishing, at those places to which they are admitted under the Convention of 1818—particularly in relation to ballast, fish offals, setting of nets and hauling of seines, and use of "trawls" or "bultows," more especially at and around the Magdalen Islands—your power and authority over such cases will be similar to that of any other Fishery Officer appointed to enforce the Fishery Laws in Canadian waters. (*Vide* "Fisheries Act.")

Certain portions of the foregoing Acts relate to the prevention of illicit trade. Instructions will, therefore, be given you by the Customs Department, authorizing you to act as an Officer of Customs; and it will form part of your duty to see that the Laws and Regulations affecting Revenue are duly observed. In your capacity of a Customs Officer, you cannot receive any aid from Her Majesty's vessels to enforce authority under the Customs Laws.

JURISDICTION.—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrance of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width. In the case of any other bay, as Bay des Chaleurs, for example, you will not admit any United States fishing vessel or boat, or any American fishermen, inside of a line drawn across at that part of such bay where its width does not exceed ten miles. ~~This limit for the convenience of well-known and observable land marks, is fixed temporarily as from and between Grande Ance, in the County of Gloucester, and Paspobias Point, in the County of Bonaventure.*~~

ACTION.—You will accost every United States vessel or boat actually within three marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek, which is less than ten geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof not wider apart than ten geographical miles, and if either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, *on the first and only on one occasion*, inform the owner, master, or person in charge, of the liability of the vessel or boat and tackle to seizure and confiscation, and require him to depart forthwith. Make it known that such preliminary forbearance in thus allowing him to depart immediately, is not because of any claim to notification, but as a mere act of indulgence, which in the exercise of your discretion, and under your instructions from the Government, you are permitted to extend according to existing circumstances.

Should such owner, master, or person in charge of any foreign ship, vessel, or boat, being clearly within proscribed limits, and so found fishing, preparing to fish, or having fished therein, refuse, or neglect to desist and depart forthwith, or should he still continue wilfully in despite of warning, to fish or hover in Canadian waters, or be again found fishing, preparing to fish, or having fished, or be again found in any actual trespass, abuse of privilege, or evasion of the fishery laws relating to fishing by foreign vessels, you will instantly seize and detain the ship, vessel, or boat, together with the boats, tackle, rigging, apparel, furniture, goods, stores and cargo, for an infraction of the statutes of Canada respecting fishing by foreign vessels (31 Vic., cap. 61), and the subsequent statute amending the same, entitled "An Act to amend the Act respecting "Fishing by Foreign Vessels," adopted by the Parliament of Canada at the present session.

Copies of the former and of the latter Acts are furnished herewith for your use and distribution.

These Acts of Parliament subject to summary seizure and to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits, and provide for carrying out of the seizure and forfeiture.

Compulsory means may be employed; but resort to force will be justified only after every other prudent effort has failed.

DIRECTIONS.—If from threatened resistance and obvious determination to contest the seizure, and because of the relative inadequacy of your own force you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance, and that you are authorized to procure the assistance, if needed, of any of Her Majesty's cruisers. In case of need, you must signal for, or otherwise procure the immediate aid of one of Her Majesty's ships, or of some other of the Canadian Govern-

* These are points on either side of the entrance to the Bay of Chaleurs. Struck out.

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ment vessels belonging to the Marine Police. With both the first and last mentioned you will co-operate in all things pertaining to the protection of the fisheries.

If a foreign ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and momentarily effects her escape from the vicinity, she remains always liable to seizure and detention, if met by yourself in Canadian waters, and in British waters everywhere if brought to account by Her Majesty's cruisers. But great care must be taken to make certain of the identity of any offending vessel to be so dealt with.

All vessels seized must be placed as soon as convenient in the custody of the nearest Customs Collector; and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant or mate, and of two at least of the most respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place and the ship, vessel, or boat, was seized. Also, corroborate the bearings taken, by soundings, and by buoying the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and land-marks as shall place beyond doubt the illegal position of the seized ship, vessel or boat. Omit no endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the headland lines and into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or any other cause independent of the will of the master and crew, you will consider these circumstances, and satisfy yourself with regard thereto before taking the extreme step of seizing and detaining any vessel.

On capture it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel; first substituting a British or Canadian flag for the foreign flag borne at the time of capture. If your ordinary complement of men does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will endeavour to engage a few trustworthy men to supply any such emergency. The portion of foreign crew taken on board the Government vessel you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada, or the other British Provinces, may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations, or in port, shall be met with, you should, if circumstances permit, go on board and confer with the Naval Commander and receive any suggestions he may feel disposed to give, which do not conflict with these instructions, and afford him any information you may possess about the movements of foreign craft, also inform him what vessels you have accosted, and where.

Do not fail to make a full entry of all circumstances connected with foreign vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity where instructions would most probably reach you at stated intervals.

The service in which you are engaged will be subject to the general direction and control of the chief officer, or Master in command, Captain P. A. Scott, R.N., on board the Government steamer "Lady Head," whose orders and arrangements you will conform to in every respect. He is advised to consult and to act in conjunction with the British Admiral and Naval Officers commanding Her Majesty's ships.

The precise limits of the station on which you are to cruise, and the further details of your duties, will be described in the directions you will receive from Captain Scott.

Considerable inconvenience is caused by Canadian fishing vessels, and those belonging to Prince Edward Island, neglecting to show their colours. You will draw the attention of masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

It cannot be too strongly impressed upon you, nor too carefully enjoined on the officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

The Government relies on your prudence, discretion, and firmness in the performance of the special duties thus entrusted to you.

I have, &c.,

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

(APPENDIX A.)

ARTICLE I. of CONVENTION between HIS BRITANNIC MAJESTY and the UNITED STATES of AMERICA, Signed at London, October 20, 1818.

Article I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits, Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 10.

No. 10.

Sir John Young to Lord Granville.

(No. 105.)

Government House, Ottawa,
25th May, 1870.

(Received June 8th, 1870.)

(Answered, No. 174, 30th June, 1870, page 84.)

MY LORD,

I have the honour to enclose a Minute of the Privy Council of the Dominion approving of a Report furnished by the Minister of Marine and Fisheries, which remarks "on the position of the fishing grounds lying within the Provincial jurisdiction of "Prince Edward Island," and suggests, for the reasons therein assigned, that "instructions be given by Her Majesty's Government to Vice-Admiral Wellesley to devote "especial attention to the observance of treaty rights by foreign vessels in the waters within the said jurisdiction."

25th May,
1870.I have, &c.,
(Signed) JOHN YOUNG.The Earl Granville, K.G.,
&c. &c. &c.

Enclosure in No. 10.

Enclosure in
No. 10.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 25th of May, 1870.

The Committee of Council have had under consideration the annexed Memorandum, dated 21st May, 1870, from the Honourable the Minister of Marine and Fisheries, respecting the encroachment of foreign fishing vessels on the waters within the jurisdiction of Prince Edward Island, and suggesting the steps which he deems necessary

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to be taken to insure the strict observance by foreigners of British Treaty rights; and they respectfully advise that the suggestions of the Minister be concurred in, and a copy of his Memorandum be forwarded by your Excellency to Her Majesty's Secretary of State for the Colonies.

They further advise, as suggested by him, that the Lieut.-Governor of Prince Edward Island be requested to issue the usual Commissions of the Peace to the British Naval officers employed in protecting the Fisheries.

(Certified)

WM. H. LEE, Clerk P.C.

In connection with carrying out the measures approved by the British Government for excluding foreign fishing vessels from the inshore Fisheries along the Atlantic coasts of British America, the undersigned begs leave to draw the attention of the Governor-General in Council to the position of such of those fishing grounds as are situated within the Provincial jurisdiction of Prince Edward Island.

The mackerel fishers pursue their calling at different seasons, in various places around the Island, chiefly inshore, passing and repassing to and fro between the mainland and the Island limits, and many of their vessels are accustomed to frequent the bays and harbours to obtain supplies, and ship and tranship cargoes. These and other purposes for which the practice obtains are fulfilled in violation of Treaty stipulations, and in practice they must tend to subvert any general system of protection adopted in support of Colonial rights and privileges. Certain of the local merchants, and other dealers, as well as many of the fishermen and farmers, profit by such custom, and connive at its enjoyment. The Island authorities have not therefore manifested any active desire to exclude American fishing vessels, nor (so far as is yet known) have they made any special arrangements for enforcing their own Statute affecting foreign fishing vessels under the Treaty of 1818. During the existence of the licence system their laxity in this respect was the cause of loss and injury to Canada, and occasioned serious complaints. It also added materially to other causes of the failure of the temporary system in question, which the British and Canadian Governments had devised and continued in a spirit of conciliation, and the successful operation of which was so very desirable.

The undersigned had the honour to bring this subject under the notice of the Government in Reports of the 15th September and 9th November, 1868, and on subsequent occasions an investigation was also made into the facts by the Hon. Stewart Campbell, M.P. for the County of Guysboro', Nova Scotia, acting under official instructions, and the result was laid before Council.

The anomalous position of this matter, as regards the Island Fisheries, will doubtless be now further aggravated by the want of any Provincial force similar to the Marine Police of Canada, whose action is necessarily confined within Canadian limits, and by the existing discrepancy between the Dominion and Island Statutes relating to foreign fishing vessels.

The strict exclusion of these fishermen from the inshore fishing stations of Canada will probably force larger numbers of them than usual into the adjacent waters of Prince Edward Island. And as the amended Act of the recent Session of Parliament dispenses with previous warning, while that of the Island (6 Vic. cap. 14) still allows twenty-four hours' notice to depart, within which time any fast schooners may haul off and on again, when "hovering" about the three mile limit, without substantially hindering their operations,—it is more than probable that trespassers around the Island will thus succeed in using the fishing privileges, and endeavour to escape detection or capture. Those, however, which may enter ports, bays, and harbours, for unlawful purposes ought not under any pretext to be enabled to evade the consequences of flagrant and illegal intrusions. But, unless Her Majesty's ships shall compel American vessels to conform strictly to the Treaty between Great Britain and the United States, it is quite improbable that the policy of protection will be practically enforced with any degree of uniformity as a public measure of justice.

The Government vessels actually under orders for this service consist of the iron screw steamer "Lady Head," Capt. P. A. Scott, R.N.; the schooner "La Canadienne," Napoleon Lavoie, Esq., Stipendiary Magistrate; the schooner "Water Lily," Lieut. D. M. Browne, R.N.; the schooner "Ida E.," James A. Tory, Esq., Fishery Officer; the schooner "E. G. McLain," H. E. Betts, Esq., Fishery Officer; the schooner "England," Lieut. G. Vallancey Story, R.N.; the schooner "Stella Maria," L. H. Lachance, Esq., Fishery Officer; the schooner "Sweepstake," Lieut. J. Stanley Ewen, R.N. (the latter temporarily assigned to the command of the "Water Lily.")

These vessels have been suitably officered by retired officers of the Royal Navy, in as many instances as possible, for service throughout the season. They are placed under the general command of Captain Scott and Mr. Lavoie; the "Stella Maria" and "La Canadienne" being under control of the last-named officer, and the others enumerated above being subject to the orders of the first-named gentleman. Their cruising stations will lie within the three mile, or inshore limits of Canada, according to the special instructions already issued by the Government.

The two officers in chief command are instructed to arrange these stations in concert with and conformable to the advice of the Admiral, with whom they should be formally placed in communication.

Every endeavour will be made to secure an efficient and discreet performance of the peculiar duties entrusted to the persons engaged on this delicate service. And as it involves grave responsibility and considerable expense, the Government of Canada would regret to observe that any differences of separate Colonial jurisdiction, or any contradictory circumstances of Provincial situation and sectional advantage, over which Canada can exercise no present influence, such as are presented in the case of Prince Edward Island, may impair the effect and defeat the object of the important measures adopted by the British and Canadian Governments for the due protection of the Fisheries.

It is therefore respectfully suggested that this matter be brought under the notice of Her Majesty's Government by his Excellency the Governor-General, with a view to instructions being given to Vice-Admiral Wellesley to devote especial attention to the observance of Treaty rights by foreign vessels in the waters of Prince Edward Island; also, until the necessary action can take place by the Legislature of that Province to assimilate their Statute to the Canadian law regarding foreign fishermen, that the Imperial Act 59 Geo. III., cap. 38, may be applied in the Island waters, so as to secure the uniform and consistent observance of Imperial jurisdiction and policy.

It is further recommended that the Lieutenant-Governor of Prince Edward Island be requested to issue the usual Commissions of the Peace to the British Naval officers employed in protecting the Fisheries.

The whole respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

Department of Marine and Fisheries,
Ottawa, 21st May, 1870.

No. 11.

No. 11.

Sir John Young to Lord Granville.

(No. 112.)

Government House, Ottawa,
27th May, 1870.

(Received 16th June, 1870.)

(Answered, No. 174, 30th June, 1870, page 84.)

MY LORD,

With reference to my Despatch No. 105,* 25th May, on the subject of the Fisheries, I have the honour to transmit herewith to your Lordship a copy of a telegram which I have received from the Administrator of the Government of Prince Edward Island, together with a copy of the reply which I sent to Sir R. Hodgson on the part of my Government.

* Page 19,
25th May,
1870.
26th May,
1870.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl Granville, K.G.,
&c. &c. &c.

Enclosure 1 in No. 11.

Enclosure 1 in
No. 11.

The ADMINISTRATOR of the GOVERNMENT of PRINCE EDWARD ISLAND to the GOVERNOR-GENERAL.

By Telegraph from Charlottetown,
25th May, 1870.

Does the Dominion intend issuing fishing licences to American subjects as heretofore? My Government wish to put [act] in unison with yours. Please reply per telegraph.

(Signed) R. HODGSON,
Administrators.

CANADA.

Enclosure 2 in
No. 11.

Enclosure 2 in No. 11.

COPY of Telegram to Sir R. HONGSON, Administrator of the Government of Prince
Edward Island.

Ottawa, 26th May, 1870.

Pleased to hear that you are ready to co-operate with us. Canadian Government have decided not to grant licences to fish to foreign vessels. Have placed several schooners and one steamer along our shores, as Marine Police, to protect Fisheries. Her Majesty's Government have ordered several ships of war to support them. Fuller particulars by mail. Desire concurrence of your Government in our system, and wish you would grant commissions to our officers to insure complete enforcement of policy.

(Signed) JOHN YOUNG.

No. 12.

No. 12.

Sir John Young to Lord Granville.

(No. 121.)

Government House, Ottawa,
3rd June, 1870.

(Received 16th June, 1870.)

(Answered, No. 175, 30th June, 1870, page 85.)

MY LORD,

* Page 80.
June 2nd,
1870.

I have the honour to transmit, in reply to your Despatch No. 98,* of the 30th April last, a Minute of the Privy Council of the Dominion expressing concurrence in a Report (enclosed) of the Minister of Marine and Fisheries which offers observations on some points in the instructions given by the Admiralty to officers employed in the protection of the Fisheries of Canada, and "respectfully but most earnestly represents" the propriety of modifying the said instructions in certain specified particulars.

I have, &c.,

(Signed) JOHN YOUNG.

The Earl Granville, K.G.,
&c. &c. &c.Enclosure in
No. 12.

Enclosure in No. 12.

COPY of a REPORT of a COMMITTEE of the Hon. the PRIVY COUNCIL, approved by His
Excellency the GOVERNOR-GENERAL in COUNCIL on the 2nd June, 1870.

The Committee of Council have had under consideration the Despatch No. 98, dated 30th April, 1870, from the Right Hon. the Secretary of State for the Colonies, transmitting a communication of the same date to the Admiralty calling attention to the instructions given to officers of Her Majesty's ships employed in the protection of the Fisheries, and requesting the Canadian Government to give corresponding directions to officers in command of the Marine Police vessels similarly engaged.

31st May,
1870.

They have also had before them the memorandum, herewith annexed, from the Hon. the Minister of Marine and Fisheries, to whom the above-mentioned Despatch and enclosure were referred, and they respectfully report their concurrence therein and advise that a copy thereof be transmitted by your Excellency to Lord Granville as containing the views of the Canadian Government on the question referred to in the said Despatch.

(Certified) WM. H. LEE, Clerk P. C.

Ottawa, 31st May, 1870.

Having reference to a Despatch of the 30th ultimo from the Secretary of State for the Colonies, covering a communication of the same date from Sir Frederic Rogers to the Secretary of the Admiralty, directing attention to instructions given to officers of Her Majesty's ships employed in the protection of the Fisheries of Canada, and desiring the Canadian Government to give corresponding directions to officers in command of the Marine Police vessels similarly engaged, the undersigned has the honour to submit that Lord Granville's wish has, to a great extent, been already provided for in the special instructions adopted by the Governor-General in Council on the 14th instant.

The officers of Her Majesty's ships are, it is said, instructed "not to seize any vessel unless it is evident and can be clearly proved that the offence of fishing has been committed, and the vessel itself is captured within three miles of land."

Attention is respectfully requested to a division of the instructions issued by the Government of Canada, headed "ACTION," by which it will be seen that exercise of the lawful power of peremptory and absolute detention is not contemplated, on the first occasion, unless there be a wilful and persistent violation of the law; but such preliminary forbearance could not possibly be extended to any subsequent act of trespass.

Another division of these instructions, headed "DIRECTIONS," provides with great care against the possibility of any offending vessel being seized by the Canadian officers, except actually within three miles of land, and unless the commission of the offence can be clearly proved. It is, however, intimated under the same head that any offending vessel which may resist or avoid immediate seizure within three miles of land, remains liable to capture for the offence committed by Canadian officers in the waters of Canada, and by Imperial cruisers wherever she may be afterwards found in British waters. And in consequence the Canadian officers are directed to communicate without delay the names of any vessels they shall have notified and accosted, or any which may escape or resist seizure. This proviso is consonant to the Acts relative to fishing by foreign vessels, as, besides the offence of being "found fishing," it is unlawful "to have been fishing," &c.

The undersigned begs to express the hope that the instructions suggested in Lord Granville's Despatch to the Admiralty may not be interpreted so as to affect such liability.

It is also understood that the terms "offence of fishing has been committed," occurring in the Admiralty instructions to which the assent of the Canadian Government is invited, are to be construed conformably with the Fishery Laws: as under these statutes "preparing to fish" inshore constitutes an offence.

The undersigned would therefore respectfully suggest that it is advisable to guard against any further practical modification of the strict right of entire exclusion, and also of summary action, than what has been already provided for in the very considerate instructions issued by the Canadian Government. There should, as far as it is possible, be uniformity of procedure in these particulars between Her Majesty's ships and the subsidiary force employed by Canada.

With reference, however, to that part of Lord Granville's suggestion affecting the order to capture any foreign vessel liable to seizure only when the ship is actually within three miles of the coast, the undersigned considers it open to serious objection.

Both the Imperial and Colonial Statutes regulating fishing by foreign vessels relate to jurisdiction "in British waters." The system applied under them recognizes certain conventional limits as the bases of actual exclusion. But it would seem to be inconsistent both with the provisions of those Acts, and the object of defence, to admit of offending vessels avoiding all penal consequences of their trespass by simply passing an imaginary line out of Colonial bounds, and yet being still within British jurisdiction, after having violated the provincial laws and infringed the Treaty between Great Britain and the United States, and also the Imperial Act founded on the same. The peculiar facility with which foreign fishing vessels may cross and recross along this marine limit renders it possible that, under shelter of the exemption resulting from any instruction of the nature suggested, trespassers may present the anomaly of escaping from the Marine Police of Canada to the quasi-protection of Imperial authority. The existence of such a rule must really invite illegal encroachments on the part of foreigners; and the immediate effect will be to encourage intruders to quicken their efforts to avoid detection and evade seizure, knowing that the capture of their vessels is certain only when caught as it were in the very act of trespass. It will certainly weaken the moral influence of any demand made by the officers in command of these Canadian vessels, depending, as they are instructed to do, on the material aid of Her Majesty's ships in case of violence, they being themselves unauthorized to fire upon and disable any vessel either offering resistance or endeavouring to escape seizure.

There is also to be considered the probable future reference to this exception in connection with any final settlement of the reserved question of headland lines. If, for instance, any foreign vessel having actually trespassed within three miles of the shore of the interior of the Bay des Chaleurs, and escaped from the municipal force of Canada, shall not be afterwards subject to seizure under British authority anywhere within the entrance to that Bay,—say inside of a line drawn across from Miscou to Point Maque-reau (distant apart about fifteen miles), and where in all other matters of a civil or criminal nature Canada exercises provincial jurisdiction, it may imply waiver of both Canadian and British control *quoad* exclusive rights of fishery. The Government

Vide 31 Vict. cap. 61, sec. 1. and amending Act; also 59 Geo. III., cap. 38.

CANADA. having deliberated on, and by several Orders in Council adopted since 1864 advised on this subject, it is undesirable to sanction any such dubious proceeding as might be in future pressed into service to support American views. Occasion is taken to refer to Reports from this Department, dated 15th and 20th December last, in which this disputed part of the Fishery question is referred to at length, and other previous Reports enumerated; and the undersigned begs leave again to urge that Her Majesty's Government may be requested to bring it to a speedy settlement in the manner proposed by Lord Clarendon, in 1866, on the suggestion of the American Minister at London.

The undersigned would respectfully, but most earnestly, represent the tendency of any restriction of the kind proposed by Lord Granville, on the support of Her Majesty's squadron, to mar the efficiency of this important service, and begs leave to recommend that Her Majesty's Government may be asked to instruct the commanding officer to receive and act upon whatever definite and reliable reports (with satisfactory particulars) of actual detection or escape may be made by the officers in command of the Canadian Government vessels employed in protecting the inshore Fisheries of Canada.

The whole nevertheless respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

No. 13.

No. 13.

Sir John Young to Lord Granville.

(No. 130.)

Government House, Ottawa,
9th June, 1870.

(Received 22nd June, 1870.)

(Answered, No. 175, 30th June, 1870, page 85.)

MY LORD,

I have the honour to state that I lost no time in sending to the Council, for confidential consideration, your Lordship's telegraphic message of 6th June, which expresses the hope on the part of Her Majesty's Government "that the United States fishermen will not be, for the present, prevented from fishing, except within three miles of land, or in bays which are less than six miles broad at the mouth."

8th June.

The Council have requested me to transmit the enclosed Minute, which adopts the former part of the proposal, that foreign fishermen shall not be prevented fishing, except within three miles of land, while it respectfully sets forth the objections they entertain to limiting the right or practice of excluding foreigners to bays which are less than six miles broad at the mouth.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in
No. 13.

Enclosure in No. 13.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL on the 8th day of June, 1870.

The Committee of Council have had under consideration the telegraphic message from Earl Granville to your Excellency of the 6th June instant, expressing the hopes of Her Majesty's Government that the United States fishermen will not for the present be prevented from fishing except within three miles of land, or in bays which are less than six miles broad at the mouth.

They have also had before them the annexed Report, dated 8th June, 1870, from the Honourable the Minister of Marine and Fisheries, to whom the above-mentioned Despatch was referred, and they respectfully report their concurrence in the views expressed in the said Report, and submit that the same be communicated by your Excellency to Lord Granville, for the information of Her Majesty's Government.

(Certified) WM. H. LEE, Clerk P. C.

Ottawa, 8th June, 1870.

Having reference to Lord Granville's telegraphic Despatch of the 6th instant, referred to the Minister for report, the undersigned begs leave to state, as mentioned in reply to a previous telegram from the Colonial Secretary, that precautions have been

already taken against seizure, by Canadian officers, of United States fishing vessels outside of three marine miles from land on the coasts of Canada.

The further hope is expressed by Her Majesty's Government, that American fishermen will not be for the present prevented from fishing in bays which are less than six miles broad at the mouths. The undersigned respectfully draws attention to the extremely objectionable nature of this proposal.

The termination of the Reciprocity Treaty by the United States, and the consequent cessation of the labours of the Joint Commission embracing disputed points in the controversy suspended thereby, had the legitimate effect of leaving the inshore Fishery rights just as they stood in 1854. The main point formerly in dispute, involving the definition of bays, &c., has never since been conceded by the Imperial or Colonial authorities. It, on the contrary, has been steadily asserted in all subsequent correspondence and transactions. The letter of the Secretary of State for the Colonies, dated 12th April, 1866, expressly reserves it, and sets forth the opinion of Her Majesty's Government as clear on this point. The Canadian Government was, however, desired to forego "for the present" the strict enforcement of British rights in this respect, and "during the (then) present season" to accept a conventional arrangement affecting bays or creeks, less than ten miles wide at their entrances.

It was so accepted as part of the temporary system at that time proposed, but has shared with kindred provisions the disapproval repeated on various occasions by this Government during four years past. The policy adopted this year by Canada, and approved by Great Britain, would in its entirety supersede all provisional concessions heretofore subsisting. But in deference to the obvious wishes of Her Majesty Government, this policy has been carried out in the spirit of Mr. Cardwell's Despatch of 12th April, 1866, and the same conventional limit of ten miles will be again for the present observed. The Government of Canada ought not, therefore, to be now desired to recognise any further and fresh limitation of our exclusive rights, however temporary and guarded it may be intended to be made.

This disputed matter has now been pending for upwards of twenty-five years, during which period the American Government has had frequent opportunities, and has been specially invited to join in an equitable adjustment of the same. The fault that it is still unsettled, and the source of difficulty, attaches to the United States Government alone. Great Britain and Canada are mere defendants as in possession of a national right existing in fact and in law.

The Council is aware that, when the British Government, in 1845, opened the Bay of Fundy to American fishermen, as an amicable relaxation of Treaty rights, the Act was officially regarded by American authorities as a "practical abandonment" of the British construction of the Convention of 1818. It was immediately followed by a demand for general application to all indents exceeding "six miles" in width. This extraordinary demand appears to have been for the moment acquiesced in by Lord Aberdeen, for peace sake, but was soon afterwards rejected by Lord Stanley on the earnest remonstrances of the Colonies. Another concession in the same direction, as proposed by Lord Granville (identical in the words of that ineffectual and unjust claim), may be similarly construed to our detriment. Thus the whole policy of exclusion would be gradually subverted, and component parts of a question vital to the future welfare and interests of Canada become practically abandoned piecemeal.

The peculiar concession now suggested would, it is believed, rather tend to create new differences with the United States, than promote any final settlement of the Fishery question.

Reference is particularly requested to Reports of the 15th and 20th of December last, in which the whole matter in question is fully set forth. The conclusions arrived at were, that, as the American Government had voluntarily terminated the Treaty of 1854, and ever since failed to consider any propositions regarding an equivalent for the use of our inshore Fisheries, notwithstanding an intermediate licence system, which continued to United States citizens the same fishery privileges they had enjoyed under the Reciprocity Treaty, on merely formal conditions, all such concessions should be absolutely withdrawn and our rights duly enforced as they existed and were upheld anterior to that reciprocal compact.

The undersigned therefore respectfully submits that the terms of the policy already adopted, and now in actual course of being carried out, should be strictly adhered to.

The whole nevertheless respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

CANADA.

No. 14.

No. 14.

Sir John Young to Earl Granville.

(No. 131.)

Government House, Ottawa, 9th June, 1870.

(Received 22nd June, 1870.)

(Answered, No. 175, 30th June, 1870, page 85.)

MY LORD,

9th June,
1870.

I have the honour to forward herewith a copy of a Minute of the Privy Council, recommending that the Honourable Alex. Campbell, the Postmaster-General, should be authorized to proceed to England, in order to endeavour to "induce Her Majesty's Government to take prompt action in the several matters which are set forth in the "Minute."

2. Mr. Campbell is the Ministerial leader in the Senate, a gentleman of ability and standing, and well versed in Canadian affairs.

He leaves for England in ten days or so from this date.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure
in No. 14.

Enclosure in No. 14.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 9th June, 1870.

The Committee of the Privy Council having recently had under their consideration a number of questions of great importance to the Dominion, among which are the proposed withdrawal of Imperial troops from Canada, the question of fortifications, the recent invasion of Canadian territory by citizens of the United States, and the previous threats and hostile preparations which compelled the Government to call out the Militia, and to obtain the consent of Parliament to the suspension of the Habeas Corpus Act, the systematic trespasses on Canadian fishing grounds by United States fishermen, and the unsettled question as to the limits within which foreigners can fish under the Treaty of 1818, are of opinion that it is desirable that their views on all these questions should be personally represented to Her Majesty's Government by a member of the Privy Council, and they recommend that the Honourable the Postmaster-General be requested to proceed to England, and to endeavour to induce Her Majesty's Government to take prompt action in the several matters above referred to, in accordance with the views expressed in the Minutes of Council relating thereto, and in any other Minutes which may hereafter be referred to him.

The Committee of Council are of opinion that the Postmaster-General should call the attention of Her Majesty's Government to the Reports of the 15th and 20th of December last from the Minister of Marine and Fisheries, and should urge the importance of securing, with as little delay as possible, the restoration to Canada of the rights which she enjoyed prior to the Reciprocity Treaty, under the interpretation given to the Treaty of 1818 by the Crown Law Officers of England.

The Committee of Council cannot conceal their apprehension that if the citizens of the United States are any longer permitted, as they have been doing the last four years, to fish in waters where, according to our interpretation of the Treaty of 1818, they are trespassers, it may be more difficult to obtain an amicable solution of the point in dispute.

The Committee of Council are fully alive to the importance of taking action at an early period with regard to the construction of a Pacific railroad through Canadian territory; but they think it better to postpone the consideration of the subject until after the departure of the delegates from British Columbia, when instructions will be sent to the Postmaster-General on this important subject.

Certified,
(Signed) Wm. H. LEE, Clerk P.C.

No. 15.

Sir John Young to Lord Granville.

CANADA.

No. 15.

(No. 133.)

Government House, Ottawa,
9th June, 1870.

(Received 22nd June, 1870.)

(Answered, No. 175, 30th June, 1870, page 85.)

MY LORD,

I have the honour to state that I received a Despatch of date the 30th May, from Vice-Admiral Wellesley, enclosing a copy of revised instructions to the officers commanding Her Majesty's ships, which were framed in accordance with the orders received from the Admiralty.

This Despatch and the instructions were submitted in due course for the consideration of the Council, and in order to make the instructions given to the commanders of the Police vessels engaged in the protection of the inshore Fisheries assimilate with those given to the officers commanding Her Majesty's ships, the Minister of Marine and Fisheries recommended, and the Committee of Council sanctioned the alteration introduced under the head "action," at paragraph 1, page 5 of the instructions.

I have communicated a copy of the instructions so altered to Vice-Admiral Wellesley, for his information.

8th June,
1870.The Earl Granville, K.G.,
&c. &c. &c.I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in No. 15.

Enclosure in
No. 15.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL on the 8th day of June, 1870.

The Committee have had under consideration the Despatch dated 30th May ultimo, from Vice-Admiral Wellesley, with reference to the special instructions given to commanders of Canadian cruisers engaged in the protection of the Fisheries.

The Hon. the Minister of Marine and Fisheries recommends that the special instructions to officers commanding Marine Police vessels, approved in Council on the 14th ultimo, be amended as follow:—

Under the head "Action," at paragraph 1 (p. 5), all the words after "you will" in the eleventh line, down to the end of the next succeeding paragraph (at the words "present session") be omitted, and the words following be adopted in their stead:—"in accordance with the above-recited acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation. It must be evident and susceptible of the clearest proof that the offence has been committed, and the capture effected within the prohibited limits."

(Certified) WM. H. LEE, Clerk P. C.

(Confidential.)

DOMINION OF CANADA.

SPECIAL INSTRUCTIONS to Fishery Officers, ex-officio Magistrates in command of Government Vessels engaged as MARINE POLICE in protecting the Inshore Fisheries of CANADA.

Department of Marine and Fisheries,
Ottawa, 14th May, 1870.

SIR,

The service to which you are appointed is a special and peculiar one: and the exercise on your part of the greatest possible discretion and judgment is required.

The following directions, for your information and guidance, are of a confidential nature.

The DUTIES you will perform, and the POWERS you shall exercise, are defined by the present instructions.

DUTIES.—It will be your duty to cruise at all times with the vessel under your command on the various "Stations" to which, from time to time, you may be assigned; and to prevent foreign fishermen and fishing vessels from intruding on the inshore fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

Probably American fishing vessels and fishermen chiefly will be concerned. Therefore, it is requisite for you to be more especially informed of the relation of United States citizens to fishery privileges in British waters, as well those of a common and concurrent nature as those of an exclusively Canadian character. Also, to be instructed to what extent, and for what (other than fishing) purposes American fishing vessels and fishermen are permitted free access to the bays and harbours of the Dominion.

CANADA.

The terms of the First Article of the Convention of the 20th October, 1818, between Great Britain and the United States, has since the expiration of the Reciprocity Treaty governed the participation of American fishermen in the Gulf and Labrador fisheries. A copy of the said Article is appended.

1. United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes.

These purposes are:—for shelter, repairing damages, purchasing wood, and obtaining water. They are to be admitted for no other purpose whatever. And during such admission they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them. You will be careful to observe that such qualified admission to the ports and harbours of Canada be not made a pretext or cloak for transferring cargoes, or transacting any other business connected with their fishing operations.

With regard to the Magdalen Islands, although the liberty to land and to dry and cure fish there is not expressly given by the terms of the Convention to United States fishermen, it is not at present intended to exclude them; nor is it desirable to impose a narrow construction on the term “unsettled.” Places containing a few isolated houses might not, in some instances, be susceptible of being considered as “settled” within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation, and the circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the desire of Her Majesty’s Government that rights of exclusion should not be strained, must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Should interference with the pursuits of British fishermen, or the property of Canadians, appear to be inseparable from the exercise of such indulgence, you will withhold it, and insist upon entire exclusion.

Americans when so admitted should be made aware that, in addition to being obliged, in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such Acts and Regulations as exist to ensure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto, they are peculiarly bound to observe peace and order in the quasi settled places to which, by the liberal disposition of Canadian authorities, they may be admitted.

Wheresoever foreigners may fish in Canadian waters, you will compel them to observe the Fishery Laws. Particular attention should be directed to the injury which results from cleaning fish on board of their vessels, while afloat, and throwing overboard the offals, thus fouling the fishing, feeding and breeding grounds. The “Fisheries Act” (Sec. 14) provides a heavy penalty for this offence.

Take occasion to inquire into and report upon any modes of fishing, or any practices adopted by foreign fishermen which appear to be injurious to the fisheries.

Copies of the Fishery Laws of Canada accompany the present instructions.

POWERS.—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a Fishery Officer are derived from the following Statutes: “The Fisheries Act” (31 Vic., cap. 60);

“An Act respecting Fishing by Foreign Vessels” (31 Vic., cap. 61), and the subsequent statute entitled “An Act to amend the Act respecting Fishing by Foreign Vessels,” made and passed in the present session of the Parliament of Canada;

“Chapter 94 of the Revised Statutes (third series) of Nova Scotia” (of the Coast and Deep Sea Fisheries);

The Act entitled “An Act to amend cap. 94 of the Revised Statutes of Nova Scotia” (29 Vic., cap. 35);

An Act passed by the Legislature of the Province of New Brunswick, entitled “An Act relating to the Coast Fisheries, and for the Prevention of Illicit Trade” (16 Vic., cap. 67);

Also from such Regulations as have been passed or may be passed by the Governor-General in Council, or from Instructions from the Department of Marine and Fisheries, under "The Fisheries Act" hereinbefore cited.

In such capacity your jurisdiction must be strictly confined within the limit of "three marine miles of any of the coasts, bays, creeks or harbours" of Canada, with respect to any action you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed ten geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than ten miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast.

Should you have occasion to compel any American fishing vessels or fishermen to conform to the requirements of the "Fisheries Act and Regulations" as regards the modes and incidents of fishing, at those places to which they are admitted under the Convention of 1818,—particularly in relation to ballast, fish offals, setting of nets and hauling of seines, and use of "trawls" or "bultows," more especially at and around the Magdalen Islands,—your power and authority over such cases will be similar to that of any other Fishery Officer appointed to enforce the Fishery Laws in Canadian waters. (*Vide* "Fisheries Act.")

Certain portions of the foregoing Acts relate to the prevention of illicit trade. Instructions will, therefore, be given you by the Customs Department, authorizing you to act as an officer of Customs; and it will form part of your duty to see that the Laws and Regulations affecting Revenue are duly observed. In your capacity of a Customs officer you cannot receive any aid from Her Majesty's vessels to enforce authority under the Customs Laws.

JURISDICTION.—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are for the present to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrance of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width. In the case of any other bay, as Bay des Chaleurs, for example, you will not admit any United States fishing vessel or boat, or any American fishermen, inside of a line drawn across at that part of such bay where its width does not exceed ten miles. *This limit for the convenience of well-known and observable land marks, is fixed temporarily as from and between Grande Ance, in the County of Gloucester, and Paspebiac Point, in the County of Bonaventure.**

ACTION.—You will accost every United States vessel or boat actually within three marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek, which is less than ten geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof, not wider apart than ten geographical miles, and in either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, *on the first and only on one occasion,* inform the owner, master, or person in charge, of the liability of the vessel or boat and tackle to seizure and confiscation, and require him to depart forthwith. *Make it known that such preliminary forbearance in thus allowing him to depart immediately, is not because of any claim to notification, but as a mere act of indulgence, which in the exercise of your discretion, and under your instructions from the Government, you are permitted to extend according to existing circumstances.*

—Should such owner, master, or person in charge of any foreign ship, vessel, or boat, being clearly within proscribed limits, and so found fishing, preparing to fish, or having fished therein, refuse, or neglect to desist and depart forthwith, or should he still continue wilfully in despite of warning, to fish or hover in Canadian waters, or be again found fishing, preparing to fish, or having fished, or be again found in any actual trespass, abuse of privilege, or evasion of the fishery laws relating to fishing by foreign vessels, you will instantly seize and detain the ship, vessel or boat, together with the boats, tackle, rigging, apparel, furniture, goods, stores and cargo, for an infraction of the

* These are points on either side of the entrance to the Bay of Chaleurs. Struck out.

"in accordance with the above-recited Acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation. It must be evident and susceptible of the clearest proof that the offence has been committed, and the capture effected within the prohibited limits."

CANADA.

~~statutes of Canada respecting fishing by foreign vessels (31 Vic., cap. 61), and the subsequent statute amending the same, entitled, "An Act to amend the Act respecting Fishing by Foreign Vessels," adopted by the Parliament of Canada at the present session.~~

Copies of the former and of the latter Acts are furnished herewith for your use and distribution.

These Acts of Parliament subject to summary seizure and to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits, and provide for carrying out of the seizure and forfeiture.

Compulsory means may be employed; but resort to force will be justified only after every other prudent effort has failed.

DIRECTIONS.—If from threatened resistance and obvious determination to contest the seizure, and because of the relative inadequacy of your own force you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance, and that you are authorized to procure the assistance, if needed, of any of Her Majesty's cruisers. In case of need, you must signal for, or otherwise procure the immediate aid of one of Her Majesty's ships, or of some other of the Canadian Government vessels belonging to the Marine Police. With both the first and last mentioned you will co-operate in all things pertaining to the protection of the fisheries.

If a foreign ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and momentarily effects her escape from the vicinity, she remains always liable to seizure and detention, if met by yourself in Canadian waters, and in British waters everywhere if brought to account by Her Majesty's cruisers. But great care must be taken to make certain of the identity of any offending vessel to be so dealt with.

All vessels seized must be placed as soon as convenient in the custody of the nearest Customs Collector; and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant or mate, and of two at least of the most respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place and the ship, vessel, or boat, was seized. Also, corroborate the bearings taken, by soundings, and by buoying the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and land-marks as shall place beyond doubt the illegal position of the seized ship, vessel or boat. Omit no endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the head-land lines and into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or any other cause independent of the will of the master and crew, you will consider these circumstances; and satisfy yourself with regard thereto before taking the extreme step of seizing and detaining any vessel.

On capture it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel; first substituting a British or Canadian flag for the foreign flag borne at the time of capture. If your ordinary complement of men does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will endeavour to engage a few trustworthy men to supply any such emergency. The portion of foreign crew taken on board the Government vessel you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada, or the other British Provinces, may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations, or in port, shall be met with, you should, if circumstances permit, go on board and confer with the Naval Commander and receive any suggestions he may feel disposed to give, which do not conflict with these instructions, and afford him any information you may possess about the movements of foreign craft, also inform him what vessels you have accosted, and where.

Do not fail to make a full entry of all circumstances connected with foreign vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity where instructions would most probably reach you at stated intervals.

The service in which you are engaged will be subject to the general direction and control of the chief officer, or Master in command, Captain P. A. Scott, R.N., on board the Government steamer "Lady Head," whose orders and arrangements you will conform to in every respect. He is advised to consult and to act in conjunction with the British Admiral and Naval Officers commanding Her Majesty's ships.

The precise limits of the station on which you are to cruise, and the further details of your duties, will be described in the directions you will receive from Captain Scott.

Considerable inconvenience is caused by Canadian fishing vessels, and those belonging

to Prince Edward Island, neglecting to show their colours. You will draw the attention of masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

It cannot be too strongly impressed upon you, nor too carefully enjoined on the officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

The Government relies on your prudence, discretion, and firmness in the performance of the special duties thus entrusted to you.

I have, &c.,

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

(APPENDIX A.)

ARTICLE I. of CONVENTION between HIS BRITANNIC MAJESTY and the UNITED STATES of AMERICA, Signed at London, October 20, 1818.

Article I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits, Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 16.

Sir John Young to Lord Granville.

(No. 134.)

Government House, Ottawa,

9th June, 1870.

(Received 22nd June, 1870.)

SIR,

I have the honour to transmit herewith a copy of a Minute of the Privy Council requesting that the Admiralty will permit the Canadian Government vessels employed in the protection of the Fisheries to wear pendants while in active service.

The Minister of Marine and Fisheries (Mr. Mitchell) requested that the enclosed papers should be sent along with the Minute as supplying a fuller explanation of the object in view.

The Earl Granville, K.G.,

&c. &c. &c.

I have, &c.,

(Signed) JOHN YOUNG.

23rd May,
1870.

Enclosure 1 in No. 16.

Enclosure 1 in
No. 16.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in COUNCIL on the 8th June, 1870.

On the recommendation of the Hon. the Minister of Marine and Fisheries, the Committee advise that, as it is found necessary for the efficiency of the service in which the Government vessels employed to protect the inshore Fisheries of Canada are engaged,

CANADA.

the Admiralty be requested to permit these vessels to wear pendants while in active service on such special duty.

(Certified)

WM. H. LEE, Clerk P. C.

Enclosure 2 in
No. 16.

Enclosure 2 in No. 16.

The MINISTER of MARINE to the GOVERNOR-GÉNÉRAL.

(Private.)

Marine and Fisheries Department, Ottawa,
23rd May, 1870.

My DEAR SIR JOHN,

There is a minor point connected with the Fisheries protection service, with reference to which I take occasion to make an informal suggestion. Before the organisation of the Marine Police, and when employed for the purpose of preventing foreign vessels from fishing without the licences hitherto provided, the Captain in command of the Government steamer "Druid," himself a retired Naval officer, had some conversation with the Admiral about flying a pennant; authority for doing so was questioned; but as the Admiral courteously placed such objections on the ground of duty and discipline, and, with equal consideration, refrained from requiring its discontinuance, Captain Scott very properly ceased to fly it. The subject has since engaged my attention, and the reasons for using this flag present themselves anew, and with greater force, under the recent arrangements for placing the several vessels belonging to this Naval Police in active service. But the matter does not seem to me one of such a character as can well be treated in strictly official style. I therefore take the liberty of making the suggestion that your Excellency would be pleased to communicate with the Admiral on the subject, with the view of ascertaining if any objections exist to the granting of permission for any Canadian Government vessel engaged in protecting the Fisheries, in conjunction with Her Majesty's ships, to carry the pennant.

Without entering at length into the reasons why it is considered desirable that such permission should be granted, I may mention generally that a distinctive character should be given to these vessels, not so much for appearance or effect as to guard against any possible and plausible plan being advanced in case of resistance. There seems to me no other than the recognized mode of making themselves known as public armed vessels, namely, by ensign and pennant.

It appears to be the established custom of maritime nations to thus signify this character, as will be seen by the enclosed memoranda from the British 'Laws of Customs,' and the United States laws relating to the Revenue Service and piracy. Now, our Police vessels are neither Revenue cutters nor ships of war. But their functions will necessitate the bringing-to and searching of foreign vessels. If any room be left for ill-disposed persons to resist being accosted, under the pretence that no means were displayed by which the rightful character and authority of the vessel could be discerned, conformably with common usage in similar cases, I can readily perceive that awkward occurrences might take place, such as would, perhaps (or at least might invite the belief that they could), have been avoided by an authoritative display, simple in form though effective in fact. In such a delicate service, I feel the full responsibility of considering even those minute details which occur to me as requisite, to leave nothing doubtful. Hence my troubling you with this minor point, which, however, I do without hesitation, because of the careful interest and attention which your Excellency has extended to the important subject of the Fisheries.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.Very sincerely yours,
(Signed) P. MITCHELL

SIR,

Ottawa, 7th February, 1870.

Lee's 'Laws of the Customs,' page 91:—

"And if any ship or boat—liable to seizure or condemnation under the Customs Consolidation Act, or any Act for the prevention of smuggling—does not bring-to when required to do so, on being chased by any vessel or boat in the Royal Navy having the proper pendant and ensign of Her Majesty's ships hoisted, or by any vessels or boat duly employed for the prevention of smuggling, having a proper pendant and ensign hoisted,—it is lawful for the captain, master, or other person having the charge or command of such vessel or boat in the Royal Navy, or employed as aforesaid, first causing a gun to be fired as a signal,—to fire at or into such ship or boat; and the captain, master, or other person acting in his aid, or by his direction, is indemnified and discharged by the Act from any indictment, penalty, action, or other proceeding for so doing.—Section 218."

In Dunlop's '1789 to 1856', page 255, Section 102, I find the law as relates to boarding to be very similar:—

“That the cutters and boats employed in the service of the Revenue shall be distinguished from other vessels by an ensign and pendant, with such marks thereon as shall be prescribed and directed by the President of the United States; and in case any ship or vessel liable to seizure or examination shall not bring-to on being required, or being chased by any cutter or boat having displayed the pendant and ensign prescribed for vessels in the Revenue service, it shall be lawful for the captain, master, or other persons having command of such cutter or boat, to fire at or into such vessel which shall not bring-to after such pendant and ensign shall be hoisted and again shall have been fired at by such cutter or boat as a signal; and such captain, master, or other person as aforesaid, and all persons acting by or under his direction, shall be indemnified from any penalties or action for damages for so doing; and if any person shall be killed or wounded by such firing, and the captain, master, or other person aforesaid shall be prosecuted or arrested therefor, such captain, master, or other person shall be forthwith admitted to bail.”

When the character of the vessel so boarding is doubtful, they are enjoined to resist by the following Act—

“CHAPTER LXXVII.

“3rd March, 1819.

“An Act to protect the commerce of the United States and punish the crime of piracy.

“That the President of the United States be, and hereby is, authorized and requested to employ so many of the public armed vessels as, in his judgment, the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States and their crews from piratical aggressions and depredations.

“Section 2. That the President of the United States be, and hereby is, authorized to instruct the commanders of the public armed vessels of the United States to subdue, seize, take, and send into any port of the United States, any armed vessel or boat, or any vessel or boat the crew whereof shall be armed, and which shall have attempted or committed any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, or upon any other vessel; and also to retake any vessel of the United States, or its citizens, which may have been unlawfully captured upon the high seas.

“Section 3. That the commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel owned as aforesaid by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States; and may subdue and capture the same; and may also retake any vessel, owned as aforesaid, which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.”

No. 17.

Sir John Young to Lord Granville.
(Telegram.)

(Received 20th June, 1870.)

Alterations *in re* Chaleur Bay. Mr. Thornton informed 14th May ultimo, left whole bay open. Admiral, I am told, has since fixed limits inside given points.

Montreal.

No. 17.

No. 18.

Sir John Young to Lord Granville.
(Telegram.)

(Dated, 29th June, 1870.)

I have, I hope, made it all right with my Government about not excluding foreign fishing vessels except within three miles. I will telegraph fully in a few days.

Montreal.

No. 18.

CANADA.

No. 19.

No 19.

Sir John Young to Lord Granville.

(No. 140.)

Quebec, 23rd June, 1870.

(Received 6th July, 1870.)

(Answered, No. 222, 11th August, 1870, page 89).

MY LORD,

* Page 81.

I have the honour to acknowledge the receipt of your Despatch No. 138,* of the 6th instant, on the Fishery question, and to state that I have transmitted it to the Council of Ministers for full explanation, informing them at the same time that it is indispensable that the instructions issued to the Canadian cruisers should at once be brought into complete conformity with the latest instructions on the subject issued by the Admiralty to Vice-Admiral Wellesley.

I have also called for a full Report upon all the points alluded to in your Despatch.

† Page 9.
‡ Page 13.

I hope to transmit this Report by next post, and in the meantime have to state that it is true that when I received your telegram of 30th April, saying, "Take steps to secure that American fishing vessels are not seized, even between headlands, except within three miles distance of shore," I thought it was only meant to admit fishing vessels between headlands into large bays such as the Bay of Chaleur on the same footing as fishing vessels ply along the coast in the open sea. I did not embrace the wider change and consequences which it was intended to introduce as to the non-pursuit and non-capture by British ships beyond the three mile line after the offence of fishing had been committed within that line. My Despatches of the 4th† and 14th‡ May, as well as the telegraphic message which I sent on the 16th, were consequently couched in that sense.

I should here observe that the earlier part of my telegram of the 14th May was sent in answer to one of your Lordship's, and the latter part to which you advert was only added in order to prevent the very misconception which has occurred, and to keep prominently in view the fact (obvious indeed from their date) that the special instructions to the Canadian cruisers were framed in accordance with the directions of the Colonial Office paper of 12th April, 1866, the latest authority we had to guide us at that time. I did not by any means mean to imply that they were not to be altered, or that your instruction of the 30th April had been overlooked: accordingly my telegram of 16th May announced that an important alteration had been made in these special instructions, by omitting from the 7th line of page 5 the words which drew a line across the Bay of Chaleur, from Paspébiac to the Grand Anse, points which many local authorities still hold are not more than ten miles apart. Be this as it may. This alteration set the question as to the Bay of Chaleur at rest, for (the three mile line excepted) it opened the whole of its expanse to foreign fishermen, there being no part of the bay which is less than ten miles wide which is not also less than six.

This reference will, I think, prove to your satisfaction that the sentence respecting the Bay of Chaleur did not escape my notice.

There are also one or two other passages in your Lordship's Despatch which contain comments on the Canadian instructions, on which I beg leave to offer the following observations.

After a careful comparison of the one with the other document, I cannot but submit that these comments are scarcely applicable; for instance, paragraph 3 of page 5 of your Despatch is as follows:

"The Canadian instructions are inconsistent with the spirit of those which I conveyed to you, in that they still require Canadian Fishery Officers to exclude American fishermen from bays more than ten miles in width."

Compare the 5th paragraph, page 4, line sixth, to the end of the paragraph of the Canadian instructions of the 14th May, and it will be found the reverse is distinctly stated, and the limits defined from which foreign fishermen may be excluded in two separate phrases:

"Where any of the bays, creeks, or harbours shall not exceed ten geographical miles in width, you will consider that the line of demarcation extends from headland to headland either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than ten miles apart, and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast."

Compare also, under head "Jurisdiction," the fourteen last lines of the second paragraph in page 5.

I am at a loss to account for the discrepancy between these passages and the allegation

of exclusion, but if my view be the correct one, and that the Canadian instructions do not exclude foreign fishermen from bays other than those which are less than ten miles in width, the remark which follows in the Despatch as to a direction in them under the head "Action" also loses its force.

As to the paragraph which follows in your Lordship's Despatch :

"And under the head 'Directions,' it is implied that vessels are to be seized for coming into a Canadian bay (whether or not within three miles of shore), unless they are forced thither by violent winds or unavoidable cause."

The Minister of Marine and Fisheries assures me that this paragraph was meant to have exactly the contrary sense to that of the assumed implication—it was meant to stand alone and distinct, as a waiver of strict right, and a direction to the cruisers to admit any fair plea that could be urged in favour of foreign vessels which might be found in positions such as might otherwise expose them to suspicion.

Your Despatch No. 98,* of the 30th April, did not reach my hands until the 19th May. * Page 80.

I had the honour to forward the representations which the Ministers of the Dominion urged in reply on the 3rd instant.

They consider the changes proposed to be introduced of so grave import, and so likely to interfere injuriously with the protection of the Canadian Fisheries, that they have sent one of their own body, the Honourable A. Campbell, the Postmaster-General, to England to communicate specially on the subject with Her Majesty's Ministers.

I have, &c.,

The Earl Granville, K.G.,
&c. &c. &c.

(Signed) JOHN YOUNG.

P.S.—(Confidential.)

The Despatch to which this is a reply is not marked "Confidential," so I have not ventured to mark my reply "Confidential;" but if it be thought best to make them both so, I need only say that though my Despatch does not proceed from the Privy Council, it is founded on information supplied by the Minister of Marine and Fisheries.

J. Y.

No. 20.

No. 20.

Sir John Young to Lord Granville.

(Telegram.)

(Dated 8th July, 1870.)
(Received 9th July, 1870.)

(Secret and confidential.) Fishery question. My Ministers have consented to amend their special instructions under protest. They have, however, adopted a strong remonstrance to accompany the concession, which they fear endangers their ministerial existence.

No. 21.

No. 21.

Sir John Young to Lord Granville.

(Telegram.)

(Received 8th July, 1870.)

Fisheries. The special instructions to the Marine Police have been brought into complete accordance with those issued by the Admiralty. The amendments are dated 27th June last. Despatch will be sent by mail of 16th July.

Clifton House.

No. 22.

No. 22.

Sir John Young to Lord Granville.

(No. 154.)

Niagara, 6th July, 1870.

(Received 26th July, 1870.)

(Answered, No. 222, 11th August, 1870, page 89.)

MY LORD,

I have the honour to forward herewith a copy of a Minute of the Privy Council of the Dominion, covering certain memoranda which have been given to the Honourable

1st July, 1870.

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A. Campbell for his guidance in bringing under the notice of Her Majesty's Government the present position of the Canadian Fishery question, and the views of this Government thereon.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in
No. 22.

Enclosure in No. 22.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in COUNCIL on 1st July, 1870.

On a Report, dated 20th June, 1870, from the Honourable the Minister of Marine and Fisheries, submitting for the information of your Excellency in Council a memorandum and documents on the Fishery question prepared for the Honourable Mr. Campbell, in connection with his mission to England, under the Minute of Council of 9th ult., and stating that these papers inform him of the position of the question at the present time, and of the views expressed on various occasions for several years past by the British and Canadian Governments; and that the instructions which may be addressed to Mr. Campbell with reference to bringing to an early settlement all matters that have been admitted into dispute between the British and American Governments affecting the Fisheries should embrace the following principal points:

1. That fishing rights in British American waters shall be in future enforced as they existed and were maintained under the Treaty of 1818, anterior to the Reciprocity Treaty of 1854, in accordance with the laws of nations.

2. That failing such positive enforcement of these undoubted rights, the question arising out of the said Treaty as to the definition of certain limits of exclusion, by headland lines, be referred to a mixed Commission, to be named by the British and American Governments, and to be composed of one Imperial, one United States, and one Canadian Commissioner, providing some independent reference in case of need: the principle on which such Commission shall be chosen and act to be as provided in the Earl of Clarendon's Despatch of 11th May, 1866.

3. That such mixed Commission shall be formed during the current year, and shall, in order to facilitate speedy reference, hold its sittings either at Halifax, Washington, or Ottawa, the negotiations and preliminary arrangements for the same to be carried out between the Governor-General of Canada and the United States Government, through the British Minister at the American capital.

The Committee recommend that the Report of the Honourable the Minister of Marine and Fisheries be approved and acted on.

(Certified) WM. H. LEE, Clerk P. C.

MEMORANDA for the Honourable ALEXANDER CAMPBELL, &c., &c., *In re*
CANADIAN FISHERY QUESTION.

Department of Marine and Fisheries, Ottawa,
14th June, 1870.

The Fishery Article of the Treaty between Great Britain and the United States, dated 20th October, 1818.

This Article is interpreted in its literal sense by British authority, that is to say:

1. Concurrent liberty of fishing is common to Her Majesty's subjects and United States citizens within the limits specified, reserving indefinitely any exclusive rights of the Hudson's Bay Company.

2. Liberty to American fishermen to land, and dry and cure fish on the coasts therein described is limited by actual settlement and private proprietorship, in which case the permission of settlers, proprietors, or possessors of the soil is necessary.

3. Limits reserved exclusively to Her Majesty's subjects are comprised within bounds of a marine league from the coasts, bays, harbours, and creeks; the line of exclusion and measurement on the three classes of indents last above mentioned being defined by straight lines drawn across from headland to headland.

Upon the construction of Nos. 1 and 2 no serious differences of opinion exist.

Regarding the interpretation of No. 3, the American Government advances peculiar claims: the most important is, the basis of measurement on the mouths of bays, creeks,

Exhibit
No. 1.

and harbours. This line of demarcation between exclusive and common waters, the United States contend (as in the tracing of the general coast line three marine miles from land), should at *all* bays continue to describe the outline of the shores of those indents, as if they were mere sinuosities of the coasts.

This is in brief the main point involved in the dispute which is styled "The Fishery Question."

Other minor differences more or less tributary to this have entered into the discussion ; but this substantially includes the only disputable ground of the controversy.

The argument of Great Britain on this point is two-fold—First: that the accepted definition of bays, harbours, and creeks is that established by international law throughout the civilized world, which distinctly adopts a headland line irrespective of the configuration of any part of the coast, or the formation and extent of its indentations. The territorial and maritime jurisdiction of all nations—and particularly of the United States—is so clearly laid down as not to admit of any exceptional application, such as that claimed in connection with these fishing privileges in British America, in derogation of national rights. Besides this general argument, there exist special considerations connected with the maritime pursuits and peculiar situation and future prospects of Her Majesty's Colonial subjects.

Second: moreover, Great Britain maintains that in this Article of the Convention of 1818, Americans expressly "renounce" the "liberty" before "ENJOYED OR CLAIMED" to pursue their calling anywhere else within British jurisdiction than in the limits described in the Treaty. Thus adding by their own voluntary declaration (if that were necessary) to the legal definition of exclusive fishery, besides solemnly withdrawing all pretensions of the kind theretofore advanced.

The Americans have up to 1854 persisted in arguing for an exceptional application of the laws of nations as regards bodies of water, such as the Bays of Fundy and Chaleur, and other indents along the sea-coasts of the British North American Colonies, into which the fishes of the sea penetrate, and United States fishermen were formerly wont to pursue and capture them, or where they need still to resort to take bait.

An official Report by Mr. W. F. Whitcher, Commissioner of Fisheries, on the subject of this dispute, and regarding the construction of the Treaty of 1818.

Exhibit
No. 2.

This Report embraces the whole question, and cites the legal authorities affecting the same.

Documents connected with the licensing system adopted at the expiration of the Reciprocity Treaty (in March, 1866), and continued down to the present year.

Exhibit
No. 3.

These papers show that, while the Governments of the then Provinces of Canada, Nova Scotia, New Brunswick, and Prince Edward Island failed to perceive any sound reasons for not reverting at once to the exclusive and consistent policy which prevailed up to 1854, and that, as the Americans had without any just cause themselves elected to abrogate the Reciprocity Treaty, and abruptly terminate the amicable and mutually beneficial commercial relations which had existed under its liberal provisions, they should also be subjected to the logical consequences of their act, and the legitimate fruits of reversion to terms of trade hostile to our general interests and adversely discriminating against our fishing industry, the Provincial Governments nevertheless yielded their convictions in deference to the wishes of Her Majesty's Government, and in a spirit of conciliatory forbearance consented to a temporary policy, which under most discouraging circumstances, and an utter absence of all practical appreciation on the part of the United States, has been renewed in conjunction with the Imperial Government for four successive years.

Report of the Minister of Marine and Fisheries, dated 15th December, 1869, in connection with Conferences between the British Minister at Washington and the American Secretary of State, relative to fisheries, navigation, and trade.

Exhibit
No. 4.

This Report deals at some length *inter alia* with the Fisheries question, and expresses the views of the Canadian Government on that subject, and its relation to the other topics also discussed.

Pursuant Report of the Minister of Marine and Fisheries, dated 20th December, 1869, embracing the same subject, and having further reference to certain Despatches from Earl Granville relating to the protection of the Fisheries of Canada.

Exhibit
No. 5.

The Reports discuss the matter *ab initio*, and enter fully into the temporary licence system, again urging its total abolition, and the adoption of an exclusive policy, for the enforcement of which the Dominion will provide a local marine force to co-operate with Her Majesty's ships.

NOTE.—(An alternative is suggested in the latter Report, contingent on certain

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improved measures, and the acceptance by the United States of an Imperial suggestion made in 1866, to agree on means of settling all pending disputes.)

Exhibit
No. 6.

Minute of Council, dated 8th January, 1870, on consideration of the foregoing Reports, abolishing the licence system, and excluding in future all foreign vessels from our inshore fisheries: also authorizing the employment of a Marine Police, consisting of six armed vessels, to enforce the laws affecting fishing by foreign vessels. Her Majesty's Government to be requested to detach sufficient British war vessels to maintain order on the fishing grounds, and protect our fishermen.

NOTE.—(In consequence of which a sum of fifty thousand dollars was appropriated by Parliament to outfit these vessels, and six schooners and two steamers are now employed in this service.)

Exhibit
No. 7.

Despatch from Mr. Cardwell, dated 12th May, 1866, covering correspondence between the Earl of Clarendon and Mr. Adams, United States Minister at London in 1866, referred to in the above-named Reports of 15th and 20th December last.

Mr. Adams' Memorandum is a one-sided proposition to enter into a mixed Commission for the purposes of defining "in the field" the limits, under Act 1 of the Treaty of 1818, which should thereafter separate exclusive from common fishery rights in Colonial waters; and to make certain regulations connected with the exercise of common and concurrent fishing privileges in British North American waters, *pending which Commission United States fishermen were to enjoy the free use of all our fisheries without let or hindrance.*

Lord Clarendon readily agreed to and earnestly commended the main features of this proposal, and to expedite the appointment and labours of the Commission, immediately authorized Sir F. Bruce to assent to the principle of settlement, and to arrange with Mr. Seward all the preliminaries for such joint reference. But his Lordship frankly and emphatically declares that he cannot compromise nor put in abeyance the national rights thitherto maintained, nor accept Mr. Adams' proposal to leave the Fisheries open pending the sitting of the Commission.

Lord Clarendon's qualified acceptance of Mr. Adams' proposal having defeated the apparent purpose of the original suggestion of the American Minister, namely, to have all the best of the bargain, no further notice was taken by the United States of his Lordship's amicable acquiescence in any just and equitable means of adjusting difficulties of long standing and vexatious character.

It is to the conclusions laid down in Lord Clarendon's Despatch that frequent reference is made in papers of the Canadian Government, and to which the American Government ought to be distinctly called upon to respond, or else assume before Christendom all the responsibility of whatever international difficulties may hereafter at any time arise out of the undetermined state and irritating circumstances of a controversy raised entirely in the interests and perpetuated by the authority of United States citizens and their Government, as against the Colonial subjects of another and a friendly power actually in possession, and *prima facie* the legal representatives of sovereign rights and privileges which the laws and universal practice of nations put beyond all question, and clearly defend as just and indefeasible.

Exhibit
No. 8.

The Fishery Laws of Canada, including the Act of 1868 and the Amending Act of 1870, relating to fishing by foreign vessels.

These Statutes make provision for the general protection of the coast and inland fisheries, and provide against foreigners trespassing on the inshore fishing grounds, under penalty of instant seizure and formal confiscation. The latter are founded on the Imperial Act, 59 Geo. III., cap. 38.

In addition to the foregoing Exhibits Nos. 1 to 8, the following official documents bring down the record to the present date, and include the principal recent communications of the Government on this question.

Appendix
A.

Report of Minister (29th December, 1869), and approving Minute of Council (8th January, 1870), on engagement of vessels for Marine Police.

Appendix
B.

Earl Granville's Despatch (19th April, 1870), advising of Imperial vessels to protect Canadian fishermen and maintain order.

Appendix
C.

Special Instructions (14th May, 1870) to Canadian Fishery officers commanding Government vessels in Fisheries Protection Service.

Appendix
D.

Cable Telegram (2nd May, 1870) from Lord Granville, and Minute of Council (of next day) thereon, restricting seizure of foreign vessels to three miles off land.

Appendix
E.

Report (21st May, 1870) and Order in Council (25th May) on position of Prince Edward Island waters in respect of fishery policy adopted and being enforced in Canadian waters.

Appendix
F.

Report (31st May, 1870) on seizing foreign trespassers outside of three miles limit

for offences committed within the same, and Minute of Council (2nd June, 1870) thereon.

Report (8th June, 1870) and approving Order in Council (next day) on proposal by Earl Granville to except bays, &c., over six miles wide at mouths from exclusion of United States fishermen.

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Appendix G.

No. 23.

No. 23.

Sir John Young to Lord Granville.

No. 158.)

Niagara, July 6th, 1870.

(Received 27th July, 1870.)

(Answered, No. 214, 6th Aug., 1870, p. 87.)

MY LORD,

I have the honour to forward herewith, for your Lordship's information, a copy of a Despatch which I have received from Mr. Thornton, together with a copy of my reply.

1st June, 1870.

2. The views of the Canadian Government on the point raised by Mr. Fish will be found in the Minute of the Privy Council of the Dominion, of which a copy is also enclosed.

The special instructions dated 14th May, which govern Canadian officers engaged in the Fisheries Protection Service, seem to comply with the latter branch of the alternative suggested by Mr. Fish, and to leave no room for doubt that the United States Fishermen are secured from interference, while in the exercise of the liberty guaranteed to them by the Treaty of 1818 to fish along the coast east of Mount Joly.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed)

JOHN YOUNG.

Enclosure 1 in No. 23.

Enclosure 1 i
No. 23.

Mr. THORNTON to the GOVERNOR-GENERAL.

SIR,

Washington, 1st June, 1870.

On the receipt of your Excellency's Despatch No. 22, of the 14th ultimo, I transmitted a copy of it and of its enclosures to Mr. Fish; and I have now the honour to enclose copy of a note in answer to mine, and which I received yesterday.

31st May, 1870.

Your Excellency will thus become acquainted with the arguments which Mr. Fish puts forward in support of his objection to the Order in Council of the 8th January last. I am not myself certain that there has been no alteration in the limits of Canada since the Act of 1825, quoted by Mr. Fish; but if it be true that the Dominion extends to Ance Sablon, the waters to this point westwards to Mount Joly, as well as those on the coast of the Magdalen Islands, must be comprised in the "waters of Canada;" and it therefore does not seem an unreasonable request on the part of Mr. Fish that the above-mentioned Order in Council should be modified as far as United States fishermen are concerned.

I have, &c.,
(Signed)

EDWARD THORNTON.

His Excellency the Governor-General,
&c. &c. &c.

Mr. FISH to Mr. THORNTON.

Department of State, Washington,
31st May, 1870.

SIR,
I have the honour to acknowledge the receipt of your note of the 18th instant, addressed to Mr. Davis, enclosing a Despatch from the Governor-General of Canada, forwarding copy of a Minute of the Privy Council, and also a Report of the Minister of Marine and Fisheries, dated 28th April last.

The reiteration in this Report of the assurance which you had previously given, that there could be no intention on the part of the Dominion of Canada to abridge any rights to which the citizens of the United States are entitled by treaty, is in accordance with the confident expectations of this Government.

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It had, however, attracted the notice of the Government, that by an Order in Council of the 8th of January last, it was ordered "that henceforth all foreign fishermen be prevented from fishing in the waters of Canada." The question arose, what are the waters of Canada?

At the date of the Treaty of 1818, the boundary of Canada, as understood, was defined by the 27th Cap., 49 George III., entitled an Act for establishing Courts of Jurisdiction in the Island of Newfoundland and the Islands adjacent, and for reannexing Part of the Coast of Labrador, and the Islands lying on said Coast, to the Government of Newfoundland (30th March, 1809), by the 14th section of which it was enacted "that such part of the coast of Labrador from the River St. John to Hudson's Straits, and the said Island of Anticosti, and all other smaller islands so annexed to the Government of Newfoundland by the said proclamation of the 7th day of October, one thousand seven hundred and sixty-three" (except the said Islands of Magdalen), "shall be separated from the said Government of Lower Canada, and be again reannexed to the Government of Newfoundland."

The mouth of the River St. John, referred to in this Act, is understood to be between the 64th and 65th meridian of longitude west from Greenwich.

We further understood that in June, 1825, by the 9th Section of Cap. 59, VI. George IV., entitled an Act to provide for the Extinction of feudal and seignorial Rights and Burthens on Lands held *à Titre de Fief* and *à Titre de Cens*, in the Province of Lower Canada, and for the gradual Conversion of those Tenures into the Tenure of free and common Soccage; and for other purposes relating to said Province, "it was enacted that so much of the said coast as lies to the westward of a line to be drawn due north and south from the Bay or Harbour of Ance Sablon, inclusive, as far as the 52nd degree of north latitude, with the Island of Anticosti, and all other islands adjacent, to such part as last aforesaid of the coast of Labrador, shall be, and the same are hereby reannexed to and made a part of the said Province of Lower Canada, and shall henceforward be subject to the laws of the said Province, and to none other."

The Bay or Harbour of Ance Sablon is understood to be in the longitude of about $57^{\circ} 8'$ at or near the entrance of the Straits of Belleisle.

The Treaty of 1818 secures to the inhabitants of the United States, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind on the shore of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador to and through the Straits of Belleisle, and thence northwardly, &c., &c.

Mount Joly, thus fixed by Treaty as the westernmost limit on the coast of Labrador of the liberty of fishing for the inhabitants of the United States, is understood to be in the longitude of about $61^{\circ} 40'$. From that point eastward and northward on the shores of what was then called Labrador the fishermen of the United States have the liberty to take fish.

The Act last above recited seems to establish the boundaries and the jurisdiction of Canada as extending to the Bay of Ance Sablon, about four and a half degrees of longitude to the east of Mount Joly, and to include the Magdalen Islands.

It was under the impression that this Act establishes the jurisdiction and the eastern boundary of Canada, as extending to a line drawn due north and south from the Bay or Harbour of Ance Sablon, and including the Magdalen Islands, that on the 21st of April last I invited your attention to the first paragraph of the Order in Council of the Dominion of Canada of the 8th January last, declaring "that henceforth all foreign fishermen be prevented from fishing in the waters of Canada," as contemplating a possible interference with the rights guaranteed to the United States under the Treaty of 1818.

The Minute of the Privy Council and the Report of the Minister of Marine and Fisheries, of which you have given me copies, give assurance of the intent of the authorities of the Dominion Government not to abridge those rights; but the Order in Council may be interpreted, by those to whom its execution is entrusted, to authorize their interference with fishermen of the United States while in the exercise of their guaranteed liberty. If our understanding that the boundary and jurisdiction of Canada extend to the Bay or Harbour of Ance Sablon, and include the Magdalen Islands, be correct, "the waters of Canada" embrace the coast of what in 1818 was the coast of Labrador, from Mount Joly to the Bay of Ance Sablon, and include also the Magdalen Islands.

Desirous to avoid the possibility of any misapprehensions on the part of those who may be charged with the execution of the Order in Council, I beg to call your attention to the Acts to which I have referred; and to request, in case I am in error with regard

to the eastern boundary and the extent of jurisdiction of Canada, that you will advise me of the real boundary and jurisdiction. If I am correct in this respect, and if that part of the coast of what in 1818 was known as Labrador, included between Mount Joly and the Bay or Harbour of Ance Sablon, or the Magdalen Islands, be in the "waters of Canada," I do not doubt that the authorities of the "Dominion" will recognise the necessity of such modification of the Order in Council of 8th of January last, or of such additional instructions to be given as will secure the fishermen of the United States from interference while in the exercise of the liberty guaranteed to them by the Treaty of 1818.

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I have, &c.,
(Signed) HAMILTON FISH.

Edward Thornton, Esq., C.B.
&c. &c. &c.

Enclosure 2 in No. 23.

Enclosure 2 in
No. 23.

The GOVERNOR-GENERAL to the BRITISH MINISTER at WASHINGTON.

SIR, Niagara, 6th July, 1870.

In reply to your Despatch No. 27, of 1st June, 1870, with reference to Mr. Fish's objection to the Order in Council of the 8th January last, I beg to enclose, for your information, a copy of a Minute of the Privy Council, explaining their views on the question.

1st July,
1870.

The special instructions dated 14th May, which govern Canadian officers engaged in the Fisheries Protection Service, seem to comply with the latter branch of the alternative suggested by Mr. Fish, and to leave no room for doubt that the United States fishermen are secured from interference while in the exercise of the liberty guaranteed to them by the Treaty of 1818 to fish along the coast east of Mount Joly.

I have, &c.,
(Signed) JOHN YOUNG.

Edward Thornton, Esq., C.B.
&c. &c. &c.

Enclosure 3 in No. 23.

Enclosure 3 in
No. 23.

COPY of a REPORT of a COMMITTEE of the Hon. the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in COUNCIL on the 1st July, 1870.

On the annexed Memorandum from the Honourable the Minister of Marine and Fisheries, dated 14th June, 1870, on the subject of the Despatch of Mr. Thornton, Her Majesty's Minister at Washington, of the 1st inst., respecting the limits of the Canadian Fisheries:

The Committee concur in the Memorandum of the Minister of Marine and Fisheries, and recommend according.

(Certified)
(Signed) WM. H. LEE, Clerk P. C.

MEMORANDUM ON MR. THORNTON'S DESPATCH of 1st inst.

The first communication from Mr. Thornton, dated 22nd April, 1870, covering a note of the previous day's date from Mr. Fish, both of which are referred to in the Report of the undersigned of 28th ult., relates to the wording of the Order in Council of 8th January last, and expresses apprehension of "interference with rights guaranteed to the United States under the first Article of the Treaty of 1818, which secures to American fishermen the right of fishing in certain waters understood to be claimed *at present* as "belonging to Canada."

Mr. Thornton's Despatch also mentions a verbal communication on the same subject from Mr. Fish. It was supposed to have reference to some "recent" change of boundaries incident to confederation, or the acquisition of the Hudson's Bay Company's rights on the Labrador coast; the latter of which are expressly reserved in the said Treaty.

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Assurance was therefore conveyed to Mr. Fish, in pursuance of the Minute of Council of 10th ult., that no such interference as that apprehended could possibly be contemplated by the Canadian Government.

A further Despatch from Mr. Thornton of 1st inst., enclosing Mr. Fish's correspondence at length, now explains the full meaning of Mr. Fish's objection to the phraseology of the Order in Council of 8th January last, and states the argument on which Mr. Thornton acquiesces in Mr. Fish's request that the said Order should be modified as far as United States fishermen are concerned.

Mr. Fish takes exception to the terms of this Order in Council because of the words "waters of Canada," which have, since 1825, included part of the southern coast of Labrador and islands in the Gulf of St. Lawrence, and which at the time of the Treaty of 1818 were subject to the municipal jurisdiction of Newfoundland.

The Act 6 Geo. IV., by which this ancient change of provincial boundaries was effected, is an Imperial Statute, and necessarily reserves by implication all existing Treaty arrangements of an unconditional nature between the Empire and foreign Powers; such also would be the necessary effect of legislative or executive action regarding any matter of local jurisdiction.

The territories and waters affected would not cease to be British because of changes of intercolonial boundaries established by the Imperial Parliament.

Mr. Fish seems to desire a modification of this Order in Council chiefly with a view to providing against any misapprehension in respect of the Treaty rights of United States citizens on the part of those who may be charged with its execution, and suggests that additional instructions should issue.

The undersigned considers that the subsequent Order in Council of 10th ult. is sufficiently explicit, and ought to be quite satisfactory.

If anything more were really necessary to assure Mr. Thornton, and to remove Mr. Fish's apprehensions, reference might be made to the Canadian Statutes relating to fishing by foreign vessels (copy herewith), and to the following extract from the special instructions (dated 14th ult.) which govern officers engaged in the Fisheries Protection Service:

1. "United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground."

The Order in Council of 10th ult. explains the necessary use of the general descriptive terms "waters of Canada" to which exception is taken, and as there is not the remotest probability of any such interference with the rights of American fishermen as Mr. Fish seems to apprehend, the undersigned cannot perceive any sufficient reason why the Minute of Council of 8th January last should be modified in the way suggested by Mr. Thornton.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

Marine and Fisheries Department,
Ottawa, 14th June, 1870.

No. 24.

No. 24.

Sir John Young to Lord Granville.

(No. 165.)

Niagara, 9th July, 1870.

(Received 27th July, 1870.)

(Answered, No. 219, 11th August, 1870, page 87.)

MY LORD,

As I had the honour to state on the 23rd June (No. 140),* I forwarded your Despatch No. 138,† of the 6th June, immediately upon receipt, to the Council of Ministers, for their consideration and guidance.

I pointed out, at the same time, that in order to comply with your instructions, it was indispensable that the special instructions issued to the officers commanding the Canadian Marine Police vessels should be brought into complete conformity with the latest instructions on the subject issued by the Admiralty to the officers commanding Her Majesty's ships employed upon the station.

* Page 31.
† Page 51.

The enclosed Minute of the Privy Council approves, under date the 27th June, of amendments in the special instructions issued to the officers commanding Marine Police vessels, which will, I trust, meet your approval and carry out implicitly the views of Her Majesty's Government.

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7th July,
1870.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in No. 24.

Enclosure in
No. 24.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL on the 7th day of July, 1870.

The Committee have had under consideration a Report, dated 27th June, 1870, from the Hon. the Minister of Marine and Fisheries, having reference to Lord Granville's Despatch of the 6th June, 1870, wherein it is stated that in order to avoid all occasions of dispute so far as is consistent with the substantial protection of the Canadian Fisheries, it is advisable that United States fishermen should not be excluded from any waters except within three miles of shore, or in the unusual case of a bay which is less than six miles wide at its mouth, it being meanwhile explained to the United States Government that this liberty is only temporarily conceded without in any wise being considered to prejudge the question as to what are Canadian waters, and without prejudice to the right of Great Britain to fall back on her Treaty rights.

The Minister of Marine and Fisheries respectfully submits further amendments (hereto annexed) to the special instructions to officers commanding Marine Police vessels, approved by Order in Council of the 8th of June, 1870.

The Committee submit the above Report and the amendments to the special instructions to officers commanding Marine Police vessels, as suggested by the Hon. the Minister of Marine and Fisheries, for your Excellency's approval.

(Certified) WM. H. LEE, Clerk P. C. Canada

(Confidential.)

DOMINION OF CANADA.

SPECIAL INSTRUCTIONS to Fishery Officers, ex-officio Magistrates in command of Government Vessels engaged as MARINE POLICE in protecting the Inshore Fisheries of CANADA.

Department of Marine and Fisheries.

Fisheries Branch, Ottawa, 27th June, 1870.

SIR,

The service to which you are appointed is a special and peculiar one: and the exercise on your part of the greatest possible discretion and judgment is required.

The following directions for your information and guidance are of a confidential nature.

The DUTIES you will perform, and the POWERS you shall exercise, are defined by the present instructions.

DUTIES.—It will be your duty to cruise, at all times, with the vessel under your command on the various "Stations" to which, from time to time, you may be assigned; and to prevent foreign fishermen and fishing vessels from intruding on the Inshore Fisheries and fishing grounds of Canada, either to take or cure fish, or to procure bait for fishing.

Probably American fishing vessels and fishermen chiefly will be concerned. Therefore, it is requisite for you to be more especially informed of the relation of United States citizens to fishery privileges in British waters, as well those of a common and concurrent nature as those of an exclusively Canadian character. Also, to be instructed to what extent, and for what (other than fishing) purposes American fishing vessels and fishermen are permitted free access to the bays and harbours of the Dominion.

The terms of the First Article of the Convention of the 20th October, 1818, between Great Britain and the United States, has, since the expiration of the Reciprocity Treaty, governed the participation of American fishermen in the Gulf and Labrador Fisheries. A copy of the said Article is appended.

1. United States Fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on

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certain of the unsettled shores of the Labrador coast. Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes.

These purposes are :—for shelter, repairing damages, purchasing wood, and obtaining water. They are to be admitted for no other purpose whatever. And during such admission they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them. You will be careful to observe that such qualified admission to the ports and harbours of Canada be not made a pretext or cloak for transferring cargoes, or transacting any other business connected with their fishing operations.

With regard to the Magdalen Islands, although the liberty to land, and to dry and cure fish there, is not expressly given by the terms of the Convention to United States fishermen, it is not at present intended to exclude them; nor is it desirable to impose a narrow construction on the term “unsettled.” Places containing a few isolated houses might not, in some instances, be susceptible of being considered as “settled” within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation, and the circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the desire of Her Majesty’s Government that rights of exclusion should not be strained, must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Should interference with the pursuits of British fishermen, or the property of Canadians, appear to be inseparable from the exercise of such indulgence, you will withhold it, and insist upon entire exclusion.

Americans, when so admitted, should be made aware that—in addition to being obliged, in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such Acts and Regulations as exist to ensure the peaceable and profitable enjoyment of the Fisheries by all persons entitled thereto—they are peculiarly bound to observe peace and order in the quasi settled places to which, by the liberal disposition of Canadian authorities, they may be admitted.

Wheresoever foreigners may fish in Canadian waters, you will compel them to observe the Fishery Laws. Particular attention should be directed to the injury which results from cleaning fish on board of their vessels while afloat, and throwing overboard the offals, thus fouling the fishing, feeding and breeding grounds. The “Fisheries Act” (Sec. 14) provides a heavy penalty for this offence.

Take occasion to inquire into and report upon any modes of fishing, or any practices adopted by foreign fishermen which appear to be injurious to the Fisheries.

Copies of the Fishery Laws of Canada accompany the present instructions.

POWERS.—The capacity in which you are vested with magisterial powers is that of Fishery Officer for the Provinces forming the Dominion of Canada. Your power and authority as a Fishery Officer are derived from the following Statutes: “The Fisheries Act” (31 Vict., cap. 60);

“An Act respecting Fishing by Foreign Vessels” (31 Vict., cap. 61), and the subsequent statute, entitled “An Act to amend the Act respecting Fishing by Foreign Vessels,” made and passed in the present Session of the Parliament of Canada;

“Chapter 94 of the Revised Statutes (third series) of Nova Scotia” (of the Coast and Deep Sea Fisheries);

The Act entitled “An Act to amend cap. 94 of the Revised Statutes of Nova Scotia” (29 Vict., cap. 35);

An Act passed by the Legislature of the Province of New Brunswick, entitled “An Act relating to the Coast Fisheries, and for the Prevention of Illicit Trade” (16 Vict., cap. 69);

Also from such Regulations as have been passed or may be passed by the Governor-General in Council, or from Instructions from the Department of Marine and Fisheries, under “The Fisheries Act,” hereinbefore cited.

In such capacity, your jurisdiction must be strictly confined within the limit of “three marine miles of any of the coasts, bays, creeks, or harbours” of Canada, with respect to any action you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed

{^{six}
ten} geographical miles in width, you will consider that the line of demarcation extends from headland to headland, either at the entrance to such bay, creek, or harbour, or from and between given points on both sides thereof at any place nearest the mouth where the shores are less than {^{six}
ten} miles apart; and may exclude foreign fishermen and fishing vessels therefrom, or seize if found within three marine miles of the coast.

Should you have occasion to compel any American fishing vessels or fishermen to conform to the requirements of the "Fisheries Act and Regulations," as regards the modes and incidents of fishing, at those places to which they are admitted under the Convention of 1818, particularly in relation to ballast, fish offals, setting of nets and hauling of seines, and use of "trawls" or "bultows," more especially at and around the Magdalen Islands,—your power and authority over such cases will be similar to that of any other Fishery Officer appointed to enforce the Fishery Laws in Canadian waters. (*Vide* "Fisheries Act.")

Certain portions of the foregoing Acts relate to the prevention of illicit trade. Instructions will, therefore, be given you by the Customs Department, authorizing you to act as an Officer of Customs; and it will form part of your duty to see that the Laws and Regulations affecting Revenue are duly observed. In your capacity of a Customs Officer, you cannot receive any aid from Her Majesty's vessels to enforce authority under the Customs Laws.

JURISDICTION.—The limits within which you will, if necessary, exercise the power to exclude United States fishermen, or to detain American fishing vessels or boats, are, for the present, to be exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing its sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor for the present to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not admit interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which though in parts more than six miles wide is less than {^{six}
ten} geographical miles in width at its mouth. In the case of any other bay, as Bay des Chaleurs, for example, you will not interfere with any United States fishing vessel or boat, or any American fishermen, ~~inside a line drawn across at that part of such bay where its width does not exceed ten miles, unless they are found within three miles of the shore.~~

ACTION.—You will accost every United States vessel or boat actually within three marine miles of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek, which is less than {^{six}
ten} geographical miles in width, or inside of a line drawn across any part of such bay, harbour, or creek, at points nearest to the mouth thereof not wider apart than {^{six}
ten} geographical miles, and if either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will, in accordance with the above-recited Acts, seize at once any vessel detected in violating the law, and send or take her into port for condemnation. ~~It must be evident and susceptible of the clearest proof that the offence has been committed and the capture effected within the prohibited limits,~~ but you are not to do so *unless it is evident, and can be clearly proved, that the offence of fishing has been committed and that the vessel is captured within the prohibited limits.*

Copies of the former and of the latter Acts are furnished herewith for your use and distribution.

These Acts of Parliament subject to summary seizure and to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits; and provide for carrying out the seizure and forfeiture.

Compulsory means may be employed; but resort to force will be justified only after every other prudent effort has failed.

DIRECTIONS.—If, from threatened resistance and obvious determination to contest the

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seizure, and because of the relative inadequacy of your own force, you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance, and that you are authorised to procure the assistance, if needed, of any of Her Majesty's cruisers. In case of need, you must signal for, or otherwise procure the immediate aid of one of Her Majesty's ships, or of some other of the Canadian Government vessels belonging to the Marine Police. With both the first and last mentioned you will co-operate in all things pertaining to the protection of the Fisheries.

If a foreign ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and momentarily effects her escape from the vicinity, she remains always liable to seizure and detention, if met by yourself in Canadian waters, and in British waters everywhere if brought to account by Her Majesty's cruisers. But great care must be taken to make certain of the identity of any offending vessel to be so dealt with.

All vessels seized must be placed as soon as convenient in the custody of the nearest Customs Collector; and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant or mate, and of two at least of the most respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the unlawful fishing took place, and the ship, vessel, or boat was seized. Also, corroborate the bearings taken by soundings, and by buoying the place (if possible), with a view to actual measurement, and make such incidental reference to conspicuous points and land-marks as shall place beyond doubt the illegal position of the seized ship, vessel, or boat. Omit no endeavour or precaution to establish on the spot that the trespass was or is being committed within three miles of land.

As it may be possible that any foreign fishing craft has been carried within the headland lines and into Canadian waters by violent or contrary winds, by strong tides, through misadventure, or any other cause independent of the will of the master and the crew, you will consider these circumstances, and satisfy yourself with regard thereto before taking the extreme step of seizing and detaining any vessel.

On capture it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel; first lowering the foreign flag borne at the time of capture. If your ordinary complement of men does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will endeavour to engage a few trustworthy men to supply any such emergency. The portion of foreign crew taken on board the Government vessel you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada, or the other British Provinces, may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations, or in port, shall be met with, you should, if circumstances permit, go on board and confer with the Naval Commander, and receive any suggestions he may feel disposed to give, which do not conflict with these instructions, and afford him any information you may possess about the movements of foreign craft, also inform him what vessels you have accosted, and where.

Do not fail to make a full entry of all circumstances connected with foreign vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage, and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity where instructions would most probably reach you at stated intervals.

The service in which you are engaged will be subject to the general direction and control of the chief officer, or Master in command, Captain P. A. Scott, R.N., on board the Government steamer "Lady Head," (in the case of the schooners "Stella Maria" and "La Canadienne," this general control is vested in Napoleon Lavoie, Esq.), whose orders and arrangements you will conform to in every respect. He is advised to consult and to act in conjunction with the British Admiral and Naval Officers commanding Her Majesty's ships.

The precise limits of the station on which you are to cruise, and the further details of your duties, will be described in the directions you will receive as above.

Considerable inconvenience is caused by Canadian fishing vessels, and those belonging to Prince Edward Island, neglecting to show their colours. You will draw the attention of masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

It cannot be too strongly impressed upon you, nor too carefully enjoined on the

officers and crew under your command, that the present service should be performed in a spirit of forbearance and moderation.

The Government relies on your prudence, discretion, and firmness in the performance of the special duties thus entrusted to you.

I have, &c.,

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

(APPENDIX A.)

ARTICLE I. of CONVENTION between HIS BRITANNIC MAJESTY and the UNITED STATES of AMERICA, Signed at LONDON, October 20, 1818.

Article I. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, for ever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits; Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

No. 25.

No. 25.

Sir John Young to Lord Granville.

(Confidential.)

Niagara, 11th July, 1870.

(Received 27th July, 1870.)

(Answered, Confidential, 11th August, 1870, page 90.)

My LORD,

As I had the honour to state on the 23rd of June, No. 140,* I forwarded immediately on receipt your Despatch No. 138,† of the 6th June, to the Council of Ministers, for their consideration and guidance.

* Page 31.

† Page 81.

As stated in my public Despatch No. 165,‡ of the 9th inst., the special instructions issued to the officers commanding Canadian Police vessels were amended, under date the 27th ult., in accordance with the desire of Her Majesty's Government.

‡ Page 42.

But in addition to the communication intimating this compliance, the Council sent me the further Minute enclosed, which advises that I should forward, for the consideration of Her Majesty's Government, the Confidential Report of the Minister of Marine and Fisheries, of date the 4th inst.

7th July,
1870.

This Report contains an ample exposition of the position assumed by the Canadian Government upon the Fishery question, and comments upon the points in which they

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consider that position has been weakened, and Canadian expectations disappointed, by the course which Her Majesty's Government has found it advisable to pursue.

As in the one Minute the Council of Ministers yielded what they were very unwilling to yield, and in the other limited their advice to the single point that I should transmit to your Lordship the Report of the Minister of Marine and Fisheries without committing me in any way to its tone or line of argument, I thought it best not to withhold my formal approval from either Minute, a course of which I hope your Lordship will be inclined to approve.

The main and practical point of having the Canadian instructions to the officers commanding the Marine Police vessels and the instructions issued by the Admiralty to the officers commanding Her Majesty's vessels on the station brought into complete conformity has been attained, and the arguments put forward in the Report of the Minister of Marine and Fisheries will no doubt be submitted on the part of the Dominion Government for your Lordship's consideration by their special envoy, the Honourable A. Campbell.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl Granville, K.G.,
&c. &c. &c.

Enclosure in
No. 25.

Enclosure in No. 25.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in COUNCIL on the 7th July, 1870.

The Committee of Council have had under their careful consideration the Despatch from the Right Hon. the Secretary of State for the Colonies, dated 6th June, 1870, having reference to the instructions given to British and Canadian vessels for the protection of the Fisheries, and to instructions from the Colonial Office of 30th April last extending the privileges of American fishermen with respect to the Fishery limits, &c., and restricting the right of seizing foreign vessels unless actually taken within three miles of the shore, or within a bay not less than six miles wide.

They have also had before them the annexed Report, dated 4th July, 1870, from the Honourable the Minister of Marine and Fisheries, on the said Despatch, and they respectfully submit their entire concurrence in the views and recommendations set forth in the said Report, and advise that a copy thereof be transmitted by your Excellency to Earl Granville, for the information of Her Majesty's Government.

(Certified) WM. H. LEE, Clerk P. C. Canada.

(Confidential.)

Department of Marine and Fisheries,
Ottawa, 4th July, 1870.

N B.—The
marginal notes
to this Report
are by Sir
Frederic
Rogers.

The undersigned had referred to him for report a Despatch from Lord Granville to the Governor-General, under date the 6th ultimo, having reference to the instructions given to British and Canadian vessels for the protection of the Fisheries, and also to instructions from the Colonial Office of 30th April last, extending the privileges of American fishermen beyond what they previously enjoyed, permitting them to enter bays not less than six miles wide, and directing that no vessel should be seized unless actually taken within three miles of shore, or within a six mile bay, as stated therein; appended to which is a memorandum from the Governor-General, under date of 22nd June, informing the Council that it is indispensable that the instructions issued to Canadian cruisers should be brought into complete conformity with the latest instructions on the subject issued by the Admiralty to Vice-Admiral Wellesley.

The undersigned has the honour to report that the instructions to Canadian cruisers were amended on the 27th ultimo, as requested by Lord Granville.

It would appear that Lord Granville contemplated by the Despatch to convey—

1st. That his telegram and Despatch of the 30th April were intended to modify the Colonial Office instructions of 12th April, 1866, while the Council construed it as being required to be read in connection therewith, and they did not imagine that such an important¹ concession of the rights of our fishermen would have been made without consultation² with, and the previous approval of the Canadian Government.

2nd. That though the instructions from the Admiralty to the officers in command of ships of war employed in the protection of the Fisheries, and from the Canadian

¹ A map has been made, illustrating its unimportance.
² Time did not allow.— This has to be explained.

Government to their officers similarly situated since April, 1866, which prohibited foreign fishermen from entering bays less than ten miles wide at the mouth, and which instructions suggested that the forfeiture of such vessels was (if possible) only to be enforced when fishing had taken place within three miles of shore; yet, notwithstanding the instructions, his Lordship now,³ *for the first time, communicates to the Canadian Government the fact that it never was intended to be acted upon.*

3rd. That if any doubt existed about the meaning of the instructions, or the possible chances of a trespasser being taken by Her Majesty's cruisers, that doubt is now removed, inasmuch as his Lordship⁴ intimates that it never was the intention of Her Majesty's Government that their vessels should seize a trespasser under any circumstances, and for fear of such a possibility his Lordship now removes⁵ all chance of it by stating that "the effect of my Despatch, or rather of the letter of the Admiralty, which it transmitted for the concurrence of your Government, was, as regards Her Majesty's vessels, "to make the direction of *non-forfeiture so far absolute, as to require that no fishing vessel whatever should be seized, except within three miles, and for an offence committed within those limits. It was intended to imply, though it was not expressed, that as the only ultimate means of excluding Americans beyond these limits was not to be used, the exclusion itself was not to be enforced.*"

The Canadian Government, by the approved Report of the undersigned, of the 20th December last, was pledged to Her Majesty's Government to maintain an efficient Marine Police to enforce the law⁶ *within the three mile limit*, in the belief that Her Majesty's Government would command respect to national rights outside thereof, and to which this Government conceive them to be pledged, as Dominion vessels; by the limitation of the exclusion of foreign vessels to bays from ten to six miles wide, are precluded from, in any case, seizing beyond three miles, and as British cruisers are now positively directed not to seize unless the offence is committed and the vessel actually seized within three miles of land, the reasonable⁷ presumption is that Her Majesty's cruisers are not intended to seize at all. As a matter of fact, they did not⁸ seize a single trespasser in the past four years. It will also appear, on reference to the Reports of the commanders of Her Majesty's vessels on the station, that though they repeatedly boarded vessels within the three mile limit, which vessels had no licence, and were liable to seizure, there is no instance of a single seizure having been made.

4th. That Her Majesty's Government had reduced the limit of exclusion from bays under ten miles wide to bays under six miles in width, and had done this without the slightest reference to the Canadian Government, who are responsible to the people of the Dominion for the protection of their rights; and, further, that this fact was⁹ communicated to the American Secretary of State, before Her Majesty's Government ascertained whether or not it was satisfactory to the Government of Canada.

5th. That it does not appear from the said Despatch that there was any special reason for deliberately limiting and restricting the rights of Her Britannic Majesty's subjects in British America, nor that the Government of Canada was consulted thereon; nor, indeed, does it seem to have ever¹⁰ been considered necessary to do so in the changes that have been resolved upon during the current year.

6th. That Her Majesty's Government state that they are fully aware that no steps should be taken which should prejudge the question "which are Canadian waters," or should admit the right of United States fishermen to fish within these waters, except within the limits prescribed by the Convention of 1818. The effect of the Acts of Her Majesty's Government is to bring about a result¹¹ which they profess to disavow.

In 1854 we were in actual possession of the three mile limit—of the bays ten miles wide—of the headland line of coast in which our rights were enforced and practically recognised—and it appears much like "prejudging the question," and to the disadvantage of British subjects too, for Her Majesty's Government, pending the settlement of these questions, to waive for the time all but the first of these positions, and so far as the acts of her own cruisers and their instructions to them are concerned, probably¹² *even that also*. It is, in effect, abandoning to United States fishermen privileges which they had not by the Treaty of 1818, when we allow them¹³ to fish in the Bay of Chaleurs, and on all of the best and most valuable fishing grounds which we possessed within the headland lines. No such privilege was conceded to them by the Treaty of 1818, nor were they permitted to enjoy them up to 1854; on the contrary, it was secured exclusively to British subjects by that arrangement. The principle was acted upon, and in 1845, when officially brought up, was alleged and maintained as our right¹⁴ by Lord Stanley, and though placed in abeyance by the Reciprocity Treaty, Lord Clarendon again reasserted that principle in May, 1866; yet, our exclusive privileges are for the present suspended, and in the Despatch which thus deprives us of those rights, we are informed¹⁴ that Her

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³ This, as far as I see, is a simple untruth.

⁴ Ditto.

⁵ On the contrary, distinctly defines when it shall be done.

⁶ I know nothing of this "pledge" or "belief." Mr. M.'s "approved reports" are not treaties, but examine still less his beliefs.

⁷ Nothing of the kind.

⁸ And therefore H.M.G. have agreed to put an end to licence.

⁹ This has to be explained. I think they have a right to an explanation.

¹⁰ All other changes proceeded from Canada.

¹¹ A matter of opinion. We deny it.

¹² On what ground is this said?

¹³ If they did not like this, they should have complained long ago—and may do so now.

¹⁴ A suspension may be so

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guarded as not to prejudice; and we have so guarded it.

¹⁵ If they could deal with us as an independent power, they would be judges of this. As it is, the United Kingdom has a voice in it.

¹⁶ Very likely, but *cui bono?*

¹⁷ Mr. M. does not know how long delicate questions have to await a favourable opportunity of settlement.

¹⁸ I believe concession would encourage them. But the course has been the reverse of concession.

1. The licence system was set up—I think on Lord Monck's suggestion—three warnings being required before forfeiture.

2. The fee was increased.

3. The warnings were reduced to one.

4. The licence was wholly withdrawn.

5. The warnings were discontinued.—The only step in the other direction is this three mile limit.

¹⁹ All very true, I do not doubt.

²⁰ Let him remain in his belief. We are free "not to abandon hope."

Majesty's Government are aware "that no step should be taken which should prejudice the question."

It would seem but reasonable, that if that policy as laid down is to be maintained and acted upon, that our fishermen who have had actual possession of the privileges referred to up to 1854, and who again by the lapse of the Reciprocity Treaty in 1866 were entitled to the same rights they enjoyed in 1854, should be¹⁵ maintained in their possession of all these privileges.

7th. The Despatch further remarks, that "they (Her Majesty's Government) do not abandon the hope that the question of abstract right may yet be avoided by some arrangement between Canada and the United States, or that the limits may be definitely settled by arbitration or otherwise, and while any expectation of this kind exists, they desire to avoid all occasion of dispute, so far as this is possible consistently with the substantial protection of the Canadian Fisheries."

In this paragraph there are two probabilities referred to.

1st. The probability of an arrangement (trade arrangement, it is presumed) with the United States.

2nd. The probability of the limits being fixed by arbitration, or otherwise.

In reference to the first of these, it would have been much more¹⁶ satisfactory to the Government of Canada if the ground upon which Her Majesty's Government have founded the hope thus expressed had been stated. Such hope entertained by Her Majesty's Ministers has been held since 1855; it was believed in by Her Majesty's Government when Lord Clarendon wrote the Despatch of 1866, which so ably indicated the position of British subjects in relation to these Fisheries. Mr. Cardwell expressed a confident belief upon this subject when he induced Canada to adopt his licensing system, as a measure of expediency, for one year. His Grace of Buckingham and Chandos entertained the same hope; and now Lord Granville, though five years have elapsed since notice of abolition, does not seem yet to have abandoned the hope¹⁷ that some arrangements may be secured.

The Canadian Government regret that they cannot see, either in the past or in the future, the same ground for believing that a satisfactory arrangement will be arrived at, nor, indeed, while the present Fishery policy is maintained, any arrangement that Canada would be justified in accepting. On the contrary, it is believed that the chances of such a result are not so good as they seemed in 1866 and 1867; and that, so far from there being anything in the course taken by the United States to warrant the expectation of a fair trade policy being adopted by them, everything indicates the contrary result, and nothing tends more to encourage Americans in the course they have pursued than the spirit of concession¹⁸ towards them which has characterized the fishery policy of the last five years.

In 1866 they, after a year's notice, voluntarily abandoned the Reciprocity Treaty, notwithstanding our efforts in the fall of 1865 to prevent that result. The licensing arrangement pressed upon us in the interests of Her Majesty's Government, and because of *their hope of a trade arrangement, gave them the principal thing that they cared for, which we had to give.* By the liberal policy of England, they had, practically, the *free admission to our coasting trade, as between Province and Province; the privilege of navigating our rivers and canals, the advantages of registry for their shipping in our ports, and almost everything in fact that we had to give that they desired*—except the enjoyment of *our valuable Fisheries*, and these the Despatch of Lord Granville has practically given them.¹⁹ Americans have not met our advances in trade arrangements as we might have expected. The advantages which, through the liberal policy of the Empire, they have enjoyed in Canada, have been responded to *by almost prohibitory tariffs—their canals closed against us—their coasting trade confined to themselves, and their refusal to reciprocate the liberal policy of Britain in reference to the registration of shipping.*

The opinion of the Chairman of the Senate Committee of Ways and Means, in March, 1869, in the United States, was expressed against a renewal of the Treaty, and in his remarks upon that subject, he conveyed the idea that his colleagues upon that Committee did not differ from him in opinion, while in December of the same year the President declared that that Treaty was mainly in favour of the British producer, and had not been favourably considered by the Administration.

In the face of such authority to the contrary, and in the absence of the grounds on which Lord Granville rests his hopes of an arrangement, the undersigned²⁰ cannot participate in the belief that the United States are prepared to offer *any terms that Canada will or should accept.* It is true, that some time ago the United States intimated a desire to admit *coal, salt, lumber and fish* free of duty, provided we would do the same, and give them, besides, the free use of *our fisheries, our River St. Lawrence, and our*

canals, and also with the condition that we should deepen the latter. Canada feels no imperative necessity, as she certainly has no desire, to enter into any such one-sided arrangement. When we do treat upon this subject it must be on equal and fair terms, or it will not be at all; in the mean time, until public opinion so changes in America as to bring about these results, Canada can afford to wait.

The undersigned would moreover remark, that in 1854, when the Reciprocity Treaty placed our rights in abeyance,—the headland lines were enforced,—entire exclusion from bays, with the exception of the concession in reference to the Bay of Fundy, was acted upon, and foreign vessels were seized for trespassing; yet, upon the termination of that treaty, although Lord Clarendon announced the intention of recurring to the active vindication of all the rights British subjects held in 1854, it will be perceived that the Despatch of Lord Granville not only does not reinstate our fishermen in these rights, but limits even much²¹ of the privilege which they enjoyed since 1866.

The second probability which the undersigned observes as referred to in the Despatch of Lord Granville is “his hope that the *limits may be definitely settled, by arbitration or otherwise.*” It would be pleasing to see this expectation realised in a satisfactory manner. If, however, this is to be attained, the undersigned cannot believe that it will be by pursuing the policy which has characterised the treatment of the Fishery Question²² in the past four years.

In 1866, Canada reluctantly consented, at the instance of Her Majesty's Government, to the licensing policy for one year; Nova Scotia was forced into it against her will, on the faith of what cannot be viewed otherwise than a condition or a pledge; but it was only for one year. New Brunswick and Prince Edward Island assented for the same reasons as Canada, and because she led the way in this policy.

In 1867, the Council of Canada protested²³ against this continuance, as it also did again in 1868 and '69, when it asked that the proposition so favourably entertained by Lord Clarendon, for a Joint Commission to settle the disputed points, be again urged upon the consideration of the United States Government. To this latter proposition, though repeatedly urged upon the attention of Her Majesty's Government, the Council have, as yet, received no reply, nor are they aware whether the proposal for a Joint Conference has ever been made to the American Government, or if so, they have not been informed with what result.

The undersigned cannot but feel that this treatment of an *important and vital* question is not such as the Dominion of Canada has a right to expect, and on the 1st instant, by Minute of Council again felt it to be their duty to bring this important subject under the notice of Her Majesty's Government.

As part of the Empire, we are entitled to demand that our rights should be preserved intact, and at least it cannot be considered that we will have performed our duty if we silently permit ourselves to be divested of them by *piecemeal* as is the case with our Fishery interests. The people of this Dominion consider that their valuable Fisheries are a trust vitally important to Canada, and involve interests which Her Majesty holds for the benefit of Her loyal subjects, and which should not be abandoned, nor their protection neglected.

The undersigned therefore submits that the Government of Canada should again ask of Her Majesty's Ministers that they at once urge²⁴ upon the Government of the United States the appointment of a Joint Commission to settle the matters in dispute, and that in the meantime Her Majesty's Government be requested to give such instructions as will exclude foreigners from all the exclusive rights and privileges to which we as British subjects are entitled, under the Treaty of 1818, according to the interpretation²⁵ thereof, so long held and maintained by Her Majesty's Government.

It is further advised that Her Majesty's Government be requested to make no concessions nor terms limiting the privileges to which we are entitled as British American subjects of Her Majesty, and more especially those which were secured to us by the Treaty of 1818, without²⁶ first submitting them for the consideration of, and obtaining the approval of the Government of Canada thereto.

The people of Canada have ever been loyal and true in their desire to maintain the interests of the empire, and would feel deeply anything that would impair its material interests, or create dissatisfaction amongst its population; and the undersigned cannot but express his convictions that the policy recently pursued in reference to the Fishery Question is not such as to meet with the approbation of Her Majesty's subjects in Canada.

The undersigned would now bring under the consideration of Her Majesty's Ministers, the subject of the Gut of Canso.

In the Despatch of Mr. Cardwell's, before referred to, of the 30th April, 1866, the

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²¹ The merest trifle. Vide maps.

²² Not by concession, I agree, but the policy has not been of concession.

²³ And it has been abandoned accordingly.

²⁴ Admitted.

²⁵ But contested by them.

²⁶ Fair.

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following appears:—"Her Majesty's Government do not claim that the prohibition to enter British bays should be generally insisted on, except where there is reason to apprehend some substantial invasion of British rights. And, in particular, they do not desire American vessels to be prevented from navigating the Gut of Canso (from which Her Majesty's Government are asked that they may be temporarily* excluded), unless it shall appear that this permission is used to the injury of Colonial fishermen, or for other improper objects. I have it in command to make this communication to your Lordships, as conveying the decision of Her Majesty's Government on this subject."

* [Lawfully.]

* Let this be shown, and there will be a case.

The undersigned observes in this instruction of Her Majesty's Government, the continued recognition of the right of British subjects to the exclusive use and privilege of navigating the Strait of Canso; and, in accordance with the wishes expressed by Mr. Cardwell, American vessels have been permitted to use that channel since 1866,²⁷ even to the detriment of our own people, as foreign fishermen have taken advantage of this privilege to use the Strait for other and unlawful purposes than those contemplated by Mr. Cardwell's Despatch. Such user is, however, gradually being considered by Americans as a right, and, doubtless, if complete exclusion is not now resolved upon, will shortly be claimed as such. As an evidence of this, it would appear that a motion was, within a few days past, submitted to Congress upon this subject by Mr. Butler, one of its members, who moved a resolution, which was adopted, requesting the President to demand of the British Government *under what pretence of right*, and under whose orders, American fishing vessels are arrested and detained on their voyages in the Strait of Canso, on the way to the fishing grounds, by vessels flying the British flag?

That such a resolution could have been entertained and adopted by Congress, on a point in which our rights are so clear and undoubted, confirms our experience, since 1783, of the manner in which amicable and friendly concessions of a temporary character, in connection with these Fisheries, are almost invariably construed by the Americans into rights.

Her Majesty's Government, under the well-recognised law of nations governing this subject, have always maintained and, until 1854,²⁸ enforced the exclusive British rights as now stated in relation to Canso, and as late as 1841, upon a case stated by Nova Scotia, the British Law Officers of the Crown gave a most decided opinion that the complete right of exclusion of foreigners existed.

* What proof of this, i. e. what proof that United States fishermen have not been allowed to pass the Gut of Canso?

The privileges of navigating the waters of that Gut are therefore exclusively British;—foreigners have no rights there; and while we, as British Americans, are prepared to deal in the most liberal manner in reference to this and other exclusive privileges upon our coasts with foreigners, we must not permit friendly concessions to them to degenerate into a recognised right of user; and we now ask that instructions be issued to enforce the well-known British rights, as recognised and acted upon prior to 1854.

Respectfully submitted.

P. MITCHELL,
Minister of Marine and Fisheries.

No. 26.

No. 26.

Sir John Young to Lord Kimberley.

(No. 173.)

Niagara, 26th July, 1870.

(Received 9th August, 1870.)

(Answered, No. 230, 22nd August, 1870, p. 90.)

MY LORD,

I have the honour to acknowledge the receipt of Lord Granville's Despatch No. 149,* of 9th June last, which states that the Secretary of State for Foreign Affairs had communicated to the Colonial Office copies of two Despatches addressed by Mr. Thornton to me, on the 21st and 22nd April last. I referred this communication for the information of my Responsible Advisers, but as no trace of any Despatches of the dates and on the subject specified could be found in my office, I telegraphed to Mr. Thornton requesting him to furnish me with copies of the documents in question.

* Page 83.

In reply, Mr. Thornton tells me he never sent me any official Despatch on the subject, and that he did not consider the two private letters he wrote me in the light of an official representation.

I duly answered the private letters under date of the 26th April, saying that if the

formal complaint were forwarded to me as promised I would transmit it to the Governor of Newfoundland and the Admiral on the station.

It now appears that Mr. Dodge has failed to supply the United States Government with the necessary documents which he promised in support of his complaint. He has not, in fact, thought fit to prosecute the matter. There is therefore nothing to inquire into or redress so far as he is concerned; but supposing it were otherwise, and the case formally preferred in its present shape, it is sufficiently obvious that there would be a good deal of difficulty in dealing with a complaint when the locality in which the occurrence complained of took place is not specified, or is so loosely specified, that it is not known whether it was to the west of Mount Joly or, it may be, several degrees to the east.

The latter would appear to be the more probable site, as Mr. Dodge says that the persons who on more than one occasion came "in great and overpowering numbers" to plunder his nets were natives of Newfoundland.

It may therefore be that Mr. Dodge was fishing within the waters over which the French fishermen claim an exclusive right.

There are Courts in Newfoundland from which any person laying a complaint similar to this (assumed) complaint of Mr. Dodge could obtain redress, and I presume that in view to the possible occurrence of any such case the Admiralty will issue instructions to Her Majesty's ships to afford all due protection.

This is the more necessary as Canada has no armed vessels with power to enforce order or protect even her own shipping outside the three mile line from shore, and no cruisers at all stationed on the coast of Labrador.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

No. 27.

No. 27.

Sir John Young to Lord Kimberley.

(No. 175.)

Niagara, 28th July, 1870.
(Received 9th August, 1870.)

MY LORD,

I hoped to have been able to forward by this mail the depositions and papers with reference to the capture by the Canadian Police schooners of two American fishing vessels and of certain proceedings in the Gut of Canso. But there has been a delay in sending me the copies, which, however, will be duly sent by the next mail.

I have kept Mr. Thornton fully informed, and forwarded him the papers containing information on all points in each case as they reached my hands.

The Canadian Police officers seemed to be clearly within their right, and their acts not open to challenge; still I have received a remonstrance, through Mr. Thornton, from the Secretary of State of the United States, including every case above alluded to, and stating in addition one or two points on which I am inclined to think Mr. Fish has been erroneously informed as to the fact.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

No. 28.

No. 28.

Sir John Young to Lord Kimberley.

(No. 177.)

Niagara, 2nd August, 1870.
(Received 17th August, 1870.)
(Answered, No. 244, 7th September, 1870, p. 91.)

MY LORD,

I have the honour to enclose, for your Lordship's information, the following documents detailing the action of the Canadian Government and its officers in reference to the Fisheries.

CANADA.

Accounts of the seizures (two) made up to this date by the Canadian Police vessels, and copies of the depositions taken in each case, viz., in that of the American schooner "J. H. Nickerson" and in that of the American schooner "Wompatuck."

Report on the statement made in Congress by General Butler as to the seizure and warning of American fishing vessels in the Gut of Canso.

Telegrams containing the first information given on the above.

A report on the seizure of certain American boats and fishing tackle violating the Canadian Fishery laws on the inland waters on the River St. Lawrence, near Cornwall, with the proceedings in the premises, &c., decision of the Privy Council giving effect to the recommendation of the Minister of Marine and Fisheries to stay further proceedings and restore possession of the boats, &c., to their owners.

A letter from Mr. Thornton, of date 25th instant, with my answer of date the 27th.

I have taken care to furnish Mr. Thornton with full information and copies of the proceedings in each case so soon as they could be prepared, and the officer in command of the Police vessels has orders to send reports on all points regularly to Admiral Wellesley.

These papers will, it is hoped, prove satisfactory to Her Majesty's Government as evidencing the circumspection with which the officers in command of the Canadian Police vessels are acting and the fairness and conciliatory measures which the Canadian authorities desire to combine with the due protection of their rights.

I have, &c.,

(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 28.

DOMINION OF CANADA, PROVINCE OF NOVA SCOTIA.

GUYSBOROUGH to wit:

We, James Alexander Tory, of Guysborough, in the Province aforesaid, Esquire, commander of the Government schooner "Ida E.," and William Grant, Felix Campbell, Thomas Mateson, John McMaster, and Allan Gibson, seamen belonging to the said Government schooner "Ida E.," do severally make oath and say as follows:

That on Saturday, the 25th day of June now last past, at about two o'clock p.m., the said schooner "Ida E." being then at anchor in the North Bay of Ingonish, in the Island of Cape Breton, we saw the American schooner "J. H. Nickerson," of Salem, Massachusetts, Michael McDonald master, at anchor on the eastern side of said bay, and immediately inside of Ingonish Island. That we then boarded said American schooner, which we found to be an American fishing vessel, and were informed that the said master was on shore, and we were also told, by the crew on board said American schooner, that the said American schooner was then there for the purpose of procuring bait, and that she had actually procured some. The said crew were then desired by the said James A. Tory, the commander of the said Government schooner "Ida E.," to send for the master of the said American schooner, and to tell him, that if the said American schooner did not leave in one hour, that the said American schooner would be seized. We then left said American schooner, and boarded several other vessels lying at anchor in said harbour. In about an hour after leaving said American schooner "J. H. Nickerson," we were passing by her, when we were hailed by the master thereof, the said Michael McDonald, from on board said American schooner. The said master then asked the said James A. Tory, Commander of the said Government schooner "Ida E.," if he would permit the said American schooner to remain where she then was over Sunday for the purpose, among other reasons, of getting some more bait. The said James A. Tory thereupon distinctly refused to grant such permission, and also informed the said master of said American schooner, that the said master had already been guilty of violating the law. We then left the said American schooner; and during the remainder of the day were engaged in boarding other vessels until a late hour. On the following, being Sunday morning, we saw the said American schooner "J. H. Nickerson" still at anchor at the same place as on the previous day; and she remained there up to five or six o'clock p.m. of said Sunday afternoon, when the said Government schooner "Ida E." was got under weigh, and proceeded to and was anchored alongside of said American schooner. We went on board of her for the purpose, as the said James A. Tory then informed us, the above-mentioned deponents, of seizing the said American schooner. On getting on board of the said American schooner, the said master thereof then alleged that a portion of his crew was on shore,

Enclosures
in No. 28.

and had been so from the time the notice to leave had been given to him on the previous day, but that he, the said master, expected them on board every moment, and he would sail immediately on their return. Upon the statement of the said master, the said James A. Tory and ourselves, the said other deponents, left said American schooner without making any seizure of her, and the said American schooner sailed subsequently at about ten o'clock the same night.

The said Government schooner "Ida E." left said harbour on the following, being Monday morning, for Cape North; and after making a seizure, at Aspy Bay, of the American fishing schooner "Wompatuck," and taking her to Sydney, C.B., we were returning to Aspy Bay aforesaid, in said Government schooner "Ida E.," and when passing Ingonish Harbour aforesaid, in said Government schooner "Ida E.," we observed a schooner at anchor in said harbour, and at almost the very same spot where we had previously found the said American schooner "J. H. Nickerson," and within less than three cables' length from the shore. After bringing the said Government schooner "Ida E." to anchor, we proceeded on board of the said schooner so observed at anchor as aforesaid, and found her to be the same before-mentioned American fishing schooner "J. H. Nickerson." We were then informed by the master, the said Michael McDonald, and the crew of the said American schooner, that they had come in for more bait; and we then noticed a quantity of fresh herring in the hold of said American schooner which, as the said master stated, had been procured that morning after his coming into said harbour. That this occurred on Thursday, the 30th day of June now last past. That thereupon the said American fishing schooner "J. H. Nickerson" was seized by the said James A. Tory, the commander of the said Government schooner "Ida E.," and sent to the Port of North Sydney.

And I, the said James A. Tory, do for myself say, that on my arrival at the said Port of North Sydney, with the said American fishing schooner "J. H. Nickerson," having heard of threats of an intention to retake said American schooner, I consulted with Thomas Samuel Boun, Esquire, Collector of Customs at that Port, in relation to such threats, and on such consultation it was mutually considered that it would not be prudent to leave the said American schooner "J. H. Nickerson" at said port; and accordingly, I sent the said American schooner, in charge of a portion of the crew of the Government schooner "Ida E.," to the Port of Guysborough, where said American schooner arrived on Sunday, the 3rd day of July inst.; and after being stripped, was placed, together with her stores, material, and cargo, in custody of James Marshall, Esquire, Collector of Customs at said Port of Guysborough.

And I, the said James A. Tory, do further for myself say, that besides her stores and fishing supplies there was, as I was informed by the said master of said American schooner "J. H. Nickerson," at the time of the seizure hereinbefore mentioned, on board of said American schooner, about two hundred and fifty quintals of green codfish and fifty quintals of green halibut packed in ice.

And I, the said James A. Tory, do lastly for myself say, that on the Sunday first mentioned, I distinctly informed the said master of the said American schooner of the nature and character of my instructions, and also placed in his hands, for his guidance, a copy of the last notice of the American Government, respecting the intrusion of American fishing vessels within the prohibited limits, in violation of law and Treaty stipulations, and generally did my best to dissuade him from the commission of any act calculated to lead to the result which is hereinbefore stated.

The above-named deponents, James A. Tory, William Grant, Felix Campbell, Thomas Mateson, John McMaster, and Allan Gibson, were severally sworn at Guysborough, in the County of Guysborough, on the 6th day of July, A.D. 1870,

Before me,

(Signed) E. J. CUNNINGHAM,
Custos of the County of Guysborough and
Commissioner for taking affidavits in the
Supreme Court.

(Signed) JAMES A. TORY.
WILLIAM GRANT.
FELIX CAMPBELL.
THOMAS MATESON.
JOHN McMASTER.
ALLAN GIBSON.

Certified true Copy,

W. F. WHITCHER,
Commissioner of Fisheries.

CANADA.

DOMINION of CANADA, PROVINCE of NOVA SCOTIA.
 GUYSBOROUGH to wit:

I, Martin Sullivan, of Guysborough, in the Province of Nova Scotia, master mariner, second mate of the Government schooner "Ida E.," whereof James Alexander Tory, Esquire, is the Commander, do make oath and say; that I have heard read the affidavit of the said James Alexander Tory, and others hereunto prefixed, and that the position of the said American fishing schooner "J. H. Nickerson," therein mentioned, is correctly stated. I also observed a quantity of fresh herring bait on board of the said American schooner when she was seized by the said James Alexander Tory, and was told by the master of the said American schooner, after her said seizure on the second occasion of meeting with her, that he, the said master, thought that the "Ida E." had gone away; and he was determined to have his bait, and ran on for that purpose.

(Signed) MARTIN SULLIVAN.

Sworn at Guysborough, in the County of Guysborough, this 6th day of July,
 A.D. 1870,

Before me,
 (Signed) E. J. CUNNINGHAM,
 Custos of the County of Guysborough and
 Commissioner for taking affidavits in the
 Supreme Court.

Certified true Copy,
 W. F. WHITCHER,
 Commissioner of Fisheries.

SIR,

Sydney, Cape Breton,
 29th June, 1870.

I have to inform you that on the 27th inst. I found the American schooner "Wompatuck," of Plymouth, Captain Daniel Goodwin, fishing within the limits. I seized and brought her to this port, and she is now in the possession of T. S. Boun, Esq., Custom House Officer, as you will see by the enclosed affidavits. She is over 40 tons (British measure), and has on board about 150 quintals of codfish (green), 60 hogsheds of salt, a quantity of bait, provisions, and fishing gear, also eight skills.

There ought not to be any delay about condemning and selling her, for fear her fish and fishing gear, &c., may spoil.

I have, &c.,
 (Signed) JAMES A. TORY,
 Commander, Schooner "Ida E."

The Hon. Peter Mitchell,
 Minister of Marine and Fisheries, Ottawa.

Certified true Copy,
 W. F. WHITCHER,
 Commissioner of Fisheries.

Dominion of Canada, Province of Nova Scotia,
 Port of Sydney.

James Alexander Tory, Commander of the Government schooner "Ida E.," Thomas Mateson, David Graham, and Allan Gibson, seamen on board the said vessel, make oath and say as follows:

That, on Monday, the twenty-seventh day of June inst., the said schooner "Ida E." came to anchor at about ten o'clock in Aspy Harbour, immediately inside of the island at White Head; that these deponents saw a schooner off the north shore of Aspy Bay from about ten o'clock in the morning until late in the evening of the same day. That, at about eight o'clock in the evening of the same day, deponents proceeded in a boat to the said schooner off the north shore, and ascertained her to be the American schooner "Wompatuck," Daniel Goodwin master, of Plymouth, in the United States of America; that the said vessel was situated about one mile and a half from the shore, and her crew was engaged in fishing codfish; that deponents boarded the said vessel and saw several fresh fish on the deck, some of which had been lately caught and were still alive, and

the men on board were in the act of hauling in their lines; that the deponent, James Alexander Tory, seized the said schooner, and afterwards caused her to be brought to the Port of Sydney, and to be delivered up to Thomas Samuel Boun, Custom House Officer of the port, and the deponent, James Alexander Tory, saith that immediately before the seizure of the said schooner "Wompatuck" he ascertained that she bore from the Government schooner "Ida E." north by west, or a little to north of the Sugar Loaf, on the south side of Cape North.

Sworn to at North Sydney, in the County of Cape Breton and Province of Nova Scotia, on the twenty-ninth day of June, A.D. 1870, before me,

(Signed) JOHN FORBES,
Commissioner for taking Affidavits in the
Supreme Court.

(Signed) JAMES ALEXANDER TORY.
THOMAS MATESON.
DAVID GRAHAM.
his
ALLAN × GIBSON.
mark

Certified true Copy,
W. F. WHITCHER,
Commissioner of Fisheries.

Dominion of Canada, Province of Nova Scotia,
Port of Sydney, C. B.

Martin Sullivan, second mate of the Government schooner "Ida E.," maketh oath and saith that, at the time of the seizure of the American schooner "Wompatuck," he remained on board the "Ida E.;" that he hath heard read the foregoing account of said seizure, and that the description of the position occupied by the said schooner "Wompatuck" at the time of her seizure is correct.

Sworn to at North Sydney, in the County of Cape Breton and Province of Nova Scotia, on the twenty-ninth day of June, A.D. 1870.

(Signed) MARTIN SULLIVAN.

Before me,
(Signed) JOHN FORBES,
Commissioner for taking Affidavits in the
Supreme Court.

Certified true Copy,
W. F. WHITCHER,
Commissioner of Fisheries.

Government Steamship "Lady Head,"
16th July, 1870.

SIR,
I have the honour to acknowledge the receipt of your letter, together with a copy of Mr. Thornton's "Despatch" to the Governor-General of the 2nd inst., and hasten to reply.

In your instructions to the "Fishery Officers" in command of Government vessels engaged as "Marine Police," at page 2, sec. 2, I read as follows: "And during such admission (to the ports) they may be subjected to any restrictions necessary to prevent them from taking, drying, or curing fish therein, or in any other manner abusing the privileges thus accorded to them. You will be careful to observe that such qualified admission to the ports and harbours of Canada be not made a pretext or cloak for transferring cargoes, or transacting any other business connected with their fishing operations."

In the "Convention" of the 20th October, 1818, it is stated that the "American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, or purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

CANADA.

In the Act 59th Geo. III. cap. 38, sec. 4, will be found the following :

“ And be it further enacted that if any person or persons upon requisition made by the Governor or person exercising the office of Governor in any part of His Majesty’s dominion in America, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours, or if any person or persons shall refuse or neglect to conform to any regulation or directions which shall be made or given for the execution of any of the purposes of this ‘ Act,’ every such person so refusing or otherwise offending against this ‘ Act’ shall forfeit the sum of two hundred pounds, to be recovered in the Superior Court of Judicature of the Colony within or near to which such offence shall be committed.”

Among those boarded in “ Pirate Cove ” at 7 A.M., on the 19th June, I find the name of the “ Wildfire ;” she was at a wharf, and ordered to quit in twenty-four hours.

The “ S. S. Day ” was at another wharf in that cove, and ordered to proceed to sea in twenty-four hours also. On the 20th, 9 A.M. (TWENTY-SIX HOURS AFTER THE WARNING), I went alongside the “ Wildfire,” and found that little or no preparation had been made, and that, although afloat in the night, she had been permitted to ground again in utter disregard to orders given.

When asked for the reasons, I learnt that a storekeeper had sold some provisions to a part of the crew who were then absent from the vessel. The master being unable to explain the cause of his delay, and thus violating the law, I threatened to detain him until he could give the necessary security for the “ fine.”

The storekeeper (Mr. Hartley) stated to me that it would press heavily upon him if I sent the vessel out of the straits before the crew could be collected, and as he promised that no unnecessary delay should occur, I gave the master of the vessel an extension of time.

It appears that a crew of fishermen living in that neighbourhood had been engaged to sail in this vessel.

With respect to the “ S. S. Day,” she had delayed going to sea also upon a frivolous pretext ; and, from what I could learn, was abusing the privileges much as the other was doing. The master was also warned by me if he did not proceed to sea with all despatch, and, as he states, left the Gut of Canso soon after.

With respect to the advice supposed to have been offered by Mr. Hartley, I do not think that he was in the frame of mind to offer any that would be of value to a public officer, he seemed so utterly lost to decency, and was amusing himself by damning the Dominion and all acting under its authority.

I am fully persuaded that he had urged the masters of these vessels to neglect our warnings ; his subsequent conduct to my officers in the execution of their duty has convinced me of this.

The masters of these vessels were informed that the laws should be obeyed ; the language mentioned in their letters was not uttered by me, and I am quite sure that neither the officers or men on that occasion said anything of the kind.

I need hardly tell you that the “ Straits of Canso ” have long been used by the Americans to our detriment ; they go there for ice, bait, salt, and other stores. Only last week an American fisherman, who had come in solely (as he said) for wood and water, succeeded in eluding the vigilance of the crew of the “ Sweepstake ” by taking in “ salt.” And it is well known that, by yielding in the slightest degree to their solicitation, we only open the door to further abuses of the privileges accorded to them by the “ Convention.”

The Hon. P. Mitchell,
Minister of Marine and Fisheries, Ottawa.

I have, &c.,
(Signed) P. A. SCOTT,
Captain.

Certified true Copy,
W. F. WHITCHER,
Commissioner of Fisheries.

Copies of Telegrams.

The MINISTER of MARINE and FISHERIES to the GOVERNOR-GENERAL.

Ottawa, 8th July, 1870.

Our cruisers have seized American schooner “ Wompatuck ” off Sydney, Cape Breton, one mile and a half from land. Fish found alive on decks when seized.

The GOVERNOR-GENERAL to HER MAJESTY'S MINISTER at Washington.

Niagara, 8th July, 1870.

Following Telegram just received from Minister of Marine:—

“Our cruisers have seized American schooner ‘Wompatuck’ off Sydney, Cape Breton, one mile and a half from land. Fish found alive on decks when seized.”

The GOVERNOR-GENERAL to the MINISTER of MARINE and FISHERIES.

Niagara, 8th July, 1870.

Thanks for your Telegram. Pray keep me informed of all similar transactions, or if anything of importance occur in subsequent proceedings. Of course you will take every possible precaution that all due forms of law are carefully observed in dealing with captured vessels.

The MINISTER of MARINE and FISHERIES to the GOVERNOR-GENERAL.

Ottawa, 14th July, 1870.

Will forward you to-morrow depositions, &c., relating to seizure of American schooner “J. H. Nickerson” at Ingonish, Cape Breton. Vessel seized within three cable lengths of shore. Was warned off on 25th June, but remained all following day and part of third, when Captain Storey finally seized her in same place.

COPY of a REPORT of a COMMITTEE of the Hon. the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in COUNCIL on the 23rd July, 1870.

On a memorandum dated the 18th July, 1870, from the Hon. the Minister of Marine and Fisheries, recommending that certain boats and fishing tackle, having been seized by the local Fishery Overseer on the River St. Lawrence, near Cornwall, for an infringement of the Act relating to fishing by foreign vessels, and which boats, &c., it since appears, on formal inquiry, belonged to, and were in use by a party of United States citizens, who thus came into and fished in Canadian waters as a pastime and not for trade or profit, without previous knowledge or intention of violating the statute, be released, and all proceedings stayed under section nineteen of the said Act.

The Committee submit the above recommendation for your Excellency's approval.

Certified,

(Signed)

N. A. HUNSWORTH,
Assistant Clerk P. C.

REPORT of W. F. WHITCHER, Esq., on the seizure of certain American Boats and Fishing Tackle, for violating the Canadian Fishery Laws.

In re

J. A. Cameron, Esq., *Fishery Overseer and Seizing Officer, on behalf of Her Majesty,*

VERSUS

Messrs. Paul Grant, Henry Briggs, Briggs Russell, Levi S. Briggs, Jacob Hollenbeck, Levi Gleason, Rodney Russell, James Russell, and others, *United States Citizens, owners and users in fishing of boats, &c., seized, and petitioners for release of same.*

To the Hon. P. MITCHELL, Minister of Marine and Fisheries, &c., &c., Ottawa.

SIR,

Cornwall, 14th July, 1870.

I this day heard on the spot the matter of petition against the seizure made in the above case. The petitioners and others appeared in person attended by counsel. The Fishery Overseer was also present.

The facts substantially established are as follows:

Certain parties, including petitioners, from near Fort Covington, Franklin County, State of New York, being foreigners, and on board of four American boats, having with them such ordinary fishing tackle as is used in trolling and angling, came into Canadian

CANADA.
 waters opposite to and near Summerstown, on the River St. Lawrence, about nine miles below this place, on the 17th ultimo, ostensibly on a pleasure excursion, with camp equipments, &c. and accompanied by their families, and then and there commenced to fish. While some of them were actually engaged in fishing, and others were ashore on an island (with the owner's consent), their boats and fishing tackle were taken and detained by the local Fishery Officer for an infraction of the Act relating to fishing by foreign boats and vessels in the inland waters of Canada; and pending action the offenders, together with their boatmen, were for a brief space of time in formal duress on Canadian soil in connection with such seizure.

The boats and tackle thus seized were forthwith delivered into the keeping of the nearest Collector of Customs, as provided by the statute, to be disposed of according to law.

These transactions were officially reported to the Department.

Here ends the discretionary connection of the Fishery Officer with the proceedings in question.

The fishing constituted an offence under the statute; the boats and tacklings, and fishing apparatus, are liable to forfeiture; and the seizure seems to be effected with due formality.

The purpose of my inquiry, under your directions, is to ascertain the existence and value of the extenuating circumstances set forth by petitioners, with a view to determining whether or not all further action should be waived, and the prayer of this petition for release of the boats and fishing tackle be granted.

It is voluntarily stated before me, by the petitioners, in support of their memorial:—

1. That the parties entered the waters of Canada, not for the express purpose of fishing, but as a casual excursion party;

2. That they and their neighbours are in the habit of engaging in these recreative excursions, and sometimes angling, without any knowledge that the incidental act of fishing at legal seasons and by lawful means, as a pastime, constitutes any offence against the laws of Canada;

3. That members of the party on this occasion did fish, but without any intention or design to infringe our fishery laws, which, on the contrary, they respect and duly observe;

4. That none of the present party is or has been in the habit of fishing within our limits for purposes of trade and commerce, or with any other than customary fishing gear used by pleasure parties and anglers;

5. That they have not, therefore, exposed themselves to any previous warning or forbidding on the part of Canadian officials;

6. That they now learn for the first time that the law is so construed and applied in its literal sense, and thus forbids the practice of fishing for mere sport, as otherwise they would not have rendered themselves amenable;

7. That they perceive the operation of the law required the Fishery Officer to enforce it, since he had no power or authority to make any distinctions in their favour;

8. That residents on the Canada side of the River St. Lawrence make similar boating and fishing excursions to United States waters in that neighbourhood, and are always permitted to fish and land there as pleasure parties without molestation;

9. They ask by this memorial, that under such circumstances their verbal assurances may be accepted and themselves absolved from the reproach of having wilfully violated the law; and in consequence that their boats, &c., may not be forfeited, but restored to them.

The foregoing statements are presumed to be in the main correct, and being uncontradicted may be accepted as facts.

At the hearing I explained the law to petitioners, and informed them of their liability under a strict interpretation of its provisions. I also mentioned the fact of their being subject as well to the general fishery laws and regulations in force as to the special Act relating to foreigners; and in every respect they have been and are still treated (as regards mere angling in our inland waters) with no greater strictness than Canadian fishermen whom the law requires to take and pay for fishery leases and licences.

The Department is aware that during several years past great injury has been inflicted on our inland fisheries along the frontier by indiscriminate and ruinous fishing on the part of foreigners. Their practices have in many instances amounted to violations of the Fisheries Act and regulations. In several known cases they have been such as to inflict substantial damage without being, technically speaking, breaches of the local fishery laws. Where the ordinary fishing tackle and craft used by fishermen in catching fish as a business are employed, the trespassers might be more readily detected and

punished. But when, under the guise of using pleasure skiffs and the usual implements of mere anglers, these foreigners have effected their speculative purposes without seeming to commit any serious infringement of our fishery laws, it has been most difficult and expensive to reach and correct abuses. The neighbourly toleration and extreme indulgence with which, in these respects, Americans along the border have been always treated by Canadian settlers and the Government officials tend to increase such difficulty. For while respectable persons availing themselves of our courtesy may do so with moderation and propriety, it is notorious that others have taken advantage of it to exceed the implied freedom, and to fish so very extensively and unseasonably as to interfere with the market supplies of fresh fish in the frontier cities and settlements, and to diminish the proceeds of Canadian net fishers paying rents to the Government for their stations, and also to affect the pursuits of native anglers. This state of things in our inland waters occasions constant trouble and annoyance to the Fishery Officers. It entails considerable extra public expense to the Fisheries service. I know, from personal observation and official information, that the deteriorated condition of many of our lake and river fishings is chiefly owing to abuses practised by foreigners. Also, I am cognizant of facts and occurrences which prove that angling has been made a pretext to cover most improvident operations; and pecuniary inducements have been held out to needy backwoods settlers to enter into joint fishing speculations with United States dealers regardless of the times and means of rendering the venture profitable. Latterly, arrangements of this kind have increased to an alarming extent, and if unchecked would soon produce consequences quite irreparable. I am informed that the locality where the present trespass and seizure took place has in times past been peculiarly exposed to such injuries. Here and elsewhere, as a general rule, the greatest tolerance has been shown by the Fishery Officers towards all concerned. If a long course of futile cautions and slighted forbearance could justify public officers in administering the laws in any different spirit, I much fear my own knowledge of facts affords only too ready reference in their behalf.

It was for these, among other reasons, that Parliament applied the Act relating to fishing by foreigners to both the sea and inland waters of the Dominion, without expressly authorizing any exceptions as to the modes and purport of fishing in individual cases. Hence under this statute netting, angling, hand-line and all other methods of fishing by foreigners, are equally covered by the law. It may be unfortunate that innocent and honourable anglers from the neighbouring States should thereby suffer a rigid exclusion because of the illegal and faithless conduct of other American fishermen. In this regard, however, their case does not differ materially from that of British subjects who are themselves forbidden generally to fish except under leases and licences, although the prohibition is not rigidly applied to fishing for amusement, or for mere domestic use, unless it is found to work injury and injustice to the regular fishermen by bringing free catch into competition with the products of a licensed and rented Fishery. I may here mention, as a matter of fact, that we have at present in different Provinces of the Dominion several American citizens holding exclusive fishing privileges, under titles for both net fishing stations and angling limits, side by side and on equal terms with Canadians.

It will thus be seen that the Fishery laws affecting alike our own fishermen and foreigners are quite impartially framed. When it is considered that in addition to such general prohibitions in our Fishery laws there is a special Act forbidding foreigners to fish in our inland waters, I might safely affirm that our practice under both of these statutes and existing local regulations has been liberal and neighbourly in the extreme. We must, however, at the same time preserve the power, and maintain the machinery promptly to enforce our abstract right, and to cancel summarily any indulgence which is actually abused or becomes liable to misuse, whether or not in so doing we shall reluctantly include together the innocent angler, the guilty poacher, and the deceptive speculator. This is just the case of the present petitioners, with the fine-drawn distinction that as pleasure excursionists they came prepared and fished merely as incidental to their main purpose. That such was their object—that they angled for recreation and not for profit—that they supposed this part of their pastime to be a custom tolerated (at least in the immediate vicinity) by Canadian authorities, the same as it is permitted to visitors from Canada in adjacent American waters,—I do not desire to gainsay.

There can be no doubt that in this particular locality the freedom of fishing which has existed for many years past, and the entire absence of any official protection, have almost destroyed the fishings. It is certain too that persistence in abusive practices and excessive fishing has of late greatly tried the forbearance of the local Fishery Officer.

CANADA.

Defiance and threats, and contempt of warnings and remonstrance, are not at all calculated to enliven the wearied patience of any official. Hence it is by no means remarkable that the petitioners should find themselves, unexpectedly they say, surprised by the enforcement of the law.

The admitted facts that these individuals had not been at any time before found trespassing or fishing injuriously, and that the officer had not had any previous occasion to specially warn them, and that they really were excursionists, suffice to prove that their offence is not an intentional one, and therefore amounts to a venial breach of the statute. Their petition and statements voluntarily made before me admit the acts constituting an offence, but ask that for the causes stated the law may not be rigorously prosecuted against them.

Under all these circumstances, I beg to recommend that their property be presently withheld from sale, and that before ordering further proceedings in the higher Courts of Law, these circumstances may be deemed sufficient justification for restoring the boats, &c., and abandoning the prosecution, as an amicable act towards foreign neighbours.

In this recommendation, I am authorized to add the cordial assent and concurrence of Mr. Cameron, the acting Fishery Officer.

I take this opportunity to suggest that special directions should be given to all Fishery Overseers having charge of inland districts, regarding the application of the Fishery laws to foreigners. These officers have no power *ex officio* to make any distinctions. If they are to be allowed in future to discriminate in respect of anglers, it should be provided for by definite instructions. Should the Department conclude to allow this, I further suggest that some simple form of gratuitous "Permit" should be adopted for convenient issue under the countersignature of the local Fishery Officers. The act of personal or written application for such permission will serve to notify the officers of the presence and intent of any proposed angling or excursion parties, and may enable them to recognize boats, &c., without incurring the trouble and expense of accosting them from a distance and ascertaining their outfit and occupation. They can also exercise their knowledge and discretion in granting permits to *bonâ fide* applicants, or withhold them from persons who by misbehaviour might disentitle themselves to any indulgence. This formal authority would also prevent any misunderstanding, and place on a regular and safe footing the courteous privilege which I feel confident will, with sincere pleasure, be always extended to such of our American neighbours as may fairly appreciate it.

I am, &c.,

(Signed) W. F. WHITCHER,
Commissioner of Fisheries.

Department of Marine and Fisheries,
Fisheries Branch, Ottawa, 18th July, 1870.

SIR,

Having considered the facts described in Mr. Whitcher's Report, I find this seizure to have been regular and legal; and that the foreign boats and fishing tackle thus seized by you are liable to forfeiture, and were properly delivered into the custody of the nearest Collector of Customs to be disposed of as the law directs.

The principal object of the inquiry which I desired the Commissioner of Fisheries to make was, to ascertain the existence and value of such extenuating circumstances as were urged in their petition by the owners of the boats and tackle so seized, before forfeiting the effects.

I have considered also the peculiar circumstances related, and your frank concurrence in Mr. Whitcher's suggestions.

In approval of your joint recommendation, all further proceedings will be stayed. You are hereby authorized to withdraw from Collector Bullock's custody, and from the proposed sale, the boats and fishing tackle in question, and permit the respective owners to obtain possession of and remove them forthwith.

A circular letter will be addressed to various Canadian Fishery Officers in charge of Inland Fisheries, authorizing them to make a distinction in practice between such foreigners as may desire to engage in *bonâ fide* fishing excursions for pleasure, and those persons who have been or are engaged in and equipped for fishing for trade. I have also directed that printed permits be furnished for gratuitous issue to foreigners, under

countersignature by the local Fishery Overseers, according to their discretion, on oral or written application, in the most convenient manner possible.

John A. Cameron, Esq.,
Ontario.

I have, &c.,
(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

CANADA.

Mr. THORNTON to Sir JOHN YOUNG.

SIR, Newburyport, 25th July, 1870.

I have the honour to enclose, for your Excellency's information, copy of a note which I have received from Mr. Fish, relative to the seizure by the Commander of the Canadian cruiser "Ida E." of the United States fishing vessels "Wompatuck" and "J. H. Nickerson," and to coercive measures taken with regard to some other American fishing vessels.

I also enclose copy of my reply to Mr. Fish, in which your Excellency will perceive that I have transmitted him copies of the depositions taken with regard to the first-named two vessels, with which you were good enough to furnish me.

Should your Excellency deem it expedient to forward me any further details of the proceedings of the Canadian authorities with regard to the other vessels named in Mr. Fish's note, or to make any observations upon the contents of that note which it might be advisable to convey to Mr. Fish, I shall have much pleasure in furthering your views as far as it may be in my power.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

Mr. FISH to Mr. THORNTON.

SIR, Department of State, Washington,
22nd July, 1870.

Information has reached this Department, from the Consulate of the United States at Halifax, of the seizure in Aspy Bay of the American fishing schooner "Wompatuck," while on her way to the Grand Banks from the Magdalen Island. It is stated that she put in to Aspy Bay to obtain a supply of water, got becalmed there, and as it was getting late in the afternoon, the master took a boat, and went in search of a convenient place to get a supply of water, leaving orders that if a breeze sprang up the vessel should be worked up the cove and brought to an anchor. While the master was on shore, the steward, as he afterwards ascertained, contrary to his express orders, caught seven codfish, and before the return of the boat, the commander of the cutter "Ida E.," belonging to the Dominion of Canada, came on board and seized the schooner for violation of the Fishery Laws, and afterwards caused her to be taken to the Port of Sydney. It is further stated that there were one hundred and fifty quintals of fish on board of the schooner, caught by the crew on the Western Banks, and that neither the master nor any of the crew had been fishing within the limits from which, by the Treaty of 1818, American fishermen are excluded.

From other sources I learn that the "J. H. Nickerson" was seized by a Canadian cutter at Ingonish, where she went for the purpose of procuring bait and ice; that the "Wildfire," the "S. S. Day," and other vessels in the Straits of Canso on their way to the fishing grounds were ordered off; that the "S. S. Day," having grounded, was fined eight hundred dollars; that the "Derby Wharples" was seized on her way to the Grand Bank on account of having put into North Sydney to purchase bait. The Department has been further informed by the United States Consul at Picton, that the schooner "Twilight," which had entered Pirate Cove, on her way to the Bay of St. Lawrence, for the purpose of getting wood, was ordered by the captain of the Canadian vessel "Sweepstakes" to get his wood and water on board the same evening or the next day, and leave immediately afterwards.

The statements thus referred to do not appear to show that these vessels were subject to seizure and detention, or molestation, on the ground of any violation of the Treaty of 1818, or of International law; and it would appear from some of these statements that such interference with the vessels of the United States is not made by officers in the Imperial service.

CANADA.

I respectfully request an examination into these several cases, and such reparation as, upon a full consideration, each case may be entitled to.

In connection with the statement that the interference with the vessels above referred to is alleged to have arisen from vessels not under the command of officers in the Imperial service, I do not desire to raise the question whether the exercise of the very delicate duty of enforcing the provisions of the Conventions and Treaties between the United States and the United Kingdom is capable of delegation to another power; but the Government of the United States thinks that the interests of the two nations are more prudently guarded when entrusted to officers deriving their instructions and owing their authority and powers exclusively to the Government whose rights under the Treaties they are instructed to enforce.

Edward Thornton, Esq., C.B.,
 &c. &c. &c.

I have, &c.,
 (Signed) HAMILTON FISH.

 Mr. THORNTON to Mr. FISH.

SIR,

Newburyport, 25th July, 1870.

I have the honour to acknowledge the receipt of your note of the 22nd instant, relative to the seizure of two United States fishing vessels on the coast of Canada, and to the detention of others, and penalties imposed upon them.

I shall not fail to forward a copy of your note to the Governor-General of Canada and to Her Majesty's Government. In the meantime, however, I enclose copies of depositions which have been taken with regard to the seizure of the fishing vessels "Wompatuck" and "J. H. Nickerson," and which I cannot doubt will convince you of the complete legality of those captures.

Indeed I cannot but think that in the collection of laws relative to the Fisheries, which I have already forwarded to you, you will find well-founded reasons for all the measures which have been taken with regard to the different vessels alluded to by you in your note of the 22nd instant.

The laws have been passed by the Parliament of the Dominion of Canada, and have received the approval of the Queen. It is therefore, as I presume, the right, as well as the duty, of the Canadian authorities to enforce the observance of those laws. Indeed there are certain points in which the officers commanding Her Majesty's ships of war do not interfere, as, for instance, in the enforcement of the Revenue Laws, with which duties the Canadian authorities are alone entrusted.

But I have already had the pleasure of communicating to you the nature of the instructions which have been given both to Her Majesty's naval officers and to the commanders of the Canadian cruisers, and of informing you that both the one and the other have been directed to use their powers with the greatest moderation and discretion.

I have, &c.,

The Hon. Hamilton Fish,
 &c. &c. &c.

(Signed) EDWARD THORNTON.

 The GOVERNOR-GENERAL to Mr. THORNTON.

SIR,

Niagara, 27th July, 1870.

I have the honour to acknowledge the receipt of your Despatch No. 38, of the 25th instant, enclosing for my information copy of a note from the Secretary of State of the United States relative to the seizure of certain vessels, and to alleged coercive measures taken with regard to some other American fishing vessels.

I have the honour to request that you will have the goodness to inform Mr. Fish that I will cause inquiry to be made, and will furnish you with full details in each particular case so soon as I receive them.

I have &c.,
 (Signed) JOHN YOUNG.

Edward Thornton, Esq., C.B.,
 &c. &c. &c.

P.S.—Are not the documents I have already sent you sufficient?

J. Y.

Sir John Young to Lord Kimberley.

(No. 153.)

Quebec, 23rd August, 1870.

(Received 7th September, 1870).

MY LORD,

With reference to my Despatch No. 177,* of August 2nd, transmitting certain documents relative to the action of the Canadian Police vessels in the protection of the Fisheries, I have the honour to enclose a copy of a Report from the Honourable the Minister of Marine and Fisheries, which furnishes explanations in reply to the remonstrances of the Secretary of State of the United States, conveyed under cover of Mr. Thornton's letter of the 25th of July.

* Page 53.

3rd August.
1870.

A copy of these remonstrances was communicated to your Lordship in the above-mentioned Despatch No. 177.

It seems premature to discuss the circumstances of the case just yet, before it has been submitted for the judicial investigation of the tribunal appointed by law before which this and all similar cases of seizure must be presented in due course for legal adjudication.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 29.

Enclosure in
No. 29.

Department of Marine and Fisheries,
Ottawa, 3rd August, 1870.

SIR,

The undersigned has the honour to refer to a Despatch from the American Secretary of State of 22nd ultimo, communicated to the Governor-General through the British Minister at Washington, and referred to this Department for report.

Mr. Secretary Fish adverts to the seizure of the United States fishing schooners "Wompatuck" and "J. H. Nickerson," the former of which, he says, on the information furnished to the Department of State at Washington, was captured while inshore obtaining a supply of water, and on the admitted ground of the steward having caught a few codfish during the master's absence ashore, and contrary to his express orders; and the latter of which vessels, it is also reported to Mr. Fish, went inshore for the purpose of procuring bait and ice.

Copies of the depositions supplied in these two cases by the seizing officer were submitted for the information of Council on the 16th instant. The original documents were lodged with the Department of Justice with a view to the legal proceedings in condemnation required by the statute. Copies of these affidavits were also furnished to the British Minister, and by him communicated to Mr. Fish.

Any apparent discrepancies between the information forwarded to the United States Government, and the attested statements in possession of the Government of Canada, will probably receive attention in the course of the judicial inquiry now in course of promotion before the legal tribunal appointed by law. And as the cases will be there disposed of on their merits, it is needless to discuss the point raised in Mr. Fish's Despatch, that the vessels in question were not liable to capture.

The undersigned would however remark that the acts admitted in the present correspondence are sufficient of themselves to justify seizure.

Mr. Fish further complains that the fishing schooners "Wildfire" and "S. S. Day," belonging to United States citizens, were subjected to warning, and threatened with detention in the Gut of Canso, while on their way to the fishing grounds; and that the master of the latter vessel was fined \$ 800 ⁵⁰/₁₀₀. The Report of Captain P. A. Scott, R. N., relating to these two vessels, is herewith submitted, a copy of the same having been already forwarded for the information of the Governor-General.

This Report shows that, although the masters of the vessels named persisted (neglectful of warning) in violating the law, the acting officer exercised singular moderation and forbearance towards them, and did not impose nor levy any fine. The masters of these vessels clearly rendered their property liable to detention; and the circumstances were such as might have fully warranted an officer in disregarding the frivolous pretexts offered, and rigidly enforcing the statute.

CANADA.

Respecting the alleged molestation of the schooners "Derby Wharples" and "Twilight," no special information has been received, and the reputed seizure cannot have taken place. If, however, as Mr. Fish states, the master of the former vessel was denied the liberty of procuring bait inshore, and the latter persisted in hovering about, or unduly remaining inshore on mere pretence of obtaining wood and water, the officer was not only justified in molesting them, but it was his duty to detain, as obdurately trespassing in despite of forbearing caution. The representations made to Mr. Fish respecting these two vessels will be referred to the commander for his observations and report of particulars.

With reference to an objection suggested by Mr. Fish to the enforcement of Canadian fishery laws by any other than Imperial officers, by whom the Government of the United States thinks the fishing interests of Her Majesty's subjects and of United States citizens "are more prudently guarded," the undersigned respectfully submits that it is unnecessary to enter into any serious discussion on the right of Canada to administer her own municipal laws as against foreigners, or to adopt and enforce whatever regulations and restrictions her Government may find necessary to prevent foreign fishermen from abusing any privileges reserved to them under existing conventions with Great Britain.

I have, &c.,
(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 30.

No. 30.

Sir John Young to Lord Kimberley.

(No. 202.)

Quebec, 8th September, 1870.

(Received 21st Sept., 1870.)

MY LORD,

30th August,
1870.

I have the honour to enclose herewith a copy of the Report of Captain Lavoie, commanding the Dominion schooner "La Canadienne," stating the circumstances under which he seized the American fishing schooner "Lizzie A. Tarr."

I have forwarded a copy of this Report to Her Majesty's Minister at Washington.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 30.

Enclosure in
No. 30.

To the Honourable P. MITCHELL, Minister of Marine and Fisheries.

On board "La Canadienne,"

30th August, 1870.

SIR,

I have the honour to inform you that on the 29th August instant, in getting out of the Bay of Seven Islands, we sighted a rather suspicious-looking schooner lying at the bottom of St. Margaret's Bay. Supposing her to be an American fishing vessel, I immediately gave orders to have our boats hauled in so that she might not suspect our character, and for the same reason tacked to the windward of her. When close to her we hoisted the Dominion flag; receiving no answer, we fired a gun, when she showed us a flag with the schooner's name. As this was not what we wanted, I boarded and found that she was an American fishing vessel, the "Lizzie A. Tarr," Captain Self, from Gloucester, United States, sixty-three tons burthen, No. of enrolment 15,588, with a crew of twelve men. She was anchored at the west point of St. Margaret's Bay, on the north shore of the Gulf of St. Lawrence, twelve miles above the Seven Islands, in nineteen fathoms of water, and very close to the shore, at about three hundred and fifty yards. The boats, numbering five, were alongside the schooner, and the crew had just come back from setting their nets. They immediately, at my orders, brought in their lines, together with six large halibuts they had taken, and which they valued at eighty-four dollars.

I told the master and the crew that they knew long ago that it was contrary to the Canadian fishery laws to fish inside of three marine miles of the coast, and that they knew also the serious consequences that would ensue from this open violation of

the law, and that it was therefore my duty to seize their schooner. So I seized her, with all her boats, stores, provisions, fishing gears, &c., according to the third section of the amended Act respecting fishing by foreign vessels.

As I seized this schooner nearer to Father Point than to any other port, and as I was quite sure to get there in a day or two, thus being able to communicate with you more easily and more quickly than to go back to Gaspé, where I was not sure to meet the steamer, and where I might have been two or three weeks before receiving any news from you respecting the seizure. Besides, I thought that if the schooner was to be sold the Government would secure a higher price for her at Rimonski or Quebec than at Gaspé.

As it was self-evident she was far within the three marine miles, I did not think it necessary to measure the exact distance, but estimated it at about three hundred and fifty yards.

The captain and the crew offered no resistance to the seizure of their schooner, as they evidently saw it was useless.

I took the captain and six men on board our vessel, and gave their schooner in charge to my sailing-master (M. Leblanc) and four of our men, to take her into Rimonski. This craft, remarkably well built, a fast sailer, and quite new, is valued at eight thousand dollars.

The master pleads ignorance of the law, and says he thought the Labrador coast extended from Pointe des Monts to Blanc Sablon. Of course he had to find some excuse for this violation of the law; but he told me many times in conversing with me that he had taken us for a "coaster," and that had he had a spy-glass we would not have caught him there. He even told one of our sailors, during his stay on board of "La Canadienne," that the owner of the schooner had sent him to fish at Pointe St. Margaret, halibut being very plentiful there, and no trouble to be expected from the schooners of the Dominion, which never passed there. It appears from what some of his crew say, that the "Lizzie" had already been there once or twice.

The whole nevertheless humbly submitted.

I have, &c.,
(Signed) N. LAVOIE.

Abord de "La Canadienne," 30 Août, 1870.

Je soussigné certifie que j'ai vu la goëlette "Lizzie A. Tarr" (de 63 tonneaux, Capitaine Selff, de Gloucester, ayant douze hommes à bord), à l'ancre à la Pointe Ouest de la Baie Ste. Marguerite, sur la côte du Nord du St. Laurent, à douze milles en haut des Sept Isles, à environ 350 verges de terre; aussi que la goëlette "Lizzie A. Tarr" avait cinq lignes appelées dormantes ("bultow") entre la côte et la goëlette, et que les hommes ont apporté à bord six fletans pris dans les lignes.

(Signed) J. de St. D. LEMOINE,
Secrétaire de N. Lavoie,
Comm. de "La Canadienne."

Je certifie de plus que le Capitaine Selff a dit que s'il avait eu de bonnes longues vues, nous ne l'aurions pas pris; car il nous prenait, dit-il, pour un "coaster," tout en prétendant qu'il ignorait la loi, et qu'il avait droit de pêcher en ce lieu.

(Signed) J. de St. D. LEMOINE.

Abord de "La Canadienne," 30 Août, 1870.

Je soussigné certifie que j'ai vu la goëlette "Lizzie A. Tarr" (Capitaine Selff, de Gloucester, ayant douze hommes à bord), à l'ancre à la Pointe Ouest de la Baie Ste. Marguerite, sur la côte du Nord du St. Laurent, à douze milles en haut des Sept Isles, à environ 350 ou 400 verges de terre; aussi que la goëlette avait cinq lignes appelées "dormantes" tendues à environ 200 verges de la côte.

(Signed) SERAPHIN CARON,
1^{er} Lieut. de "La Canadienne."

CANADA.

Abord de "La Canadienne," 30 Août, 1870.

Je soussigné certifie que j'ai vu la goëlette "Lizzie A. Tarr" (Capitaine Selff, de Gloucester, ayant douze hommes à bord), à l'ancre à la Pointe Ouest de la Baie Ste. Marguerite, sur la côte du Nord du St. Laurent, à douze milles en haut des Sept Isles, à environ 350 ou 400 verges de terre; aussi que la goëlette avait cinq lignes appelées "dormantes" tendues à environ 200 verges de la côte.

(Signed) ACHILLE BOUCHER,
1^{er} patron de canot "La Canadienne."

Abord de "La Canadienne," 30 Août, 1870.

Je soussigné certifie que j'ai vu la goëlette "Lizzie A. Tarr" (de 63 tonneaux, de Gloucester, ayant douze hommes à bord), à l'ancre à la Pointe Ouest de la Baie Ste. Marguerite, sur la côte Nord du St. Laurent, à douze milles en haut des Sept Isles, par 19 brasses d'eau, et à environ 350 verges de terre; aussi que la dite goëlette avait 5 lignes appelées dormantes tendues à environ 200 verges de terre, et que les hommes de la dite goëlette ont apporté à son bord devant nous 6 flétans pris dans les lignes.

(Signed) IGNACE FORTIN,
2^{er} patron de canot "La Canadienne."

Abord de "La Canadienne," 30 Août, 1870.

Je soussigné certifie que j'ai vu la goëlette "Lizzie A. Tarr" (de Gloucester, ayant douze hommes à bord), à l'ancre à la Pointe Ouest de la Baie Ste. Marguerite, sur la côte du Nord du St. Laurent, à douze milles en haut des Sept Isles, par 19 brasses d'eau, et à environ 350 verges de terre; aussi que la dite goëlette avait cinq lignes appelées dormantes tendues à environ 200 verges de la côte, et que les hommes de la dite goëlette ont apporté à son bord devant nous 6 flétans pris dans les lignes.

(Signed) DAVID BEAULIEU,
Matelot de "La Canadienne."

Abord de "La Canadienne," 30 Août, 1870.

Je soussigné certifie que j'ai vu la goëlette "Lizzie A. Tarr" (de 63 tonneaux, Capitaine Selff, de Gloucester, ayant douze hommes à bord), à l'ancre à la Pointe Ouest de la Baie Ste. Marguerite, sur la côte Nord du St. Laurent, à douze milles en haut des Sept Isles, par 19 brasses d'eau, et à environ 350 verges de terre; aussi que la dite goëlette avait 5 lignes appelées dormantes tendues à environ 200 verges de la côte, et que les hommes de la dite goëlette ont apporté à son bord devant nous 6 flétans pris dans les lignes.

(Signed) M. LE BLANC,
Sailing Master.

No. 31.

No. 31.

Sir John Young to Lord Kimberley.

(No. 203.)

Quebec, 8th September, 1870.

(Received 21st Sept., 1870.)

No. 177,
2nd August,
1870.
No. 183,
23rd August,
1870.

MY LORD,

With reference to my Despatches noted in the margin, I have the honour to transmit herewith copy of a letter from Sir Edward Thornton, covering copy of a Note from the Acting Secretary of State of the United States, transmitting copy of a Deposition made by the master and part of the crew of the "J. H. Nickerson," relative to the seizure of that vessel.

15th August,
1870.

This Deposition will, as a matter of course, receive due consideration from the Court before which the case will come for adjudication.

I am informed the United States authorities have employed counsel to appear for the defence.

I have, &c.,
(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

CANADA.

Enclosure in
No. 31.

Enclosure in No. 31.

SIR EDWARD THORNTON to SIR JOHN YOUNG.

(No. 41.)

SIR, Washington, 15th August, 1870.

I have the honour to enclose copy of a note which I have received from Mr. Bancroft Davis, Acting Secretary of State, transmitting copy of a Deposition made by the master and a part of the crew of the "J. H. Nickerson," relative to the seizure of that vessel.

In acknowledging the receipt of Mr. Davis' note, I have availed myself of the opportunity to forward to him a copy of the Letter addressed to your Excellency by the Minister of Marine and Fisheries, on the 3rd instant, contained in your Despatch No. 53, of the 6th instant. In my note (copy of which is also enclosed), I have expressed my hope that the master of the "J. H. Nickerson" will have felt it incumbent upon him to be present at the judicial inquiry, and to furnish such evidence as he may think fit in the interest of the owners of that vessel.

I have, &c.,

(Signed) EDWARD THORNTON.

Sir John Young, Bt., G.C.B.,
&c. &c. &c.

Mr. DAVIS to SIR EDWARD THORNTON.

Department of State, Washington,
12th August, 1870.

SIR, Referring to my note of the 23rd ultimo, and to your reply of the 25th, in relation to the seizure of certain fishing vessels by Canadian authorities, I have now the honour to enclose, in corroboration of the statements made concerning the case of the "J. H. Nickerson," a copy of a Deposition made by the master and a part of the crew of that vessel, respecting the circumstances under which she was seized, which paper was communicated to this Department by the Hon. Benjamin F. Bulter, of the House of Representatives.

I have, &c.,

(Signed) J. C. B. DAVIS.

Sir Edward Thornton, K.C.B.,
&c. &c. &c.District of Salem and Beverly.
Collectors' Office, Salem, Massachusetts,
21st July, 1870.

Statement of Michael McDonald, master, respecting the seizure of the schooner "J. H. Nickerson," of Salem, by the cutter "Ida E.," belonging to the Dominion of Canada.

I, Michael McDonald, of Salem, master of the schooner "J. H. Nickerson," belonging to Charles C. Jellingell and others, of Salem, do hereby certify that the said schooner sailed from the Port of Salem on or about the 25th of May, on a fishing voyage to the Banks. That, after fishing for several weeks on St. Peters' Bank, becoming short of water and bait, on Saturday the 25th June, the captain entered Ingonish (or Neganish) Bay, to purchase supplies, and anchored there. In the afternoon, the captain of the cutter "Ida E." of the Dominion of Canada, came on board the "J. H. Nickerson" during the absence of Captain McDonald on business connected with the purchase of supplies. Two of the crew of the Nickerson went on shore and told Captain McDonald that the captain of the cutter had ordered them to sea. Captain McDonald went directly on board. The cutter's boat was rowing by the stern, and he beckoned to them to come on board. He asked if he would be allowed to stop over Sunday, as it was blowing hard from the south, and he did not think it fit to go out. The captain of the cutter replied, "If I give you leave, I must give it to all the rest." said no more, and went on board his own vessel.

CANADA.
 On Sunday afternoon he returned to take possession of the schooner, his men being armed with boarding-pikes, pistols, &c. Captain McDonald's signal was set for the return of a portion of his crew, who were on shore, and he so informed the captain of the cutter, stating that they had friends there, and had liberty until Sunday evening. He made affidavit to that effect; but, nevertheless, he was ordered to depart immediately. He sent on shore for his crew, being obliged to leave two behind, and, it being calm, the crew towed the vessel out with their dories. Captain McDonald went out to St. Anne's Bank, twenty-five miles from the nearest land, fished there until Thursday, then returned to Ingonish Bay, to obtain his two men and procure provisions, which he was prevented from getting before by his peremptory departure.

After being anchored about an hour, the cutter "Ida E." came in, and took possession of the "J. H. Nickerson." Captain McDonald protested that he had violated no law, and was not liable to seizure. The captain of the cutter told him he was not allowed to buy provisions, and the vessel would be seized.

The "J. H. Nickerson" was accordingly taken possession of. The crew were ordered on board the cutter, and Captain McDonald refusing to leave his vessel, remained on board until his arrival at Sydney, where all his men were landed.

Some of the schooner's cooking utensils and provisions were taken on board the cutter at Sydney, before the vessel proceeded to Guysborough, as was reported, on her way to Halifax.

The mate of the cutter and other officers and citizens repeatedly asserted that the seizure was illegal, but all to no effect.

The undersigned master, and a portion of the crew of the "J. H. Nickerson," do hereby certify that the above statement which has been read to us is true, to the best of our knowledge and belief.

(Signed) MICHAEL McDONALD.
 MICHAEL POWERS.
 THOMAS McDONALD.
 EDWIN N. HALL.
 JOHN WILLS.
 CHARLES W. SMITH.
 PETER ROBERTS.
 WILLIAM BUSHEY.

Subscribed and sworn to before me this 21st day of July, 1870.

(Signed) CHARLES W. TALFRAY,
 Collector.

SIR EDWARD THORNTON to Mr. DAVIS.

SIR,

Washington, 15th August, 1870.

I have the honour to acknowledge the receipt of your note of the 12th instant, enclosing copy of a Deposition made by the master and a part of the crew of the "J. H. Nickerson," respecting the circumstances under which she was seized, and I shall not fail to forward a copy of this Document to the Governor-General of Canada.

I avail myself at the same time of the opportunity of forwarding to you copy of a Letter addressed by the Canadian Minister of Marine and Fisheries to Sir John Young, containing observations in reply to the note dated the 22nd ultimo, which I had the honour to receive from the Secretary of State, and of which I transmitted a copy to Sir J. Young.

As it would seem from this letter that a judicial inquiry was to have been made with regard to the case of the "J. H. Nickerson," I am not without hopes that the master of that vessel will feel it incumbent upon him to be present at the trial, and to give such evidence as he may possess in the interest of the owners.

I have, &c.,
 (Signed) EDWARD THORNTON.

The Hon. J. C. Bancroft Davis,
 &c. &c. &c.

No. 32.

CANADA.

No. 32.

Sir John Young to Lord Kimberley.

(No. 210.)

Quebec, 13th September, 1870.

(Received 28th September, 1870.)

(Answered, No. 265, 12th October, 1870, page 92.)

MY LORD,

I have the honour to acknowledge the receipt of your Lordship's Despatch No. 201,* July 30th, 1870, respecting the action of the Canadian Police vessels employed in the protection of the Fisheries, and in reply beg to refer your Lordship to my Despatches noted in the margin, and to a further Report herewith enclosed, which I have received from the Minister of Marine and Fisheries on the same subject.

I have, &c.,

(Signed) JOHN YOUNG.

The Earl of Kimberley,
&c. &c. &c.

* Page 86.

No. 177.
2nd August,
1870. Page
No. 183.
23rd August,
1870. Page
24th August,
1870.

Enclosure in No. 33.

Enclosure in
No. 33.

SIR,

Ottawa, 24th August, 1870.

Reverting to my letter dated 3rd inst., on the subject of Mr. Secretary Fish's remonstrances against the interferences which have occurred with certain United States fishing vessels, I have now the honour to state that further inquiry has been made into the cases of the schooners "Wildfire" and "S. S. Day." It will be recollected that a full Report relating to these and other American fishing vessels was enclosed in the above Letter for your Excellency's information. The additional facts which I have since ascertained, very clearly establish the rightful action of the Fishery Officers in respect of the several schooners accosted by them. These facts moreover prove conclusively that, so far from the masters of such foreign craft having been treated with undue severity as regards their property, and the exercise of the specific privileges secured to them by Treaty; they were really indulged beyond reasonable necessities, and this in the actual presence of evasive proceedings and frivolous excuses of a most provoking nature.

Mr. Fish complains that certain vessels were seized and others molested in our harbours without just cause.

As the seizures of the schooners "J. H. Nickerson" and "Wompatuck" are at present in course of litigation, and the owners are defended by counsel engaged at the instance of the United States Government, it is needless to make any further reference to them, as they must now be dealt with in accordance with law.

I shall refer briefly to the facts of each of the other cases described in Mr. Fish's Despatch.

The schooners "S. S. Day" and "Wildfire" were, early in the morning of the 19th June, found at a wharf in one of the harbours of the Gut of Canso, having lain there for some time. Their owners did not even pretend to be there for shelter or repairs, nor to purchase wood or procure water. They were, as a matter of fact, known to be there waiting for supplies and to complete their crews. The Fishery Officer boarded them and warned the masters to depart, giving them twenty-four hours to do so, when he might legally have detained them forthwith and recovered penalties.

Notwithstanding such lenience these vessels remained there, quite indifferent to this indulgent notice, until the forenoon of the following day, without the shadow of lawful excuse. The owners had wilfully and with apparent design suffered them to ground on the ebb-tide; and although the provocation was great, the visiting Officer extended the time already allowed long enough to admit of their again floating with the flood-tide, and thus practically afforded each another opportunity to collect a crew. They ultimately departed with manifest reluctance, and only when compelled to do so under pain of instant detention and fine.

The schooner "Twilight" was boarded in one of the ports of Nova Scotia, and required to proceed to sea immediately on completing the alleged purpose of entering the harbour—namely, to obtain wood and water; and her master and crew were very properly denied the further privilege of remaining inshore to procure bait and supplies, which they protested were necessary for their fishing voyage.

The reported seizure of the "Darby Wharples," of which Mr. Fish also complains, does not appear to have taken place, so far as the Officers of the Marine Police are informed or can ascertain.

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A great number of United States vessels have been formally accosted during the season, but nothing unusual is reported to have taken place, although the Officers' Reports show that in the majority of instances the legitimate purposes of their presence inshore are continually and with very persistent adroitness employed to cover operations of an illegal character. The laws strictly forbid them to frequent our bays, ports, and harbours for any other purpose whatever except for *bonâ fide* security and repairs, and to provide themselves with reasonable and necessary supplies of wood and water. In the exercise of this special privilege they are subjected to whatever restrictions are deemed requisite to prevent their exceeding or abusing the same. The Canadian Officers are therefore instructed to prevent them from hovering about or remaining within shore on any part of the coast, after the obvious purpose of their presence has been fulfilled, or could by due diligence be accomplished. Also these Officers are directed not to permit the masters or crews to procure bait, by purchase or otherwise, to buy salt, ice, stores and provisions, or to engage sailors; and they are specially ordered not to allow of the transfer of cargoes, or the transaction of any other business connected with their fishing operations.

The Department is well aware that the stringency of these regulations is the cause of much practical inconvenience and loss to United States citizens, and that it also occasions grave complaints from resident traders and others along the sea-coast, who are thus deprived of the customary gains derived from trading freely with American fishermen, and supplying their vessels with men and materials. But the Government finds it necessary to impose on its own people considerable sacrifices of pecuniary gain to insure the rigid enforcement of a policy which must eventually transfer a great portion of the lucrative and extensive business now enjoyed by these foreigners to our own people and to British vessels. Some temporary losses and minor deprivations are inseparable from every national policy. And while the attainment of our object in the protection and enjoyment of a vast maritime resource which belongs exclusively to us in its most favourable developments necessarily causes discomforts to many of our seaboard population, of which they may very naturally and not unjustly complain, there can be no sensible ground of complaint on the part of Americans who suffer temporary inconvenience and substantial loss from the execution of our laws and the preservation of our rights.

I am well aware of the extent to which United States fishermen still manage to evade our regulations, through the connivance of some British subjects whose immediate pecuniary interests are affected, and succeed in thwarting our endeavours to insure ourselves against their enjoying any more than the privileges to which they are entitled by Treaty. But the Government will be prepared in future seasons to defeat all such evasions. And if more rigid restrictions be applied hereafter on account of the persistent and vexatious abuses which American fishermen seem determined to practise under cover of frequenting our bays and harbours for the specified lawful objects, then, it must be borne in mind, that we are reluctantly forced into adopting measures of the utmost stringency in mere self-defence.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

No. 33.

No. 33.

Sir John Young to the Earl of Kimberley.

(Confidential.)

Quebec, 23rd September, 1870.

(Received 5th October, 1870.)

(Answered, Confidential, 12th Oct., 1870, page 91.)

MY LORD,

With reference to my Secret Despatch of the 9th instant,* informing your Lordship that Sir Edward Thornton had kindly visited me at Quebec, I have the honour to enclose a copy of a confidential Despatch which I have received from Sir Edward referring to the conversations he had had with the Ministers of the Dominion whom he met here, and communicating the result of a conference with the Secretary of State of the United States since his return to Washington with reference to the protection of the Canadian Fisheries and to the interpretation of the Treaty of 1818.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

* Not printed.

No. 45
Confidential.
12th Sept.,
1870.

Enclosure in No. 33.

(No. 45.)

SIR EDWARD THORNTON to SIR JOHN YOUNG.

(Confidential.)

SIR, Washington, 12th September, 1870.

Your Excellency will remember that during the visit which I had the honour of paying you a few days ago at Spencer Wood, when you were kind enough to make me acquainted with those of your Ministers who were able to come to Quebec, I stated to Sir Francis Hincks and to Dr. Tupper that, just before I left Washington, Mr. Bancroft Davis, acting Secretary of State, had sent for me and had informed me that news had just reached him of a declaration by Her Majesty's naval officers, that for the future no United States fishing vessels would be allowed to enter the ports of Canada for the purpose of trading, procuring provisions, salt, ice, fishing tackle, or bait, or, in short, for any purposes except precisely those mentioned in the first article of the Treaty of October 20th, 1818, viz., "for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water."

Mr. Bancroft Davis had added that the United States Government could not admit such an interpretation of the wording of the Treaty, but considered that American fishing vessels had a full right regularly to enter at the Custom House of a Canadian port, and to trade there and carry on commercial operations.

Dr. Tupper informed me of the circumstances which had given rise to Mr. Bancroft Davis's observations, and which had taken place at Prince Edward Island, where an American fishing vessel had received a permit from the Custom House to land her fish, which was to be reshipped in another vessel and forwarded to the United States, whilst the fishing vessel would proceed to continue her occupation of fishing. The commander of Her Majesty's ship "Valorous" had thereupon declared that the Custom House had no right to issue such a permit, and that in case of a repetition of such a proceeding, the vessel would notwithstanding be seized.

I understood Dr. Tupper to express his opinion that such a declaration was entirely in conformity with the Treaty of 1818, and that the Government of the Dominion considered that they were justified by the terms of that Treaty in preventing American fishing vessels from trading or effecting any commercial operations in Canadian ports. Dr. Tupper likewise assured me that the same practice had always been observed previously to the signing of the Reciprocity Treaty of June 5, 1854.

Your Excellency may also remember that although I declined to discuss the interpretation of the wording of the Treaty, I said that even if it really gave us a full right to prevent American fishing vessels from trading in Canadian ports, I thought it somewhat unfriendly and unneighbourly, and that it might embitter the relations between the two countries, which in the interest both of Canada and Great Britain should be most cordial.

Dr. Tupper, however, insisted upon the rights of the Canadian Government, and assured me that if these rights were not maintained, it would be impossible to prevent encroachments upon the three miles limit; for if American fishing vessels were allowed to be constantly going in and out of port they could always allege, as a pretext for being within the three miles, that they were on their way in or out of port.

I understood this to be more or less the case of the Canadian Government, and that they were determined to assert their rights as they interpreted them from the Treaty of 1818.

On my return to Washington, Mr. Fish asked me whether the Government of the Dominion intended to insist upon their right to exclude American fishing vessels from entering at the Custom Houses of Canadian ports for purposes of trade and commercial operations, and upon my replying in the affirmative, and that they meant to avail themselves of the right, he stated that his Government could not admit such an interpretation of the wording of the Treaty. He said that he had been given to understand and believe that such a right had never been asserted or carried out even before the signing of the Reciprocity Treaty. He considered that the "bays or harbours" from which, by the Treaty, fishing vessels were to be excluded, except for particular purposes, did not comprise regularly established commercial ports where Custom Houses existed, and that the Treaty never intended to exclude them from such ports or to prohibit their trading there. In support of this argument Mr. Fish referred me to the negotiation of the Treaty, which your Excellency will find in detail in vol. 7 of the "British and Foreign State Papers," 1819, 1820, and particularly to the Protocol of the fifth Con-

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ference held on the 6th of October, 1818, when the British Commissioners made a counter-proposal of a fishery article recorded therein. In this article a stipulation was proposed that fishing vessels should be allowed to enter bays and harbours "for the purpose of shelter, &c., and for no other purpose whatever." In the next paragraph it is proposed that "the liberty of taking, drying, and curing fish, shall not be construed "to extend to any privilege of carrying on trade &c.," and further, that the vessels should not have on board any goods, &c.

Mr. Fish argues that the British Commissioners considered these last stipulations necessary for the prevention of trade; but the United States Commissioners refused to admit them, and induced their British colleagues to recede from their demands, whence Mr. Fish concludes that the Treaty as finally adjusted did not intend to prohibit trading by American fishing vessels.

He finished by saying that his Government were convinced that this was the correct view of the matter, and the one by which they must abide, and that if the Canadian Government were determined to continue the restrictions now announced, as he asserts for the first time, the United States Government would have to look about for some means of pressure, and he hinted at the withdrawal of the bonding facilities now allowed by the United States to Canada.

I venture to hope, therefore, that your Ministers will take this matter into their serious consideration, for even if their strict interpretation of the letter of the Treaty be the correct one, and although in case of retaliation by the United States the Canadian Government would probably be able to find means of adopting a similar course, I think that your Excellency will agree with me that such a system should be earnestly deprecated, as likely to endanger the good relations which we all desire to maintain, and even improve.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

No. 34.

No. 34.

Sir John Young to Lord Kimberley.

(No. 221.)

Quebec, 26th September, 1870.

(Received 13th October, 1870.)

MY LORD,

I have the honour to enclose copies of affidavits, made by Captain Carmichael, in command of the Dominion Marine Police schooner "Sweepstake," and other persons, relating to the seizure of the United States fishing vessel "A. H. Wonsou."

I have forwarded a copy of this document to Her Majesty's Minister at Washington.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in No. 34.

Enclosure in
No. 34.

PROVINCE OF NOVA SCOTIA, DOMINION OF CANADA.

By this public Instrument, be it known and made manifest unto all people, that on the seventh day of September, in the year of our Lord one thousand eight hundred and seventy, personally came and appeared before me Simon H. Holmes, Notary Public, duly authorized, admitted and sworn, residing and practising in Picton, in the County of Picton and Province of Nova Scotia, Dominion of Canada; James C. E. Carmichael, Commander of the Government schooner "Sweepstake," one of the vessels employed by the Government of Canada for the protection of the Fisheries in the Gulf of St. Lawrence and adjoining waters; and James A. Nickerson, first officer of the said schooner "Sweepstake;" and John Rose, carpenter; and Livingston Cleverly, gunner of the said schooner, who being severally sworn did solemnly declare and state as follows, that is to say: On the night of Friday, the second day of September instant, these appearers, and the rest of the crew of the said schooner "Sweepstake" on board the said vessel, arrived at Broad Cove, on the western side of the Island of Cape Breton, in the said Gulf of St. Lawrence, and anchored there for the night. At daybreak next morning they observed a number of vessels apparently fishing to the northward of where the said

schooner "Sweepstake" was so anchored, and southwardly of Sea Wolf Island, near said Broad Cove. That they hoisted anchor and bore down in the direction of said vessels and came up to one of them engaged in so fishing, and fired a blank shot, and immediately lowered a boat and boarded the said vessel, and found her to be the schooner "A. H. Wonson," of sixty three tons burthen, belonging to Gloucester, Massachusetts, in the United States of America, Webber master. The commander of the schooner "Sweepstake" then went on board the said schooner "A. H. Wonson," and having examined the same, found that there were sixteen persons on board including the officers; they also found on board the said schooner about one hundred and eighty barrels of mackerel, some of which appeared to have been recently caught, and not packed down. The said schooner was supplied with fishing lines, tackle, bait, salt and all other appliances necessary for carrying on fishing, and was at the time referred to situate at a point less than two miles in a southwardly direction from said "Sea-Wolf Island," and within two miles from the shore of said Cape Breton Island, and near the north end of said Broad Cove. And the men and crew on board the said schooner "A. H. Wonson," at the time of being so discovered at or near the point above described, were engaged in throwing out bait, and casting their fishing lines. Whereupon the Commander of the said schooner "Sweepstake" seized the said schooner "A. H. Wonson, for an infraction of the Act relating to Fishing by Foreign Vessels, and put a prize crew on board under the charge of the said first officer, and proceeded with the said vessel so seized to Port Hood, in the Island of Cape Breton, at which place they arrived about one o'clock in the afternoon of the same day, and immediately afterwards the Commander of the "Sweepstake" telegraphed the particulars of the said seizure to the Honourable the Minister of Marine and Fisheries at Ottawa. That they remained at said Port Hood in charge of the said seized schooner, being detained there by a violent gale of wind, which lasted until the evening of the following day. And on Monday morning, the fifth instant, they left for the Port of Picton, in the Province of Nova Scotia, and took the said captured schooner "A. H. Wonson" and conveyed her to the said Port of Picton, at which port they arrived on Monday, the fifth instant, at ten o'clock in the evening, and on Tuesday, the following morning, the said schooner "A. H. Wonson," so seized, was, with all all her boats, tackle, apparel, furniture, rigging, stores and cargo, delivered into the custody of the Collector of Customs at the said Port of Picton.

We, James C. E. Carmichael, commander, James A. Nickerson, first officer, John Rose, carpenter, and Livingston Cleverly, gunner, of the Government schooner "Sweepstake," do severally make oath and say that the foregoing statement is correct, and contains a true account of the facts and circumstances connected with the seizure of the aforesaid schooner "A. H. Wonson."

(Signed)

J. C. E. CARMICHAEL, Commander.
 JAMES A. NICKERSON, 1st Officer.
 LIVINGSTON CLEVERLEY, Gunner.
 his.
 JOHN × ROSE, Carpenter.
 mark

Thus sworn in due form of law on the Holy Evangelists, at Picton aforesaid, the day and year first above written, before me (the said John Rose, whose mark is made above, being unable to write, the same was first read over to him, and he said he perfectly understood the same, and made his mark in my presence),

(Signed)

SIMON H. HOLMES,
 Notary Public, Picton.

No. 35.

No. 35.

(No. 225.)

Sir John Young to the Earl of Kimberley.

Quebec, 29th September, 1870.

(Received 13th October, 1870.)

My Lord,

I have the honour to forward herewith a copy of a letter from Vice-Admiral G. G. Wellesley informing me of the seizure by Her Majesty's ship "Valorous" of the fishing schooner "S. G. Marshall," and her subsequent condemnation and forfeiture to

20th Sept.
 1870.

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the Crown for "having been navigated under a certificate of registry not legally granted, and for using the British flag and falsely assuming the British national character."

I have forwarded a copy of the letter to Her Majesty's Minister at Washington, and to the Government of the Dominion.

The Earl of Kimberley,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

Enclosure in No. 35.

Enclosure in
No. 35.

Vice-Admiral WELLESLEY to Sir JOHN YOUNG.

"Royal Alfred," at Halifax,
20th September, 1870.

SIR,

I have the honour to report, for the information of your Excellency, that the fishing schooner "S. G. Marshall," of Rustico, Prince Edward Island, was captured near Gaspé on the 31st July last by Her Majesty's ship "Valorous," and taken to Charlotte town, where she was prosecuted in the Vice-Admiralty Court, and on the 5th instant condemned and forfeited to the Crown for "having been navigated under a certificate of registry not legally granted, and using the British flag and falsely assuming the "British national character," the same being a breach of the 52nd and 103rd sections of the Merchant Shipping Act, 1854.

Sir John Young Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GEORGE G. WELLESLEY,
Vice-Admiral.

Despatches from the Secretary of State.

(Lord GRANVILLE.)

No. 1.

No. 1.

Lord Granville to Sir John Young.

(No. 76.)

SIR,

Downing Street, 30th April, 1869.

I have the honour to transmit to you, for your information, the enclosed extract of a letter from the Board of Admiralty, in reference to a communication addressed to this Department by Sir E. Cartier and Mr. McDougall, dated the 23rd ult., in which those gentlemen requested that assistance should be afforded this year by Her Majesty's Navy in the protection of the North American Fisheries.

Admiralty,
12 April, 1869.
Page 94.
Sir E. Cartier and Mr. McDougall.
23 Mar. 1869.
Page 205.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed)

GRANVILLE.

No. 2.

No. 2.

Lord Granville to Sir John Young.

(No. 104.)

SIR,

Downing Street, 5th June, 1869.

With reference to the letter addressed by you to Sir R. Mundy on the 1st May last, I have the honour to inform you that I have had under my consideration the proposal made by the Minister of Marine for the Dominion of Canada, and approved by a Committee of the Privy Council, that commissioned officers, or some competent persons specially deputed therefor, on board of Her Majesty's ships employed on the service of protecting the British North American Fisheries, be empowered to grant licences to United States fishing vessels whenever and wherever they shall be met with, and may be required to procure the same. After consultation with the Admiralty, I regret to say that I am unable to sanction this proposal; nor can Her Majesty's Government approve of Sir R. Mundy's suggestion that Custom House officers should be placed on board Her Majesty's vessels for this purpose. I have also had under my consideration the further proposal made by Mr. Mitchell, that the practice of giving foreign fishing vessels three warnings before either enforcing the acceptance of licences or compelling them to depart from the inshore fishing grounds under pain of seizure be discontinued, and a single warning be considered sufficient for the purpose.

I am not aware how far the fishermen of the United States have been encouraged by any public notion or otherwise, to expect that these three warnings will be given them. If this should be to any extent the case, some precautions will probably be necessary in withdrawing the forbearance which they are accustomed to count upon. Subject to this qualification, Sir R. Mundy will be informed that he is at liberty to adopt the course recommended by Mr. Mitchell.

In all other respects I am aware of no reason for varying the course hitherto pursued in the matter by the naval officers entrusted with the protection of the Fisheries.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

CANADA.

No. 3.

No. 3.

Lord Granville to Sir John Young.

(Confidential.)

SIR,

Downing Street, 21st June, 1869.

With reference to my Despatch No. 76,* of 30th April, respecting the assistance to be afforded this year by Her Majesty's Navy in the protection of the North American Fisheries, I have the honour to transmit to you, confidentially, the enclosed copies of a correspondence which has passed between the Admiralty and this Department relating to the question of the future protection of these Fisheries.

Her Majesty's Government consider this service to be a purely local one, but having regard to its bearing on the relations between this country and a Foreign Power, and thus on Imperial interests, Her Majesty's Government will be ready next year to furnish one vessel of war to assist in giving effect to the regulations for the protection of the Fisheries, provided that the Canadian Government furnish, at their own cost, such other vessels as may be necessary, and that the whole be placed under the control of the Imperial Officers in command.

I request that you will consult confidentially with your Ministers as to the mode of effecting an arrangement of this kind.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

* Page 77.
Col. Off. 8th
April, 1869.
Page 94.

Adm. 12th
April, 1869.
Page 94.

Col. Off. 19th
May, 1869.
Page 94.

Adm. 21st
May, 1869.
Page 95.

No. 4.

No. 4.

Sir Frederic Rogers to Sir John Young.

(No. 125.)

SIR,

Downing Street, 28th June, 1869.

I am directed by Earl Granville to transmit to you a copy of a Despatch from the Officer administering the Government of Prince Edward Island, enclosing a form of Commission issued to Officers employed in the protection of the Fisheries, under an Act of the local Legislature entitled "An Act relating to the Fisheries, and for the Prevention of illicit Trade in Prince Edward Island and the Coasts and Harbours thereof."

I am also desired to enclose a copy of the answer which has been returned to this Despatch.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 51.
29th May,
1869. Page
219.

No. 28.
22nd June,
1869. Page
228.

No. 5.

No. 5.

Lord Granville to Sir John Young.

(No. 141.)

SIR,

Downing Street, 22nd July, 1869.

I have the honour to acknowledge the receipt of your Despatch No. 64,* of the 10th of June, on the subject of a statement which appeared in the 'Spectator' of the 22nd of May, to the effect that fishing licences were no longer to be granted to Americans to fish in Canadian waters.

On the receipt of your Despatch I caused a communication to be addressed to the editor of the 'Spectator,' and you will find by referring to the 'Spectator' of the 3rd inst. that the error has been corrected.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

* Page 2.

No. 6.

No. 6.

(Confidential.)

Lord Granville to Sir John Young.

SIR,

Downing Street, 25th August, 1869.

I have received your Confidential Despatch of the 30th July,* enclosing a Report of the Conference which took place at Washington on the subject of commercial intercourse between Canada and the United States.

* Page 4.

I have communicated these documents confidentially to the Governors of British Columbia, Prince Edward Island, and Newfoundland.

Her Majesty's Government have noticed with much pleasure the tact and ability shown by Mr. Rose in the part which he took at the Conference.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

CANADA.

No. 7.

No. 7.

(No. 183.)

Lord Granville to Sir John Young.

SIR,

Downing Street, 14th September, 1869.

I have the honour to transmit to you the enclosed copy of a letter from the Board of Admiralty, covering copy of a Report from Admiral Sir Rodney Mundy relating to the protection of the Canadian Fisheries, and adverting to the recent withdrawal of the Canadian vessel "Druid" from co-operating with Her Majesty's ships in this service in order to enable her to proceed on duties connected with the supply of stores to the lighthouses of the Dominion.

The circumstances stated in Admiral Mundy's letter show that concerted action between the Imperial and Colonial authorities is very important for the effectual protection of the Fisheries, and I trust there is not any disposition on the part of the Canadian Government to withhold their active co-operation with the Officers in command of Her Majesty's ship.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

Admiralty,
26th August,
1869. Page
106.

No. 8.

No. 8.

(Confidential.)

Lord Granville to Sir John Young.

SIR,

Downing Street, 24th Nov. 1869.

Adverting to my confidential Despatch of the 21st of June* last relating to the future protection of the Canadian Fisheries, I have the honour to inform you that I have received, through the Board of Admiralty, a copy of a letter addressed by you to Sir R. Mundy, dated the 29th of that month, forwarding a Report of a Committee of the Canadian Privy Council giving their reasons for objecting to Canadian vessels engaged in this service being placed under the control of Imperial officers.

In communicating the above Report to the Admiralty, Sir Rodney Mundy stated the probability of his being able to confer with you on this subject during your visit to Halifax. I shall be glad to be informed whether you have had any interview with the Admiral on the station on this question, and if so I request that you will be so good as to inform me of the result.

In any case, I should wish to receive an answer to the Despatch which I addressed to you on the subject on the 21st of June.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

* Page 78.

No. 9.

No. 9.

(No. 10.)

Lord Granville to Sir John Young.

SIR,

Downing Street, 12th January, 1870.

I have the honour to inform you that I have received from the Board of Admiralty a copy of a letter from Vice-Admiral Wellesley, dated the 18th of November, No. 118, with Enclosures reporting on the Canadian Fisheries during the past season.

CANADA.

In this letter, a copy of which I understand has been communicated to you by the Admiral, attention is called to the limited assistance rendered by the Government of Canada in protecting these Fisheries.

The general question is no doubt under the consideration of your Ministers, in connection with previous Despatches addressed to you on the subject. I trust that their views will be communicated to me in time for Her Majesty's Government to determine upon the course to be pursued next season.

Sir John Young, Bart. G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 10.

No. 10.

(Confidential.)

Lord Granville to Sir John Young.

SIR,

Downing Street, 26th January, 1870.

* Page 79.
Enclosure in
For. Off.
Letter of 23rd
Dec., 1869.
Page 144.

With reference to my public Despatch No. 10,* of the 12th instant, in which allusion is made to a letter addressed to the Board of Admiralty by Vice-Admiral Wellesley, dated the 18th of November, relating to the Canadian Fisheries, I have the honour to transmit to you confidentially, for your information, a copy of a Despatch which has been addressed by Lord Clarendon, with my concurrence, to Her Majesty's Minister at Washington on this subject.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 11.

No. 11.

Lord Granville to Sir John Young.

(No. 94.)

SIR,

Downing Street, 19th April, 1870.

With reference to previous correspondence with respect to the protection of the Canadian Fisheries, I have the honour to inform you that the Board of Admiralty have been requested to send to the Canadian waters a force sufficient to protect Canadian fishermen and to maintain order.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 12.

No. 12.

Lord Granville to Sir John Young.

(Confidential.)

SIR,

Downing Street, 20th April, 1870.

Col. Off. to
For. Off.
8th April,
1870. Page
156.

I have the honour to transmit to you, for your confidential information, copies of a correspondence between the Foreign Office and this Department, on the subject of the protection of the Canadian Fisheries.

For. Off. to
Col. Off.
9th April,
1870. Page
156.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

Col. Off. to
For. Off.
9th April,
1870. Page
157.

No. 13.

No. 13.

Lord Granville to Sir John Young.

(No. 98.)

SIR,

Downing Street, 30th April, 1870.

Col. Off.
30th April,
1870. Page
113.

I have the honour to transmit to you the copy of a letter which I have caused to be addressed to the Admiralty, respecting the instructions to be given to the officers of Her Majesty's ships employed in the protection of the Canadian Fisheries.

Her Majesty's Government do not doubt that your Ministers will agree with them as to the propriety of these instructions; and will give corresponding instructions to the vessels employed by them.

CANADA.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 14.

No. 14.

Lord Granville to Sir John Young.

(Confidential),

SIR,

Downing Street, 3rd May, 1870.

I sent on the 30th ultimo, at 5.30 P.M., a telegraphic Despatch to you in cypher, in the following words:—

“Take steps to secure that American fishing vessels are not seized, even between “headlands, except within three miles of shore.”

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 15.

No. 15.

Lord Granville to Sir John Young.

(Telegram).

13th May, 1870.

Send home copies of instructions to officers commanding Canadian vessels, whether issued at first or in consequence of my Despatch No. 98,* of the 30th ultimo.

* Page 80.

No. 16.

No. 16.

Lord Granville to Sir John Young.

(No. 123.)

SIR,

Downing Street, 19th May, 1870.

With reference to my Despatch No. 98,* of the 30th of April, enclosing a copy of a letter addressed to the Board of Admiralty respecting certain instructions to be issued to the officers commanding Her Majesty's ships engaged in the protection of the Canadian Fisheries, I have the honour to transmit to you the enclosed copy of the reply which has been received from that Department.

* Page 80.
5th May,
1870. Page
113.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 17.

No. 17.

Lord Granville to Sir John Young.

(No. 138.)

SIR,

Downing Street, 6th June, 1870.

I have had under my consideration your Despatch No. 88,* of 4th May, and your telegraphic Despatches of 14th† and 15th‡ May relating to the Canadian Fisheries.

I have also received from the Foreign Office a letter, from which it appears that Mr. Thornton has communicated with you on this subject.

In your Despatch of 4th May§ you state that you have laid before your Ministers my telegram of 30th April, the effect of which—as of a written Despatch now in your possession—was to modify in one respect the Colonial Office instructions of 12th April, 1866.

* Page 9.
† Page 13.
‡ Page 14.

§ Page 9.

The instructions of 1866 were to the effect that the United States fishing vessels were to be excluded from bays less than ten miles wide at the mouth, but that the forfeiture of such vessels was, “if possible,” only to be enforced when the fishing had taken place within three miles of shore.

The effect of my Despatch, or rather of the letter to the Admiralty which it transmitted for the concurrence of your Government, was, as regarded Her Majesty's vessels,

CANADA.
No. 17.

to make the direction of non-forfeiture so far absolute as to require that no fishing vessel whatever should be seized, except within the three miles, and for an offence committed within those limits. It was intended to imply, though it was not expressed, that as the only ultimate means of excluding Americans beyond those limits was not to be used, the exclusion itself was not to be enforced.

You enclosed in reply a Minute of your Ministers stating that steps had been taken to prevent the seizure of American vessels beyond the three mile limit, and you enclosed certain special instructions of 12th April, 1870, as effecting this object.

But in your telegram of 14th May you inform me that those instructions conform, or are intended to conform, not to my instructions of 30th April, but to the Colonial Office paper of 12th April, 1866, which those instructions were intended to supersede.

I am not quite sure whether you now perceive that the British and Canadian instructions are inconsistent with each other.

The Canadian instructions are inconsistent with the spirit of those which I conveyed to you in that they still require Canadian Fishery Officers to exclude American fishermen from bays less than ten miles in width, and you will see on perusal that, under the head "action," they are inconsistent with the letter of the Admiralty instructions by directing the Fishery Officers, after certain warning, "instantly to seize" any person fishing within "proscribed limits," which, read with the preceding paragraph, cannot but be taken to include bays.

And, under the head "directions," it is implied that vessels are to be seized for coming into a Canadian bay (whether or not within three miles of shore) unless they are forced thither by violent winds or other unavoidable cause.

These objections to the instructions as they stand are not removed by the limitation implied in the words (p. 4) "or seize it *if found within three marine miles of the coast.*"

I further observe that the decision of Her Majesty's Government not to exclude American fishermen except "within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width" does not warrant their exclusion from that part of the Bay of Chaleur which is not more than ten miles wide.

Considering the importance of the subject, and that your attention appears to have been especially directed to the sentence respecting the Bay of Chaleur, I am somewhat surprised that these points should have escaped your notice.

Her Majesty's Government are fully aware that no step should be taken which should prejudice the question what are Canadian waters, or should admit the right of United States fishermen to fish within those waters except within the limits prescribed by the Convention of 1818. But they do not abandon the hope that the question of abstract right may yet be avoided by some arrangement between Canada and the United States, or that the limits may be definitely settled by arbitration or otherwise, and while any expectation of this kind exists they desire to avoid all occasion of dispute, so far as this is possible consistently with the substantial protection of the Canadian Fisheries. With these objects they think it advisable that United States fishermen should not be excluded from any waters except within three miles of shore, or in the unusual case of a bay which is less than six miles wide at its mouth, but spreads out to a greater width within.

It will of course be understood, and explained to the United States Government, that this liberty is conceded temporarily, and without prejudice to the right of Great Britain to fall back on her Treaty rights, if the prospect of an arrangement lessens, or if the concession is found to interfere practically with the protection of the Canadian Fisheries.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 18.

No. 18.

Lord Granville to Sir John Young.

(No. 139.)

SIR,

Downing Street, 7th June, 1870.

I sent on the 6th inst., at 5 P.M., a Telegraphic Despatch in the following words:—

"Her Majesty's Government hope that United States fishermen will not for the present be prevented from fishing except within three miles of land, or in bays which are less than six miles broad at the mouth."

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 19.

Lord Granville to Sir John Young.

(No. 149.)

SIR, Downing Street, 9th June, 1870.

The Secretary of State for Foreign Affairs has communicated to me copies of two Despatches addressed by Mr. Thornton to yourself on the 21st and 22nd of April last, relating respectively to a complaint made by a Mr. Dodge, a citizen of the United States, of insufficient protection to his fishing boats and nets on the Labrador coast, and to the question of American Fishery rights in the waters of Labrador.

I transmit to you, for your information, a copy of a letter which I caused to be addressed to the Foreign Office on these questions, and also a copy of a Despatch which Lord Clarendon has written to Mr. Thornton in consequence.

You will observe that Mr. Thornton has been instructed, in accordance with my suggestion, that all diplomatic communications between the British North American Provinces and the United States should pass through the Governor-General of Canada.

I have instructed the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island to the above effect, and I have also directed the Governor of Newfoundland, with regard to the case of Mr. Dodge, to be guided by your advice if the complaint of the United States Government should be brought before him.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

14th May,
1870.
Page 164.

Vide Enclosure to For. Off. Letter of 19th May, 1870.
Page 164.

No. 20.

No. 20.

Lord Granville to Sir John Young.

(No. 156.)

SIR, Downing Street, 16th June, 1870.

The Secretary of State for Foreign Affairs has communicated to me a copy of a Memorandum drawn up by the Canadian Minister of Marine and Fisheries relating to an objection made by Mr. Fish to the wording of a clause in the Canadian Order in Council of the 8th of January last, whereby, in consequence of the alteration of the boundaries of Canada, American fishermen might be excluded from waters in which by the Treaty of 1818 they are entitled to fish.

The Minister of Marine and Fisheries remarks that Mr. Fish "labours under a misapprehension in supposing that the present boundaries of the Dominion comprise any fishing grounds affected by the existing Treaty stipulations to which Mr. Fish's note refers, which were not formerly within the bounds of the old Province of Canada."

From the foregoing passage I conclude that the correct state of the case, as explained in a letter from this Department to the Foreign Office of the 14th of May,* a copy of which letter was enclosed in my Despatch of the 9th inst., may have been overlooked in the Dominion.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

* Page 164

No. 21.

No. 21.

Lord Granville to Sir John Young.

(Confidential.)

SIR, Downing Street, 16th June, 1870.

I have the honour to acknowledge the receipt of your Confidential Despatch of the 16th of May,* enclosing amended copies of the instructions issued to the Officers in command of the Canadian Government vessels engaged in the protection of the Fisheries.

I beg leave to refer you to the Despatch which I addressed to you on this subject on the 6th instant—No. 138.†

* Page 14.

† Page 81.

CANADA:

I have only to add that I am glad to observe that the Canadian Government have determined not to exclude American fishermen from the Bay of Chaleur, except within three miles of land.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 22.

No. 22.

Lord Granville to Sir John Young.

(Confidential.)

SIR,

Downing Street, 16th June, 1870.

Vide Enclosure to For. Off. Letter of 7th June, 1870. Page 167.

I enclose a copy of a Circular received through the Foreign Office from Mr. Thornton, addressed by the Secretary of the Treasury of the United States to the Collectors of Customs at various ports on the east coast.

I have pointed out to the Secretary of State for Foreign Affairs, that that portion of the Circular which recites the 3rd Section of the Canadian Act of 1868, "respecting fishing by foreign vessels," is not now strictly correct, in consequence of the repeal of that Section, and the substitution of another Section by the Amending Act, passed on the 12th of last month.

Col. Off. to For. Office, 7th June, 1870. Page 167.

I had previously caused a letter to be addressed to the Foreign Office, respecting a passage in Mr. Boutwell's Circular relating to the limits of Canadian jurisdiction.

I enclose a copy of that letter, and of a Telegram which Lord Clarendon addressed in consequence to Mr. Thornton.

Vide Enclosure to For. Off. Letter of 10th June, 1870. Page 170.

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 23.

No. 23.

Lord Granville to Sir John Young.

(No. 169.)

SIR,

Downing Street, 30th June, 1870.

I sent on the 28th instant, at 5 p.m., a Telegraphic Despatch to you in the following words:—

* Page 22.
† Page 24.
‡ Page 27.

"I have received your Despatches Nos. 121,* 130,† and 133.‡ Will hear Mr. Campbell, but meantime cannot authorize Her Majesty's ships to exclude United States fishing vessels, except within three miles. Serious inconvenience may occur if your Government pursue different course."

I have, &c.,
(Signed) GRANVILLE.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 24.

No. 24.

Lord Granville to Sir John Young.

(No. 174.)

SIR,

Downing Street, 30th June, 1870.

* Page 19.
† Page 21.

I have the honour to acknowledge the receipt of your Despatches Nos. 105* and 112,† of the 25th and 27th of May, relating to the Fisheries of Prince Edward Island.

From the latter of these Despatches, and from communications since received from the acting Lieutenant-Governor of Prince Edward Island, it appears that the Government of that Island are desirous of conforming their policy to that of the Dominion; it does not, therefore, now appear necessary to make any representation to them upon the subject.

I will communicate copies of your Despatches to the Board of Admiralty, and will request their Lordships to place the Minute of Council enclosed in No. 105 in the

hands of the Admiral commanding on the station; but I do not think that it would be desirable that Admiral Wellesley should be fettered by any specific instructions on the matter.

CANADA.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 25.

No. 25.

(No. 175.)

Lord Granville to Sir John Young.

SIR, Downing Street, 30th June, 1870.

I have received your Despatches noted in the margin, relating to the Canadian Fisheries.

So far as they regard the admission of United States fishermen to fish in Canadian waters beyond the three mile limit, they are for the present disposed of by my Despatch No. 138,* of the 6th June; and by the telegraphic intelligence which I have received from you.

You will understand that the object of Her Majesty's Government is, without prejudicing the eventual rights of Canada, to confine the action of the British and Canadian authorities, for the present, to waters with respect to which no possible controversy can arise.

With regard to your Despatch No. 121,* I have to inform you that the phrase "offence of fishing," used in Sir F. Rogers' letter to the Secretary to the Admiralty, of the 30th of April, is to be understood as including such offences as "preparing to fish," which constitute a ground of seizure under Canadian law.

The proposal that the determination of the boundaries of Canadian waters should be placed in the hands of a mixed Commission will, I presume, be brought before me by Mr. Campbell, whose departure from Canada is announced in your Despatch No. 131,† of the 9th June.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) GRANVILLE.

No. 121,
page 22.
No. 130,
page 24.
No. 131,
page 26.
No. 133,
page 27.
* Page 31.

* Page 22.

† Page 26.

(THE EARL OF KIMBERLEY.)

No. 26.

No. 26.

(No. 192.)

Lord Kimberley to Sir John Young.

SIR, Downing Street, 18th July, 1870.

I have to acknowledge your Despatch No. 134,* of 9th June, enclosing a Minute of the Privy Council of Canada, in which they request that the Canadian Government vessels employed in the protection of the Fisheries may be permitted to wear pendants while on active service.

You will perceive, from the accompanying copy of a letter from the Admiralty and its enclosures, that a certain number of licences will be given for this season to vessels of the Dominion Government employed in the protection of the Fisheries to fly a blue pendant while so employed.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) KIMBERLEY.

Admiralty,
7th July, 1870.
Page 136.

* Page 31.

No. 27.

No. 27.

(Confidential.)

Lord Kimberley to Sir John Young.

SIR, Downing Street, 23rd July, 1870.

I transmit to you, confidentially, for your information, a copy of a letter addressed by my direction to the Foreign Office, and of an instruction which Earl Granville has addressed to Mr. Thornton respecting the Canadian Fisheries.

Sir John Young, Bart., G.C.B.
&c. &c. &c.

I have, &c.,
(Signed) KIMBERLEY.

Col. Office,
5th July, 1870.
Page 178.
Encl. in For.
Off. Letter of
9th July,
1870. Page
179.

No. 28.

CANADA.

No. 28.

Lord Kimberley to Sir John Young.

(No. 198.) [Extract.]

Downing Street, 27th July, 1870.

On receiving from Her Majesty the seals of this office, I took an early opportunity of communicating with Mr. Campbell, the Post-master of Canada, who has come to England to place before Her Majesty's Government the views of your Government on various questions connected with the Dominion.

Mr. Campbell brought under my consideration the following subjects.

The first was the protection of the Canadian Fisheries from encroachments by foreign fishing vessels. On this point I concur with your Ministers that it would be desirable that the questions which have been so long in dispute with the United States as to the geographical limits of the exclusive fishing rights of Canada under the Treaty of 1818 should be settled by a joint British and American Commission on which the Dominion should be represented.

Her Majesty's Government will propose to the United States Government the appointment of such a Commission.

Now that the instructions given to Her Majesty's cruisers and the Government vessels of Canada have been brought into harmony, I do not think it necessary in this Despatch to make any observations on the details of those instructions. I will only remark that I am most anxious to avoid any misunderstanding on this subject between the Imperial and Canadian Governments, and with this view the regulations to be issued for the fishing season of 1871 should be considered by the two Governments in good time before the season commences. Their nature must of course much depend on the establishment and progress of the proposed Commission, but I shall gladly receive from your Government, at the proper time, any statement on this subject, and shall give it my best attention.

* * * * *

No. 29.

No. 29.

Lord Kimberley to Sir John Young.

(No. 201.)

SIR,

Downing Street, 30th July, 1870.

The Secretary of State for Foreign Affairs has communicated to me a Despatch from Mr. Thornton, dated 4th July, enclosing a copy of a resolution submitted to the House of Representatives by General Butler (of which it appears that Mr. Thornton had also transmitted a copy to you), embodying a request to the President to demand of the British Government under what pretence of right, and under whose orders, American fishing vessels are arrested and detained in the Straits of Canso, on their way to the fishing grounds, by armed vessels flying the British flag.

I request that you will inform me whether any American vessels have been arrested or detained in the Gut of Canso, and if so, in what circumstances.

I have, &c.,

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

(Signed) KIMBERLEY.

No. 30.

No. 30.

Lord Kimberley to Sir John Young.

(No. 206.)

SIR,

Downing Street, 4th August, 1870.

I transmit to you a copy of a Despatch from Mr. Thornton to the Secretary of State for Foreign Affairs, in which he mentions the objections raised by Mr. Fish to certain provisions of the Canadian Act of 12th May, 1870, to amend the Act of 22nd May, 1868. The Act referred to has not reached this Department in an authentic shape.

I shall be obliged if you will send home an authenticated copy, accompanied by explanations on the points to which Mr. Fish takes exception.

I have, &c.,

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

(Signed) KIMBERLEY.

No. 31.

CANADA.

No. 31.

Lord Kimberley to Sir John Young.

(No. 214.)

SIR, Downing Street, 6th August, 1870.
I have received your Despatch No 158,* of 6th July, enclosing a correspondence with Mr. Thornton on the subject of the objections taken by Mr. Fish to the wording of the Canadian Order in Council of 8th of January last, relating to the Fisheries on the Coast of Labrador, and a Minute of the Privy Council of the Dominion, embodying their views on the point raised by Mr. Fish. As the point contended for by the United States Government seems to be practically admitted, it does not appear to me necessary to discuss the question any further.

* Page 39.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) KIMBERLEY.

No. 32.

No. 32.

Lord Kimberley to Sir John Young.

(No. 219.)

SIR, Downing Street, 11th August, 1870.
I have received, with much satisfaction, your Despatch of July 9th,* informing me that the Privy Council had approved of amendments in the special instructions issued to the officers commanding Marine Police vessels, by which those instructions were brought into conformity with the instructions issued by the Admiralty.

* Page 42.

I have to request you to state to your Ministers that Her Majesty's Government fully appreciate the loyalty they have shown in thus bringing the action of the Canadian Government vessels into harmony with that of Her Majesty's cruisers.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) KIMBERLEY.

No. 33.

No. 33.

Lord Kimberley to Sir John Young.

(No. 220.)

SIR, Downing Street, 11th August, 1870.
I have the honour to acknowledge the receipt of your Despatch of July 6th,* forwarding the copy of a Minute of your Privy Council covering certain Memoranda which have been given to the Hon. A. Campbell.

* Page 35.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) KIMBERLEY.

No. 34.

No. 34.

Lord Kimberley to Sir John Young.

(No. 221.)

SIR, Downing Street, 11th August, 1870.
In my Despatch relating to the subjects of Mr. Campbell's mission, I did not think it necessary to enter into any details respecting the present mode of enforcing the Canadian rights of fishery.

As Her Majesty's Government have adopted the proposal of your Ministers, to refer to a Commission the question of territorial limits, and the Dominion Government, on the other hand, have agreed to adjust the instructions issued to their vessels to those given to vessels of the Imperial Navy, I consider this question is practically settled for the present.

But as I understand that the Canadian Government feel aggrieved at the instructions

CANADA.

given, without communication with them, to Her Majesty's cruisers not to exclude United States fishermen from Canadian waters, except within three miles of shore, I think it right to explain the course that has been taken by Her Majesty's Government; and I shall, at the same time, make some observations respecting the instructions of the 12th April, issued by the Department of Marine and Fisheries.

I begin with the first subject, merely premising that I am by no means desirous of continuing or reviving controversy, but that the case is one in which it seems to me that the Canadian Government is entitled to receive a full and frank statement from Her Majesty's Government.

You will remember that after the Reciprocity Treaty was annulled, it was determined by the Imperial and Canadian Governments in concert, and at the suggestion of the Governor-General and Executive Council, that the fishermen of the United States should be allowed to use Canadian waters on paying a licence fee of fifty cents a ton, and that the forfeiture incurred by unlicensed fishing should not be enforced till after three warnings to desist. Since that time the stringency of the Canadian regulations has been steadily increased. The licence fee was first raised to two dollars a ton, then refused—the prohibition to fish being thus made absolute against foreign fishermen. The warnings were dispensed with first partially, and then entirely.

In these changes Her Majesty's Government readily acquiesced, though plainly calculated, by increasing the effectiveness of your regulations and the number of seizures, to increase also the probability of collision and international dispute.

But under these circumstances it became obviously more than ever requisite that British and Canadian officers should clearly understand what rights they were to enforce—that foreign fishermen should know clearly what rights they would be forced to respect, and should, if possible, rather be deterred from entering forbidden waters than seized for having done so. With these objects it was indispensable that, at the very commencement of the fishing season of 1870, the line of prohibition should be carefully and unequivocally drawn, and in such a way that, while effecting a substantial exclusion from Canadian Fisheries, it should raise no disputed questions of right. This necessity arose at the commencement of the fishing season, when there was little time for correspondence with Canada.

The waters prohibited by the instructions of 1866 are those within three miles "of a line drawn from headland to headland of a bay less than ten miles in width." It will be seen by inspection of the annexed chart* of Canada that the conformation of some bays is such that it is by no means easy to say where the mouth really is, and consequently that disputes might easily arise whether that mouth was ten miles broad or not. It follows that, with regard to the ten mile bays, the line of prohibition is an imaginary straight line connecting two imaginary points at sea, which again are only determined as being three miles from points which are not themselves always determinate on land.

It will also be seen that while the Canadian Fisheries occupy several thousands of square miles, the patches of water which are within bays less than ten miles broad, but which are not within three miles of land, are comparatively of small extent. They are coloured red in the annexed map; and on a rough calculation it would appear that the approximate area of water covered by blue colour is 10,419 geographical miles, or 11,958 statute miles; and that the approximate area of water covered by red colour is 255 geographical miles, or 297 statute miles.

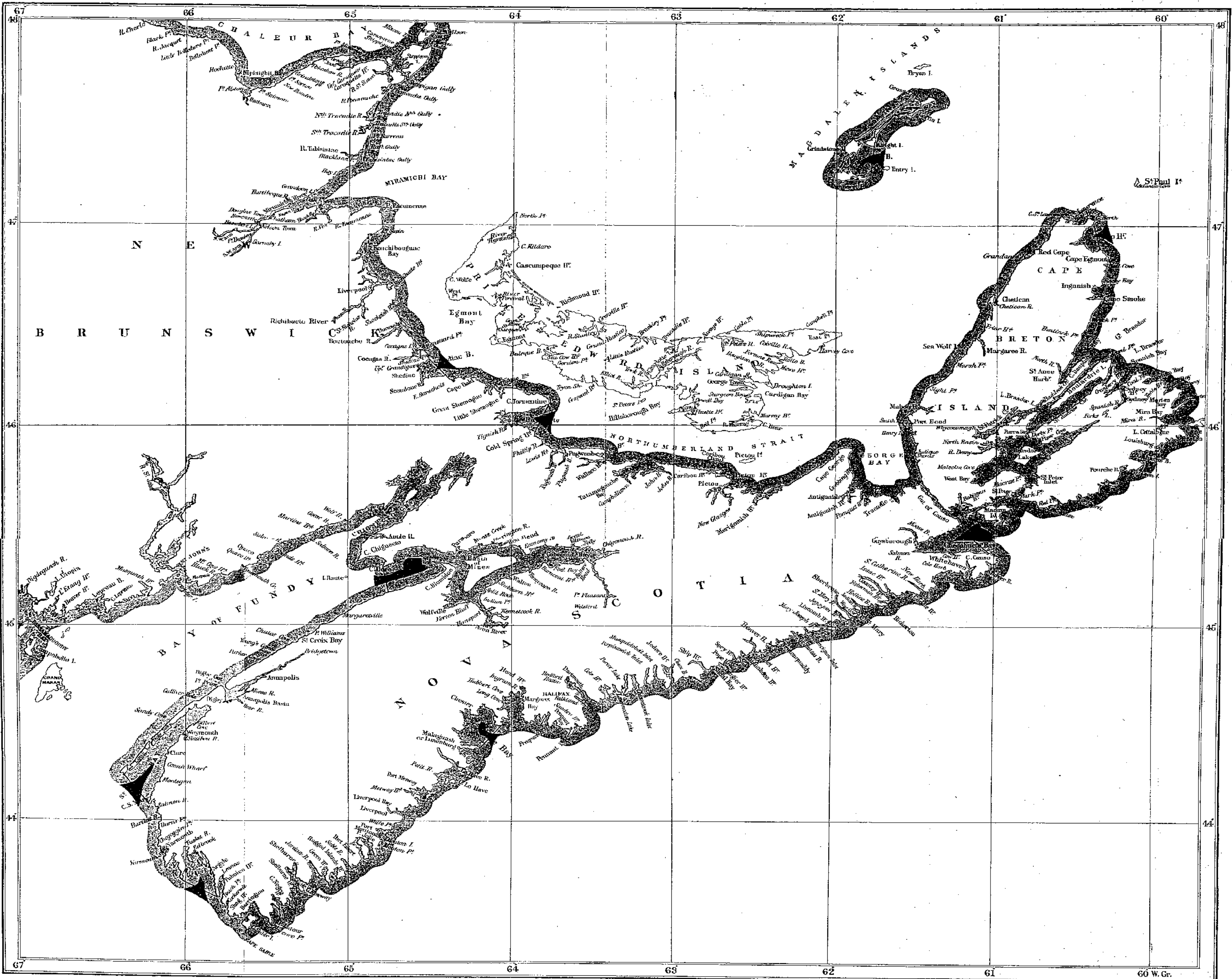
Her Majesty's Government also had reason to believe that a temporary concession on this point, advisable in itself, as a matter of caution, would mitigate the irritation likely to arise in the United States at the more effectual enforcement of the prohibitions; a consideration which no person who really considers the public interest, both here and in Canada, will deem unimportant.

Actuated by these considerations, and certainly with no intention to disregard the wishes of the Canadian Government, they judged it best, in the month of April, when, as I have observed, there was little time for exchanging explanations with Canada, at once to issue to Her Majesty's cruisers instructions to the effect that their jurisdiction was not to be exercised except within the three mile limit; but the Government of the United States has been distinctly informed that this is merely a temporary measure, and is not to be considered as constituting an arrangement between the Governments of Great Britain and of the United States by which Canadian rights are waived.

I will now advert to the variations between the British instructions of 1866 and the Canadian instructions of 1870.

1. The British instructions of 1866 declared that American fishermen were not to be interfered with, except within three miles of the coast, or of a line drawn from headland to headland of a bay less than ten miles in width.

* N.B. This is to be the Admiralty Chart, with the three mile belt coloured blue, and the patches at the mouths of 10 mile bays coloured red.



They added that, "if possible," vessels should be selected for seizure which had fished within three miles of land.

In accordance with these instructions the Minister of Marine and Fisheries prescribed a mode of proceeding (pp. 4, 5) in the case of bays not more than ten miles in width. But in a subsequent part of his instructions, after referring to this class of bays, he proceeds as follows:—"In the case of *any other bay*, as the Bay of Chaleur, you will not admit any United States fishing vessel or boat, or any American fisherman, inside of a line drawn across that part of such bay where its width does not exceed ten miles."

It is evident that this prohibition extends in express words to "any *other bay*," that is to say, to bays more than ten geographical miles in width at the mouth; it is therefore in terms opposed to the British instructions of 1866, and the patches of water from which it excludes the United States fishermen would appear to be just those on which a dispute might most easily arise.

2. Next, the injunction to select vessels for seizure, "if possible," which have fished within the three mile limit is indirectly recognised (p. 4) by the words "or seize, if found within three marine miles of the coast." But this implied limitation was done away with by the positive instructions in p. 5:

"You will accost every United States vessel . . . within three miles of the entrance of any bay, harbour, or creek which is less than ten geographical miles in width . . . you will inform the owner . . . of the liability of the vessel to seizure . . . and should such owner, being clearly *within proscribed limits*" . . . (i.e., of course the limit above laid down) "neglect to desist, &c. . . . you will instantly seize and detain the *ship*."

You will see that this is a peremptory direction to the officer to do "instantly," and without intimation of any exception, what the Imperial instructions directed him, "if possible," to avoid.

Lastly, the Imperial instructions say that "Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on except when there is reason to apprehend some substantial invasion of British rights."

The Canadian instructions state, on the contrary (p. 2), that American vessels may, as provided by the Treaty, enter British bays for shelter, repairing damages, purchasing wood, and obtaining water, and add, "They are to be admitted for no other purposes whatever."

And it seems to be the intention of these instructions that this exclusion should be enforced by seizure, for in pp. 6, 7 the Canadian officer is directed to satisfy himself that the United States vessel has not been carried into Canadian waters by violent winds or strong tides, or other misadventure, "before taking the extreme step of seizing and detaining any vessel."

The two first of these divergences from the instructions of 1866 have been recently removed. The third still subsists. I notice these because in cases of concerted action it is obviously most important that the instructions to Imperial and Colonial officers should be identical.

I have, &c.,
(Signed) KIMBERLEY.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 35.

No 35.

(No. 222.)

Lord Kimberley to Sir John Young.

SIR,

Downing Street, 11th August, 1870.

I have the honour to acknowledge your Despatch of the 23rd June.*

* Page 34.

I do not propose now to answer in detail the various points raised in that Despatch, as they are dealt with by my Despatch of this day's date, No. 221,† which I trust will satisfy your Ministers that Her Majesty's Government have not acted hastily, or without due consideration of the views entertained by your Government, and the interests of Canada.

† Page 87.

I have, &c.,
(Signed) KIMBERLEY.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

CANADA.

No. 36.

No. 36.

Lord Kimberley to Sir John Young.

(Confidential.)

SIR,

Downing Street, 11th August, 1870.

* Page 47.

I have received your Confidential Despatch of 11th July,* transmitting a memorandum from Mr. Mitchell on the subject of the protection of the Fisheries.

I desire to treat with the fullest respect any communication from the Canadian Government, and will give careful consideration to any representation which they may lay before Her Majesty's Government, on this or any other matter; but I feel bound to observe that in conducting difficult negotiations, such as those affecting the relations of Canada and the United States, it is essential that the Imperial and Canadian Governments, who are acting on the same side, should conduct the discussion between themselves in a spirit of forbearance and mutual confidence, and avoid anything approaching to angry controversy.

For this reason I have abstained from answering Mr. Mitchell's memorandum, but in another Despatch I have given explanations, which I trust the Canadian Government will receive in the friendly spirit in which they are offered, and which will I hope tend to remove any causes of irritation which may still exist.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed)

KIMBERLEY.

No. 37.

No. 37.

(No. 230.)

Lord Kimberley to Sir John Young.

SIR,

Downing Street, 22nd August, 1870.

* Page 52.

With reference to your Despatch No. 173,* of the 26th of July, relating to the complaint of Mr. Dodge, a citizen of the United States, of insufficient protection to his fishing boats and nets on the coast of Labrador, I have the honour to transmit to you, for your information, a copy of a letter on this subject received from the Board of Admiralty.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed)

KIMBERLEY.

No. 38.

No. 38.

(No. 234.)

Lord Kimberley to Sir John Young.

SIR,

Downing Street, 25th August, 1870.

Adm. 9th
August, 1870.
Page 139.
Col. Office
23rd August.
Page 141.

I have the honour to transmit to you, for your information and for that of your Ministers, a copy of a letter from the Board of Admiralty, together with a copy of the reply which I have caused to be returned to it, stating the course which Her Majesty's Government think it advisable should be pursued with reference to foreign fishing vessels found within three miles of land, but not actually fishing nor, so far as could probably be proved, either having fished or preparing to fish within that limit.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed)

KIMBERLEY.

Lord Kimberley to Sir John Young.

(No. 244.)

SIR, Downing Street, 7th September, 1870.

I have the honour to acknowledge the receipt of your Despatch No. 177,* of the 2nd ultimo, respecting the seizure by a Canadian cruiser of the United States fishing vessels "J. H. Nickerson" and "Wompatuck," and relating to other matters connected with the Canadian Fisheries.

* Page 53.

Unless some counter evidence is adduced on behalf of these United States vessels, the allegations contained in the depositions which you have forwarded appear to justify their seizure.

The arrangements made by Mr. Mitchell, on the suggestion of Mr. Whitcher, for giving permits to fishing parties of pleasure from the United State seem to be judicious. The other cases referred to do not at present call for any remark; but you have been reminded by a recent Despatch that foreign vessels should not be prevented from entering British waters except when there is reason to apprehend some substantial invasion of British rights.

No. 221, Aug. 11th, 1870. Page 87.

I have &c.,
(Signed) KIMBERLEY.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

Lord Kimberley to Sir John Young.

(Confidential.)

SIR, Downing Street, 10th October, 1870.

I enclose the copy of a memorandum* which I have requested Lord Granville to transmit to Mr. E. Thornton, with instructions to communicate with you before addressing himself to the Government of the United States on the subject to which the memorandum relates.

* Vide Encl. in Col. Off. Letter to For. Off., of 1st Oct. 1870. Page 203.

The object of Her Majesty's Government is, as you will observe, to give effect to the wishes of your Government by appointing a joint Commission on which Great Britain, the United States, and Canada are to be represented, with the object of inquiring what ought to be the geographical limits of the exclusive Fisheries of the British North American Colonies. In accordance with the understood desire of your Advisers, it is proposed that the inquiry should be held in America. The proposal contained in the last paragraph is made with a view to avoid diplomatic difficulties which might otherwise attend the negotiation.

I have, &c.,
(Signed) KIMBERLEY.

Sir John Young, Bart, G.C.B.,
&c. &c. &c.

Lord Kimberley to Sir John Young.

(Confidential.)

SIR, Downing Street, 12th October, 1870.

In Sir E. Thornton's Confidential Despatch to you, dated the 12th of September last, a copy of which you enclosed in your confidential Despatch of the 23rd* of that month, relating to the Fisheries, the question is mooted as to what was the practice which prevailed previous to the Reciprocity Treaty with the United States in reference to the exclusion of American fishermen from trading or effecting commercial operations in Canadian ports.

* Page 72.

Dr. Tupper appears to have assured Sir E. Thornton that previous to the Treaty American vessels were so excluded, whilst it is alleged by Mr. Fish that such a right had never been previously asserted or carried out.

CANADA.

I shall be glad to receive from you, at earliest your convenience, a Report as to the actual practice which prevailed on this point, previous to the Treaty of 1854, in the different Provinces of British North America.

I have, &c.,
(Signed) KIMBERLEY.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

No. 42.

No. 42.

Lord Kimberley to Sir John Young.

(No. 265.)

SIR,

Downing Street, 12th October, 1870.

I have had under my consideration the following papers:—

(1.) A Report from Admiral Wellesley to the Lords of the Admiralty, in which he states that an American schooner, the "Clara B. Chapman," has transshipped fish, and shipped provisions in Charlottetown Harbour, which he describes as being in contravention of the Act 59 Geo. III. c. 38, and of the Prince Edward Island Act, 6 Vic. c. 14.

(2.) A Despatch from the Officer administering the Government of Prince Edward Island, transmitting a Minute of his Executive Council, in relation to these transshipments. In this Minute,* of which I enclose a copy, the Council, while yielding to the supposed wishes of the Government, observe that the transactions complained of have taken place openly in Prince Edward Island itself, and in the Strait of Canso: they allege that their prohibition would involve "a sacrifice to their fellow colonists, which will be little understood or appreciated elsewhere," and they point out, in cogent and temperate language, the objections of policy to which this system of prohibition is open.

(3.) The copy of a letter, addressed to you by Sir E. Thornton on the 12th September, 1870, from which it appears that the Government of the United States look on the proposed prohibition as not warranted by the Convention of 1818.

† Page 71.

(4.) Your Despatch No. 210,† of September 13, 1870, enclosing a Report from the Minister of Marine and Fisheries, respecting complaints made on behalf of various United States fishing vessels.

The Prince Edward Island law does not appear to contemplate anything beyond the prevention of smuggling and fishing. Nor do I understand that the transshipment of fish and provisions is held to be illegal, on account of any special provision of law relating to such transactions, but only in virtue of the general clause of the Convention of 1818, which is repeated in the Imperial Act.

That clause is as follows: "Provided however that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever."

Whatever may be the strict effect of this clause, it was noticed in the following terms, in Mr. Cardwell's letter to the Lords of the Admiralty of 12th April, 1866: "Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend some substantial invasion of British rights."

‡ Page 87.

I pointed out to you in the concluding paragraphs of my Despatch of 11th August,‡ to which I have not at present received any reply, that your Government, without any previous notice, had issued directions at variance with those which are contained in Mr. Cardwell's letter, and which this Government has always understood to be accepted by that of Canada as guiding the operations in which they receive the assistance of Her Majesty's vessels of war.

§ Page 71.

Mr. Mitchell's Report enclosed in your Despatch No. 210,§ states in detail the instructions given by his authority to Canadian Officers. It appears they are directed to enforce the prohibitions against entering British bays on the extreme construction of the Treaty, if not, as maintained by the United States Government, in excess of it. And it appears to be assumed that foreign fishermen abuse the privilege conceded to them, not merely when they engage in fishing or smuggling, or in any other violation of the law, but also when they engage sailors, transship fish, and procure bait, salt, stores or provisions.

It is not astonishing that such an enforcement of the Convention should cause irritation in the United States, and among the inhabitants of Prince Edward Island, who are

entitled to consideration in a matter which concerns the execution of the law in their own waters. Mr. Mitchell also implies that it causes some irritation in Canada itself.

Her Majesty's Government sincerely regret that the Canadian Government should have taken so serious a step without previously consulting them, as they are most desirous that in dealing with a question of so much difficulty there should be no divergence in the action of the Imperial and Colonial Governments; and they also regret it, because such a step is evidently not calculated to further the success of the proposal for the appointment of a Commission, which, with the assent of the Canadian Government, they are about to make to the United States. — But they are not prepared to withdraw their own instructions of 1866, and I have therefore requested the Lords of the Admiralty to call Admiral Fanshawe's attention to the passage which I have quoted from Mr. Cardwell's letter, and to inform him that the transshipment of fish, and obtaining supplies by American fishing vessels, cannot be regarded as a "substantial invasion of British rights," such as is contemplated by those instructions, and that unless there is some further ground of interference than the Convention of 1818, and the consequent enactments of 59 Geo. III. c. 38 (Imperial) and 6 Vic. c. 14 (Prince Edward Island), he is not to prevent United States fishermen from entering British bays for such purposes. If the Admiral should be of opinion that this admission of United States vessels renders it difficult practically to enforce the law against fishing in British waters, he will be instructed to report that opinion, and the grounds on which he has formed it, and Her Majesty's Government will then consider whether it is necessary that any further steps should be taken for the more effectual prevention of encroachment on the Colonial Fisheries by foreign vessels.

31 Vict. c.
61, and 33
Vic.
(Canada.)

I have further to observe that, if, as I understand, no attempt has been made to enforce this restriction in any previous season since the termination of the Reciprocity Treaty, and as the United States Government contend that this restriction is not warranted by the Convention of 1818, it seems to me that the question is precisely one in which the *status quo* should not be disturbed pending the proposal of a Commission on the whole subject.

I shall communicate to the Lieutenant-Governor of Prince Edward Island the views of Her Majesty's Government, as expressed in this Despatch.

I have, &c.,
(Signed) KIMBERLEY.

Sir John Young, Bt., G.C.B.,
&c. &c. &c.

CORRESPONDENCE

BETWEEN

The Colonial Office and the Admiralty.

No. 1.

No. 1.

The Colonial Office to the Admiralty.

Colonial Office to Admiralty, 12th April, 1866.

Admiralty to Colonial Office, 13th April, 1866.

Colonial Office to Admiralty, 26th June, 1868.

Admiralty to Colonial Office, 2nd July, 1868.

Not printed.

Sir E. Cartier and Mr. McDougall, 23rd March, 1869, p. 205. See Appendix, pages 314 to 326.

SIR,

Downing Street, 8th April, 1869.

With reference to the correspondence noted in the margin, relative to the regulation of the North American Fisheries, I am directed by Earl Granville to transmit to you, for the consideration of the Lords Commissioners of the Admiralty, the enclosed copy of a letter from Sir E. Cartier and Mr. McDougall, Members of the Canadian Government, recently in this country.

I am desired to request that their Lordships will cause Lord Granville to be informed of the steps which they may propose to take for the protection of the Canadian and other North American Fisheries during the present year.

I am to add that the Canadian Acts of 1868,* contained in the pamphlet which accompanied the letter from this office of the 26th of June last, have received Her Majesty's sanction.

The Secretary to the Admiralty.

I am, &c.,

(Signed) FREDERIC ROGERS.

No. 2.

No. 2.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 12th April, 1869.

With reference to your letter of the 8th instant, and its enclosure, relative to the enforcement of the regulations for the protection of Fisheries in the Canadian waters, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Earl Granville, that the Commander-in-Chief on the North American and West India Station has been instructed to detach Her Majesty's ship *Royalist* for this service, and that instructions will now be sent to him to give the protection solicited by the Canadian Government, and to report at once the measures taken for this purpose.

My Lords would, however, represent to Lord Granville that it is inexpedient to employ Her Majesty's naval forces at the cost of this country, for police and revenue purposes in colonial waters, and they would strongly urge the propriety of calling on the Government of the Dominion to put into operation the Colonial Naval Defence Act, and to organise a local marine force sufficient to protect their Revenue and enforce their Fishery Laws.

Meanwhile, if Her Majesty's ships are to be employed on the above service, my Lords are of opinion that the cost of that employment should be recovered from the Government of the Dominion.

The Under-Secretary of State,
Colonial Office.

I am, &c.,

(Signed) W. G. ROMAINE.

No. 3.

No. 3.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 19th May, 1869.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 12th ultimo, in answer to the application made by the delegates from Canada recently

in this country, that assistance should be afforded by Her Majesty's navy in the protection of the North American Fisheries.

Lord Granville desires me to request that you will state to the Lords Commissioners of the Admiralty that the responsibility of enforcing the regulations for the protection of these Fisheries without the control of the presence of a British naval officer, could not, in his opinion, prudently be thrown upon the officers of the Canadian Government.

In the instructions issued on this subject in 1866, the Admiralty directed that the protection of the Fisheries should be placed under some officer, selected by the Admiral commanding the Station, in whose temper and judgment he had full confidence; and the attention of the Colonial Government was called to the great importance both to the British possessions in North America and to this country, of avoiding any measure which might produce any feeling of irritation between this country and the United States.

The reasons for these arrangements still subsist, and are strengthened by the fact that the Dominion of Canada is described in the Legislature of the United States as animated by a spirit of hostility against that country. That feeling would evidently increase risk of complications arising with the United States, in which the Imperial Government might become involved.

For these reasons Lord Granville is glad to learn that the Lords Commissioners of the Admiralty have instructed Sir R. Mundy to detach the *Royalist* for the protection of the Fisheries.

On the same ground he doubts whether it will be possible to place that service next year under the control of an officer responsible to the Colonial Government, whether or not employed under the Colonial Naval Defence Act. And his Lordship is indisposed at the present moment to raise the question whether the Canadian Government should pay for the assistance afforded by Her Majesty's navy in the protection of the Fisheries, both because it is not impossible that this whole question may be disposed of before the next season by a Treaty or understanding with the United States; and because Her Majesty's Government are at this moment withdrawing from Canada a great part of the military protection which has hitherto been given to the Dominion.

Lord Granville has already drawn the attention of the Canadian Government to the Colonial Naval Defence Act as a means of giving legality to operations undertaken beyond the limits of Canadian jurisdiction, by the armed naval force which they have already organised.

His Lordship presumes that the naval officer in command will be instructed in the spirit of their Lordships letter to Sir James Hope of 13th April, 1866, to omit no precaution likely to prevent collision between the subjects of Her Majesty and the citizens of the United States, and to consult with the authorities of Canada respecting the mode in which Colonial vessels employed in this service may be brought under the control of the naval officer in command.

The Secretary to the Admiralty.

(Signed) I am, &c.,
F. R. SANDFORD.

No. 4.

No. 4.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 21st May, 1869.

1. I have laid before my Lords Commissioners of the Admiralty your letter of the 19th instant, on the subject of the protection of the North American Fisheries.

2. A copy of your previous letter of the 8th of April, and of the Admiralty reply of the 12th of April, were sent to Vice-Admiral Sir Rodney Mundy, with instructions to him to take the proper steps for affording the protection desired by the Government of the Dominion of Canada, and I herewith enclose a copy of a letter from the Vice-Admiral, dated the 6th of May (No. 112), reporting the arrangements he has made for employing the ships named in the margin on this service, and stating his views on the question.

3. Sir Rodney Mundy has evidently given great care and attention to the subject, but my Lords will call his attention to the instructions of 1866, and remind him of the importance of avoiding all complication with the United States.

4. Under the circumstances mentioned in your letter, my Lords will not press for payment for the naval assistance which will be rendered to the Dominion this year; but my Lords hope that preparation will be made for using the provisions of the Colonial

6th May.
1869.

Nice, Dart.
Millet, Min-
strel.

CANADA.

Defence Act, so that the presence of Her Majesty's ships to assist in protecting next year the Fisheries of the Dominion may be dispensed with.

5. My Lords desire me further to state for Earl Granville's information, that Sir Rodney Mundy will be instructed to communicate with the Canadian authorities as to the mode in which the vessels of the Dominion can best be employed under the control of the naval officer in command, so as to ensure singleness of command and of action.

Sir F. R. Sandford,
Colonial Office.

I am, Sir, your obedient servant,
(Signed) W. G. ROMAINE.

Enclosure
in No. 4.

(No. 112.)

Enclosure in No. 4.

PROTECTION OF THE FISHERIES.

SIR,

Royal Alfred, Halifax, 6th May, 1869.

In reply to your letter of the 12th of April, conveying the directions of the Lords Commissioners of the Admiralty, that I should take the necessary steps for affording the requisite protection solicited by the Canadian Government, I have the honour to report:—

Page 205.

1. The Despatch dated the 23rd of March, 1869,* from the Westminster Palace Hotel, signed by Sir G. E. Cartier and Mr. McDougall, members of the Canadian Government, is so worded as to convey the impression that hitherto little or no protection had been given to the Fisheries in the Gulf of St. Lawrence by Her Majesty's ships and vessels employed on the North American Station. And it is therefore incumbent on me to explain at some length the exact state of the important question.

2. Sir George Cartier and Mr. McDougall, in the last paragraph of their joint communication, request that such instructions should be given to the Commander of the North American and West Indian Naval Stations as may be deemed necessary, in order that Her Majesty's navy should aid and assist during this year the vessels in the service of the Government of Canada, in the protection of the Fisheries, and in the enforcement of the provisions of the Dominion Act respecting Fishing by Foreign Vessels. The term, "*during this year*," would imply that the duty had not been previously provided for. In the three years subsequent to the termination of the Reciprocity Treaty, Her Majesty's ships were employed protecting the Fisheries in the Gulf of St. Lawrence, in addition to one ship each year specially appointed to Newfoundland and Labrador, as follows:—

1866
Favourite,
Jason,
Barracouta,
Fawn.

1867
Cadmus,
Favorite,
Sphinx,
Cordelia.

1868
Doris,
Jason,
Niger,
Barracouta,
Philomel.

In the early part of last year I informed the Governor-General of my intention of detaching three vessels to protect the Fisheries in the Gulf of St. Lawrence; at the same time acquainting him that, should he consider it necessary for a vessel to be stationed at Montreal, I should have to reduce the number employed to prevent American inroads on our fishing grounds, and at his request the *Barracouta*, in the early part of the season, and subsequently the *Philomel*, joined the squadron in the Upper St. Lawrence until the apprehension of a Fenian raid had subsided, when they came down into the Gulf.

In the month of August I received a confidential telegram, in cipher, from Lord Monck, requesting two ships might be sent immediately to St. John, New Brunswick, and the *Doris* and *Jason* were consequently despatched to that port for a short time.

From the foregoing statement their Lordships will observe, that, although this large force was not stationed the whole time on the fishing grounds, when not so employed it was engaged entirely in the service of the Dominion.

3. The Canadian Ministers again state, that last year a number of foreign vessels forced themselves into British waters for the purpose of fishing, without having the required licence and authority so to do; that these foreign fishing vessels have caused great loss, and have been the source of great annoyance to Her Majesty's subjects engaged in these Fisheries; and that the experience of last year has proved that the licence system cannot be properly enforced unless the *vessels* in the service of the

Government of Canada employed in the service of protecting the Fisheries are aided and assisted by Her Majesty's navy. With regard to the expression, "vessels in the service of the Government of Canada," I have to observe that although two small vessels were nominally appropriated for that service, namely, the schooner *La Canadienne* and the steamer *Druid*, only the former was found at her work; the latter, to my surprise, was constantly idle in the fishery months, either at Halifax or on private matters, far away from the fishery grounds. In the Instructions issued to Her Majesty's ships employed each year in the Gulf the following passage occurs:—

"You are to afford every assistance in your power to the Colonial vessels employed in the protection of the Fisheries, if applied for."

And last year I added this Article:—

"9. The Privy Council of Canada have authorised the employment of efficient boats' crews at the following places:—

"Port Hood and Digby, in Nova Scotia.

"West Isles, Miramichi, and Miscou, in New Brunswick.

"Arrangements will be made for these boats' crews to act under the general directions of the officers commanding the cruisers of the Dominion, and to receive any aid in case of need from Her Majesty's ships, which you are to afford them.

"The officers in charge will not be authorised to capture or seize any vessel, but only to report the facts of such vessels fishing without licence to the nearest Government vessel."

The only point on which I did not deem it desirable to meet the views of the Canadian Government, and their Lordships were pleased to approve of my decision, was making officers commanding Her Majesty's ships issuers of licences (see my letter, No. 199, of 1868). A copy of the instructions, of which the above are extracts, was furnished to the Governor-General.

4. The *Royalist* having been detached for service at the Bahamas, the *Niobe*, *Dart*, *Mullet*, and *Minstrel* will be employed on Fishery service this season, with precisely the same instructions as were given last year, with any modification that may arise in the licence system.

These four vessels having been two years and a half in warm climates, have been selected especially for this purpose, and will be ready to undertake their duties at the opening of the season, early in June.

I have, &c.,

(Signed)

RODNEY MUNDY,
Vice-Admiral.

The Secretary, Admiralty.

No. 5.

No. 5.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 4th June, 1869.

I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Earl Granville, copy of a letter from Vice-Admiral Sir Rodney Mundy, dated Her Majesty's ship *Royal Alfred*, Halifax, 15th May, with its enclosures, relative to the protection of the Fisheries in Canadian waters; and I am to inform you, with reference to paragraph 1, of that letter, that my Lords will, if the Secretary of State so desires, carry out the plan explained in Sir R. Mundy's letter, of receiving Custom House officers, or other duly qualified persons, on board Her Majesty's ships, to issue licences and receive payment for them; but they feel bound to say that, in their judgment, the very fact of such a plan being proposed points to the inexpediency of employing Her Majesty's ships to enforce the Revenue and Municipal Laws of a Colony having such powers of self-government as are enjoyed by the Dominion of Canada.

With reference to the proposed regulations, they have to observe that the proposal of the Minister of Marine and Fisheries is that if the licence and payment are refused by a fishing vessel, she is to be compelled to depart or to be seized.

It is certain that the United States will send vessels of war to look after their fleet of 700 fishing vessels in the waters of the Dominion, and such a seizure as is here contemplated may well take place in the presence of an armed vessel of the United States.

The knowledge and concurrence of the United States in these orders, before their being put in force, would seem to be necessary to prevent collision.

CANADA.

Communication and discussion beforehand would perhaps save serious disputes.

My Lords would be glad, as this question may lead to serious complication, to receive precise instructions from the Secretary of State as to the orders to be given to Sir R. Mundy.

They propose to telegraph the heads of any instructions, and to write to him by the mail of the 5th instant.

The Under-Secretary of State
for the Colonies.

I am, &c.,
(Signed) W. G. ROMAINE.

Enclosures
in No. 5.

(No. 127.)

Enclosures in No. 5.

SIR,

Royal Alfred, Halifax, 15th May, 1869.

In transmitting, for the information of the Lords Commissioners of the Admiralty, the copies of a correspondence which has passed between the Governor-General of the Dominion of Canada and myself on the subject of the protection of the Fisheries in Canadian waters, I would ask to receive an early intimation of their Lordships' views relative to permitting a Custom House officer, or other authorized official, to be received on board each ship employed on this service, for the purpose of issuing the licences and receiving the fees.

I wish, also, to call their Lordships' attention to the measures which the Privy Council of Canada have submitted to Sir John Young, and which his Excellency has approved, for preventing the encroachment of the American fishing vessels within the Treaty limits of three miles of British territory.

Since the termination of the Reciprocity Treaty in 1866, the system of "warnings" to trespassers has not realized the anticipations of the Government by which it was established in that year; hence the desire of the present Dominion Executive to resort to the more stringent steps proposed in the minute of the Minister of Marine and Fisheries.

In the course of the ensuing summer, when, on an average, 700 vessels belonging to the United States are occupied fishing in these narrow waters, grave complications may arise, and possibly collisions take place; and the question is therefore one deserving of the serious consideration of Her Majesty's Government.

*Niobe, Dart,
Mullet, Min-
strel.*

In my letter (No. 112) of the 6th inst., I made their Lordships acquainted with the force I intended to employ on this service; and I shall remain in the *Royal Alfred* on this division of the station, ready, should my presence be required, to proceed to the Gulf.

I have, &c.,
(Signed) RODNEY MUNDY,
Vice-Admiral.

The Secretary of the Admiralty.

SIR,

Royal Alfred, Bermuda, 5th March, 1869.

I have the honour to acquaint your Excellency that I have directed Commodore Phillimore, the senior officer at Jamaica, to send to Bermuda the *Niobe*, *Royalist*, *Dart*, and *Mullet*, which vessels I propose to employ in the ensuing summer for the protection of the Fisheries in Newfoundland and the Gulf of St. Lawrence. I have also ordered the *Phoebe* frigate, Captain Bythesca, to join my flag at this island from Barbados, and she will be ready to proceed to Quebec on the opening of the navigation, should the Lords Commissioners of the Admiralty desire me to afford a vessel of war of her class to that part of my command.

The *Minstrel* gunboat will also be stationed on the Northern Division. I shall be glad if your Excellency will inform me at your earliest convenience if these arrangements meet your wishes; and any information your Excellency may be able to afford me in reference to the state of the Fishery question with the United States will be of service to me in framing my instructions to the cruisers.

The *Britomart* gunboat, now employed in the West Indies, might come to the northward if actually necessary, though her services, on account of the disturbed state of Hayti and Cuba, are useful in the south.

His Excellency the Right Honourable
Sir J. Young, Bart., G.C.B., G.C.M.G.,
Governor-General of Canada.

I have, &c.,
(Signed) R. MUNDY,
Vice-Admiral.

Government House, Ottawa, Canada,
3rd May, 1869.

SIR,

In reference to your communication of the 5th March, I have the honour to state that the mode in which you propose to employ Her Majesty's vessels for the protection of the Fisheries in Newfoundland and the Gulf of St. Lawrence, during the ensuing summer, appears to me quite satisfactory.

It will be desirable that the *Phæbe* should come to Quebec; but, under present circumstances, there seems to be no necessity for withdrawing the *Britomart* from Hayti.

I am promised further information on the Fishery question in a few days, and will lose no time in transmitting it to you.

His Excellency Vice-Admiral
Sir Rodney Mundy, K.C.B.

I have, &c.,
(Signed) JOHN YOUNG.

SIR,

Royal Alfred, Halifax, 10th May, 1869.

I have the honour to acknowledge the receipt of your Excellency's letter of the 3rd instant, and to inform you that I have received instructions from the Lords Commissioners of the Admiralty to send the *Phæbe* to South America to form part of the Channel squadron.

The *Niobe*, *Dart*, *Mullet*, and *Minstrel* will be available for the protection of the Fisheries.

His Excellency the Right Honourable
Sir J. Young, Bart., G.C.B., G.C.M.G.,
Governor-General of Canada.

I have, &c.,
(Signed) R. MUNDY,
Vice-Admiral.

SIR,

Government House, Ottawa, 1st May, 1869.

I have the honour to transmit to you for your information, copy of a letter from the department of the Minister of Marine and Fisheries, covering copy of an approved Minute of the Privy Council of Canada, on the subject of issuing Fishery Licences to foreign fishing vessels.

In reference to the blank forms of licences to be furnished, I hope you will be inclined to give facilities for their being granted to foreign fishing vessels. If a Commissioned Officer (or some competent person specially deputed therefor) on board of Her Majesty's ships be not empowered to grant a licence on meeting with a vessel unfurnished with one, the evasion of the regulations will, I am informed, be attempted in almost every instance.

The foreign vessel will, it is said, prefer running the risk of not being again met within British limits, to the delay and inconvenience of going to the station at which a licence may be procured.

Perhaps you will have the goodness to take the matter into consideration, and point out some mode by which the difficulty may be met, without unduly trespassing upon the action and duties of a ship of war.

His Excellency Vice Admiral
Sir Rodney Mundy, K.C.B.

I have, &c.,
(Signed) JOHN YOUNG.

The Minister of Fisheries and Marine to the Governor's Secretary.

Fisheries Branch, Department of Marine and
Fisheries, Ottawa, 30th April, 1869.

SIR,

I have the honour, by direction of the Minister, to enclose a copy of the Report approved yesterday by the Governor-General in Council on the subject of issuing Fishery Licences to foreign fishing vessels for the current year, in order that the same may be communicated to Sir Rodney Mundy; also, to state for the information of his Excellency that a sufficient number of blank forms of Fishery Licences, together with copies of the Canada Fisheries Act and of the Statute (31 Vict. c. 61) under special authority of which these licences are issued, will be supplied to-morrow.

I am further to state, with reference to the two Canadian vessels named for the

CANADA.

fisheries service, the armed schooner *La Canadienne* and the steamer *Druid*, and the additional public steamer to be employed when her other duties admit of it, that the names of commissioned officers placed in command of those vessels and copies of instructions addressed to each of them will be immediately forwarded for transmission to Vice-Admiral Mundy, and so soon as it is possible to organize the several boats' crews which the department is authorized to engage, advices of their location and duties, with the names of persons in charge, will be sent through your office.

I have, &c.,

(Signed) W. F. WHITCHER,
For the Minister of Marine and Fisheries.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by his Excellency the GOVERNOR-GENERAL in Council, on the 29th of April, 1869.

The Committee have had under their consideration the Memorandum, dated the 29th of April, 1869, from the Honourable the Minister of Marine and Fisheries, submitting for your Excellency's approval certain recommendations on the subject of licensing foreign vessels to fish in Canadian waters, and suggesting the measures which he considers it expedient to adopt, in order to secure a better observance by such vessels of the regulations established in reference thereto, and requesting a further appropriation for the current year of \$3200, to enable him to give effect to the recommendation submitted.

The Committee advise that the recommendations contained in the said Memorandum be approved and acted on.

[Certified.]

(Signed)

WM. H. LEE,
Clerk, P.C.

The undersigned has the honour to recommend to the Governor-General in Privy Council that, under Section 1 of the Statute passed during last Parliament, and entitled "An Act respecting Fishing by Foreign Vessels," he be authorized to continue the granting of Fishing Licences for the year 1869 to foreign fishing vessels, admitting foreign fishermen to fish and dry and cure fish in Canadian waters, within the limits described in the aforesaid section, at the same rate of *two dollars per ton* measurement as was adopted for the past year.

With a view to render more effectual the system of licensing thus temporarily continued for the current year, it is recommended, that the naval officers in command of Her Majesty's vessels, and also the Fishery officers and others engaged in the services of protecting the Fisheries of Canada, or charged with the duty of issuing such licences, be instructed to discontinue the practice of giving foreign fishing vessels "three warnings" before either enforcing the acceptance of licences or being compelled to depart from the inshore fishing grounds under pain of seizure, and that a single warning during the "whole season and the lapse of twenty-four hours shall be allowed, as provided in the "2nd section of the above-recited Act."

Also, that commissioned officers (or some competent persons specially deputed therefor) on board of Her Majesty's ships employed on the service of protecting the Fisheries, be empowered to grant licences to United States fishing vessels whenever and wheresoever they shall be met with, and may be required to procure the same; for which purpose a supply of blank licences duly stamped should be furnished through the Admiral for distribution among the officers or persons so authorized to grant them, and receive the fees payable thereon for remittance to this department. As it may be necessary again to recognise interchangeably the licences issued by Canada and Prince Edward Island, occasion should be taken to direct the attention of the authorities of that Province to the laxity and evasion which have existed in respect of requiring foreign vessels frequenting the Island Harbours and Fishing Stations to be provided with licences. Reference is requested to Reports on this subject, dated 15th of September and 9th of November last. In addition to the services of the Government vessels, *La Canadienne* and *Druid*, it is necessary to employ boats' crews at Ports Hood, Mulgrave, Digby, and Westport, in Nova Scotia; L'Etang Harbour, West Isles, Miscou, Fox Island (Miramichi), in New Brunswick; and either at the Magdalen Islands or Chaleur Bay, in Quebec. Arrangements may be made for these crews to act under the general direction of the officers in

command of the Government vessels, and to receive further directions and aid in case of need from Her Majesty's ships. If practicable, they would also be placed under charge of some of the Local Fishery overseers, who could be supplied with licences for issuing to any foreign vessel to the owner of which the alternative of seizure or acceptance might be afforded, after the prescribed notice by any of Her Majesty's commissioned officers, or Canadian officers in command of vessels (others than the boats referred to) engaged in protecting the Fisheries, to whom such refusal shall be reported.

This plan would be at once more efficient and economical than to adopt the suggestions already made by Admiral Mundy, and referred to in a Report from this department of 22nd May last, to employ several small sailing vessels to cruise along various parts of the coast. Should another suggestion, however, offered in the Admiral's despatches of last year, be now adopted, namely, to allow boats from Her Majesty's cruisers to move about in the vicinity of their ships, and detect foreigners fishing without licences, the system would be materially improved, particularly if the officer in charge, or some other person on board, be ready to issue licences.

The estimates for the Fisheries service, during the latter part of the year ending the 30th of June next, and the first half of the ensuing financial year from July to 31st of December, not having made any provision for these additional expenses, the funds, which it is intended to provide for the year from the 1st of July, 1869, to the 30th of June, 1870, being also very limited, it will be necessary now to supplement them in order to give effect to the recommendations herein submitted, at least to the extent of enforcing the system throughout the summer and autumn months, a further sum of \$3200⁰⁰/₁₀₀ would be required.

The Minister further submits, that it may prove desirable to make use of either of the provincial steamers, when not otherwise indispensably occupied, during the fall mackerel fishery in conjunction with the other vessels employed; but this would be done only in case of absolute necessity, and can, it is believed, be effected without material expense, except for coal, and by economising closely the funds obtained for maintaining the teamers.

The whole respectfully submitted.

Department of Marine and Fisheries,
Fisheries Branch,
Ottawa, 29th April, 1869.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

SIR,

Royal Alfred, Halifax, 11th May, 1869.

I have the honour to acknowledge the receipt of your Excellency's despatch of the 1st instant, transmitting copy of a letter from the department of the Minister of Marine and Fisheries, covering copy of an approved Minute of the Privy Council of Canada on the subject of issuing Fishery licences to foreign fishing vessels. In reply, I have to acquaint you that, having taken into consideration the question of issuing licences to foreign fishing vessels at sea, the following appears to me the only mode of meeting the difficulty, viz. :—

1. By obtaining the sanction of the Lords Commissioners of the Admiralty for the reception on board each of the cruising ships of a Custom House officer, or other qualified person, who, at the charge of the Dominion Government, would be victualled as a civilian supernumerary, and whose duty it would be to grant and receive the money for such licences as might be issued to foreign fishing vessels fallen in with at sea.

2. I observe the Minister of Marine, in his despatch of the 29th ultimo, makes the same proposition as forwarded to me last season, namely, that blank licences duly stamped should be furnished through the Admiral. In connection with this request, I beg to call the attention of your Excellency to my letter of the 8th of June, 1868, to Viscount Monck, in which I distinctly state that "it is not within the province of the duties of a ship of war to undertake this service, more especially as it will appear from the last paragraph of Mr. Mitchell's letter, that the money which the master of the fishing vessel might be prepared to pay would be received by the captain of Her Majesty's ship, and subsequently paid over to the credit of the Receiver-General."

3. Their Lordships, by their letter of the 7th July, 1868, signified their approval of my decision, as thus communicated to the Governor-General, and it is not therefore in my power to re-open the question; should however, the proposition which I submit, of receiving duly qualified persons from the Dominion Custom Houses be entertained by the Privy Council of Canada, I shall be glad to acquaint the Lords Commissioners of

CANADA. the Admiralty of their views, and on receiving their Lordship's instructions, to act upon them.

I have, &c.,
(Signed) **RODNEY MUNDY,**
Vice-Admiral.

His Excellency the Right Honourable
Sir John Young, Bart., G.C.B.,
Governor-General of the Dominion of Canada.

No. 6.

No. 6.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 5th June, 1869.

* Page 97.
No. 101.
5th June, 1869.
Page 77.

With reference to your letter of yesterday's date* respecting the protection of the Fisheries in the Canadian waters, I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a despatch which his Lordship has addressed on the subject to the Governor-General of Canada.

I am, &c.,
(Signed) **FREDERIC ROGERS.**

The Secretary to the Admiralty.

No. 7.

No. 7.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 7th June, 1869.

5th June, 1869.

With reference to your letter of the 5th instant, I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Earl Granville, a copy of their Lordships' letter of the 5th instant to the Commander-in-Chief of the North America and West India Station relative to the protection of the Fisheries in Canadian waters.

I am, Sir, your obedient servant,
(Signed) **W. G. ROMAINE.**

Sir Frederic Rogers, Bart.,
Colonial office.

Enclosure in
No. 7.

(No. 245.)

Enclosure in No. 7.

SIR,

Admiralty, 5th June, 1869.

With reference to your letter of 15th May, No. 127, and its enclosures, relative to the protection of the Fisheries in Canadian waters, I am commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for your information and guidance, a copy of the letter from this department to the Colonial Office, dated 4th instant, with the reply from Earl Granville, from which you will learn that the Secretary of State does not wish that Her Majesty's ships should receive on board Custom House officers, or other duly qualified persons to issue licences to foreign fishing vessels, and to receive payment for them; and that if one warning instead of three is given to such fishing vessels before enforcing the acceptance of licences, or compelling them to depart from the in-shore fishing grounds under pain of seizure, precautions will be necessary in withdrawing the forbearance which they are accustomed to count upon.

My Lords hope that, whilst rendering every assistance in your power for the protection of these Fisheries, you will instruct the officers under your orders to use the utmost temper and forbearance compatible with the duty intrusted to them, especially as in certain events one warning in place of three will only be given to American fishermen.

I am, Sir, your obedient servant,
(Signed) **W. G. ROMAINE.**

Admiral Sir Rodney Mundy, K.C.B.,
Halifax.

No. 8.

No. 8.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 14th June, 1869.

* Page 95.

With reference to your letter of the 21st ultimo,* relating to the question of the future protection of the North American Fisheries, I am directed by Earl Granville to

transmit to you the draft of a despatch which, with their Lordships' concurrence, he proposes to address on this subject to the Governor-General of Canada.

The Secretary to the Admiralty.

(Signed)

I am, &c.,

FREDERIC ROGERS.

CANADA.

Confidential.
21st June.
1869. Page
78.

No. 9.

No. 9.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 17th June, 1869.

I am commanded by my Lords Commissioners of the Admiralty to acknowledge the receipt of your letter of the 14th instant, enclosing a draft of a Confidential Despatch which Earl Granville proposes to address to the Governor-General of Canada on the question of the future protection of the North American Fisheries, and I am to acquaint you, for the information of his Lordship, that my Lords concur in the propriety of this communication to Sir John Young.

The Under-Secretary of State
for the Colonies.

(Signed)

I am, &c.,

JOHN HENRY BRIGGS.

No. 10.

No. 10.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 28th June, 1869.

I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of Earl Granville, a copy of a letter from Admiral Sir G. R. Mundy relative to the protection of the Fisheries in Canadian waters.

Sir Frederic Rogers, Bart.,
Colonial Office.

(Signed)

I am, &c.,

JOHN HENRY BRIGGS.

17th June,
No. 176.

Enclosure in No. 10.

Enclosure in
No. 10.

(No. 176.)

PROTECTION OF THE FISHERIES.

SIR,

Royal Alfred, Halifax, 17th June, 1869.

I have the honour to acknowledge the receipt of your letter, No. 245 M., of the 5th instant, with its enclosures relative to the protection of the Fisheries in Canadian waters, and conveying to me directions from the Lords Commissioners of the Admiralty on the subject.

By the copy of the instructions which I transmitted in my letter, No. 153, of the 3rd instant, their Lordships will, I trust, find that all the points adverted to in this correspondence have been provided for.

The *Dart*, Commander Hon. J. Carnegie, is already on the fishing grounds, with the colonial steamer *Druid*. The *Minstrel* will sail on Saturday the 19th, and the *Mullet* in the course of next week.

The Secretary of the Admiralty.

(Signed)

I have, &c.;

RODNEY MUNDY,

Admiral.

No. 11.

No. 11.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 28th July, 1869.

I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Earl Granville, a copy of a letter from Admiral Sir R. Mundy, dated the 7th of July, No. 196, with a copy of its enclosure, relative to the protection of the Canadian Fisheries.

No. 196.
7th July, 1869.

The Under-Secretary of State
for the Colonies.

(Signed)

I am, Sir, your obedient servant,

VERNON LUSHINGTON.

CANADA.
Enclosure
in No. 11.

(No. 196.)

Enclosures in No. 11.

PROTECTION OF CANADIAN FISHERIES.

SIR,

Royal Alfred, Halifax, 7th July, 1869.

I have the honour to transmit a copy of a letter which I have received from the Governor-General of Canada, together with a report of the Privy Council, on the subject of the Canadian vessels employed in protecting the Fisheries.

2. The Privy Council, after taking into consideration the proposition which I had made to them in obedience to their Lordships' directions contained in your letter of the 21st of May last, No. 214 M., as to the best mode in which Canadian vessels could be employed under the control of the senior naval officer employed in the St. Lawrence, object to any arrangement by which these vessels should be placed under the control of the Imperial Navy.

3. In this Report of the Privy Council the Minister of Marine and Fisheries, whilst transcribing for my information that part of the despatch of the 14th of April, 1866, from Her Majesty's Principal Secretary of State for the Colonies, which relates to the colonial vessels being placed under the orders of the senior officer, speaks of it as a requisition which does not appear to have been complied with on the part of the Government of Canada, and, therefore, presumes it was considered objectionable.

4. In calling the attention of their Lordships to their letter of the 13th of April, 1866, No. 190 M., with enclosures from Sir F. Rogers of the 12th of that month directed to the Secretary of the Admiralty, and from Mr. Cardwell to the Governor-General of Canada of the 17th of March, 1866, it will be seen that the orders sent to the Governor-General were positive as to the commanders of any vessels, acting under the authority of the Canadian Government, placing themselves under the direction of the naval officers on that station, and were not submitted in the form of a request, as would appear from the Report of the Minister of Marine and Fisheries.

5. It would seem to be the object of the Government of Canada to throw the main responsibility of guarding the three-mile limit upon the officers of the Royal Navy, whilst at the same time the Minister of Marine and Fisheries is unwilling to place the cruisers under Imperial control.

6. During the present season all arrangements have been made by me for friendly and united co-operation between the commanding officers of Her Majesty's ships stationed for the protection of the Fisheries and the officers in charge of Canadian vessels, and they will work together when they meet in perfect accord. The *Druid* is commanded by Captain P. A. Scott, a steady good officer; and the officer in command of the *Canadienne*, though a civilian, has always been anxious to consult the senior naval officers when meeting at sea. At this late period no alterations in the instructions can with advantage be attempted, but I venture to suggest the desirability of endeavouring, before the opening of the Fisheries next year, to arrive at some definite system of joint action.

His Excellency Sir John Young, the Governor-General, is expected here in the second week in August, and I shall be glad if I should have the opportunity of a personal interview with him on these important matters before I am relieved in the command by Rear-Admiral Wellesley.

The Secretary of the Admiralty.

I have, &c.,
(Signed) RODNEY MUNDY,
Admiral.

SIR,

Government House, Ottawa, 29th June, 1869.

I duly referred your communication of June the 1st to the Ministers, and have now the honour to enclose a Minute of Council which conveys their views on the subject:—

2. You will perceive that the Council objects to the placing of officers in command of Colonial vessels under the "immediate orders of Imperial officers," for reasons which are stated in the Minute, and that they do not consider such a step "necessary to harmonious action."

Vice-Admiral Sir Rodney Mundy, K.C.B.

I have, &c.,
(Signed) JOHN YOUNG.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL, on the 24th of June, 1869.

On a Memorandum dated the 15th of June, 1869, from the Honourable the Minister of Marine and Fisheries, referring to a despatch of Sir Rodney Mundy dated the 1st inst., suggesting that the Fishery officers in command of Canadian vessels employed in protecting the Fisheries should be placed under the control of the senior naval officer employed in the same service under Her Majesty's Government:

The Minister reports, that in a despatch of the 14th of April, 1866, from Mr. Secretary Cardwell, it was also suggested that "officers in command of Colonial vessels may be instructed to obey the orders of the officers commanding on the station." That this request does not appear to have been complied with on the part of the Government of Canada. That he presumes, therefore, it was considered objectionable, and he now submits that, as the officers employed by Canada act only in a civil capacity, and have other services to perform besides dealing with foreign fishing vessels, it is inadvisable to subject them to the immediate orders of Imperial officers governed by special instructions in a peculiar service, especially as it does not seem at all necessary to their harmonious action.

The Committee concur in the Report of the Minister of Marine and Fisheries, and submit the same for your Excellency's approval.

[Certified.]

(Signed)

WM. H. LEE, Clerk, P.C.

No. 12.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 3rd August, 1869.

With reference to the correspondence noted in the margin relating to the protection of the North American Fisheries, I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a Despatch from the Governor-General of Canada, with its enclosures, respecting the number of warnings to be given to United States vessels found fishing in Canadian waters without a licence.

Lord Granville desires me to request that he may be informed what course was taken last year with respect to these warnings by Her Majesty's ships engaged in the protection of the Fisheries in consequence of Clause 2 of the additional instructions issued by Sir R. Mundy, and forwarded in your letter of the 7th of July, 1868; and also what course Sir R. Mundy and the officers under his command are now taking with respect to those warnings.

It is very desirable that the Canadian Government should be kept as fully informed as possible, either through this office or by direct communication from the Admiral on the station, not merely of the instructions from time to time issued to him relating to the Fisheries, but also of any matter of interest in relation to that subject which the Admiral may have it in his power to communicate to the Government without inconvenience.

The Secretary to the Admiralty.

I am, &c.,

(Signed) F. R. SANDFORD.

Admiralty,
7th June,
1869.
Page 102.

Admiralty,
4th June,
1869.
Page 97.

Colonial
Office, 5th
June, 1869.
Page 102.

No. 76.
Governor.

2nd July,
1869.
Page 3.

No. 13.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 9th August, 1869.

With reference to your letter of the 3rd instant, and its enclosures, respecting the number of warnings to be given to United States vessels found fishing in Canadian waters, and requesting to be informed what steps Sir R. Mundy and the officers under his command have taken last year, and are now taking, in this matter, I am commanded by my Lords Commissioners of the Admiralty to refer you to their letters of the 7th of July, 1868, 21st of May, 1869,* and 17th of June, 1869,† and to request you will inform Earl Granville that, as shown by those letters, the Admiral and other officers on the North American station are acting in conformity with the instructions contained in

* Page 95.
† Page 103.

CANADA. the Colonial Office letters of the 9th of May, 1868, and 5th of June, 1869,* relative to one warning only being given.

* Page 102.

2. Copies of your letter of the 3rd instant and of its enclosures have been transmitted to the Commander-in-Chief on the North America and West India station, and he has been directed to afford any information in his power to the Governor-General of Canada with regard to the Fisheries.

The Under-Secretary of State,
Colonial office.

I am, &c.,
(Signed) VERNON LUSHINGTON.

No. 14.

No. 14.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 26th August, 1869.

No. 215.
1st Aug. 1869.

I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of Earl Granville, a copy of a letter from Admiral Sir Rodney Mundy, dated the 1st of August, and of its enclosures, relative to the protection of Canadian Fisheries.

2. The Admiral reports, that an unusual number of fishing schooners belonging to the United States have arrived on the northern shores of Prince Edward Island, but that only a few licences had been demanded by the masters, who object to pay the licence duty of two dollars per ton, and prefer to run the risk of being caught within the three-mile limit.

3. Sir R. Munday also draws attention to the withdrawal, without notice, of the only vessel belonging to the Dominion of Canada, which was under orders to co-operate with Her Majesty's ships.

Sir Frederic Rogers, Bart.,
Colonial Office.

I am, &c.,
(Signed) VERNON LUSHINGTON.

Enclosures
in No. 14.

Enclosures in No. 14.

PROTECTION OF CANADIAN FISHERIES.

(No. 215.)
SIR,

Royal Alfred, at sea in Straits of Northumberland,
1st August, 1869.

I have the honour to acquaint you, for the information of the Lords Commissioners of the Admiralty, that having sailed from Halifax on the morning of the 24th ultimo in Her Majesty's ship *Royal Alfred*, bearing my flag, I passed through the Gut of Canso on the following day, and communicated with the *Minstrel* and *Mullet*, cruising in the Gulf of St. Lawrence for the protection of Fisheries.

2. A larger number than usual of fishing-schooners belonging to the United States had recently arrived on the northern shores of Prince Edward Island, and the season promised to be very favourable.

3. Only a few licences had been demanded by the masters of these vessels; who, when boarded, invariably made the same statement—that whilst in 1866 they willingly paid the half-dollar per ton, they did not intend to pay the two dollars, the amount which had been fixed for the present year. They preferred to run the chance of being caught within the three-mile limit, knowing that they could not be captured unless they had previously received one warning to quit the coast.

4. The fishermen belonging to the Dominion of Canada and Prince Edward Island bear no animosity to these foreigners, but, on the contrary, act in harmony with them; and no complaints have been made by the seamen of Nova Scotia, New Brunswick, or of Prince Edward Island, of the encroachments of the Americans.

5. The schooners of the United States are distinguished at once from those of all other nations by their larger tonnage, peculiar build, superior fittings, and well-cut sails, and their great speed in all weathers is equally remarkable.

6. On the 29th ultimo, having buoyed the intricate channel leading to the anchorage off Charlotte Town, I proceeded into that harbour, and moored the flag-ship at a distance of one cable and a quarter from the Queen's Wharf. I remained there one day, for the purpose of communicating with Sir R. Hodgson, the Administrator of the Government, on subjects connected with the Fishery question; and in the course of the present week I shall return to Halifax, to await the arrival of Rear-Admiral Wellesley.

7. I enclose a copy of a letter which I addressed yesterday to the Governor-General.

of Canada, from which it will be seen that the only Dominion vessel which had been notified to me as under orders to co-operate with Her Majesty's ships on this part of that coast had been removed by command of the Minister of Marine and Fisheries, without any notice having been afforded to me of this intention; and her withdrawal has taken place at the moment when her presence was most desirable.

8. Considering the lengthened correspondence which has taken place between Her Majesty's Government and the Government of the Dominion of Canada on the Fishery question, and the consequent instructions which I have received from their Lordships, I have thought it my duty to make myself personally acquainted with the details and practical working of the existing arrangements, in order that I may furnish my successor with the exact position of affairs; and I feel persuaded that if in the course of the next year more concerted action in the spirit of Earl Granville's Despatch of the 19th of May, 1869, to the Secretary of the Admiralty, be carried out between the Imperial and Canadian authorities, a far better result for the real protection of the Fisheries will be obtained than can be realised under the present disjointed system.

I have, &c.

The Secretary of the Admiralty.

(Signed)

RODNEY MUNDY,
Admiral.

Royal Alfred, Charlotte Town, Prince Edward Island,
31st July, 1869.

SIR,

I think it my duty to acquaint your Excellency that, prior to my sailing from Halifax on the 24th instant, having observed that the Canadian vessel *Druid* had been at anchor for a week in that port, when it was understood she was to be cruising on the eastern coast of Cape Breton, I sent for Captain Scott, and was informed by him that he had received directions from the Minister of Marine and Fisheries to proceed on duties connected with supplying the lighthouses of the Dominion with provisions and stores.

2. On my observing to Captain Scott that the time selected for this additional service was extremely inconvenient, as it withdrew the vessel from the coast between North Point and Scatarie Island at the very moment when the American fishing-vessels had assembled in their largest numbers, and when the mackerel had struck the coast in shoals of more than usual proportion, he at once stated that the view I took of the matter was entirely correct, and that he left his station with much regret.

3. I afterwards ascertained from Captain Scott that the new duties with which he was charged could not be executed under three weeks or a month, by which time the best part of the mackerel-fishing would be ended, and the foreign vessels would have had unlimited and complete command of the coast.

It had been previously arranged that the *Minstrel* would watch the western shores of Cape Breton, being in communication with the *Druid*, whilst the *Dart* and *Mullet* took the waters of New Brunswick and the shores of Prince Edward Island: and thus, with the *Canaliemie* off the Magdalen Islands for the first time since the termination of the Reciprocity Treaty, owing to Her Majesty's vessels being of the gunboat class, an effective supervision would have been established.

4. I should not have ventured to trouble your Excellency with these details had I not been furnished by the Lords Commissioners of the Admiralty with a copy of a despatch signed by Sir George Cartier and Mr. McDougall, bearing date the 8th of April, 1869, in which those members of the Canadian Government state that last year a number of foreign vessels forced themselves into British waters for the purpose of fishing, without having the required licence, causing great loss and great annoyance to Her Majesty's subjects, and proving that the licence system could not be properly enforced unless the vessels in the service of the Government of Canada for the protection of the Fisheries were aided and assisted by Her Majesty's navy. Sir George Cartier and Mr. McDougall conclude their remarks by soliciting Her Majesty's Principal Secretary of State for the Colonies to induce the First Lord of the Admiralty to give the Commander-in-Chief instructions to grant the necessary aid and assistance in enforcing the provisions of the Act respecting Fishing by Foreign Vessels.

5. In compliance with those instructions duly received by me, I made such arrangements as I believed would be most advantageous to meet the wishes of the Canadian Government, and which subsequently received your Excellency's approval.

The sudden removal of the *Druid* at so inopportune a moment has disconcerted the combined action of the protecting vessels, which would not have been the case had arrangements been made for these extra duties either a month sooner or a month later in

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the year. I should be very glad if in the ensuing season any changes made by the Minister of Fisheries might take place in conjunction with the measures of the Commander-in-Chief—by which the public service would be materially advanced.

6. The *Niobe*, *Dart*, *Mullet*, and *Minstrel*, have been actively employed on their respective stations since the opening of the season, and, from the tenor of the reports which I have received from the commanding officers, have already performed valuable service in warning off foreign vessels which have been found carrying out their fishing operations within British territorial limits; but scarcely a licence up to the present date has been taken out, the masters of the American schooners invariably giving the same answer, that they cannot afford the two dollars a ton, though they willingly paid the half dollar, and that they now waited for the first warning, and ran their chance.

7. In view of the many complications involved in the Fishery question, I considered a visit of the flag-ship to these waters desirable, especially as I wished to become personally acquainted with the position of affairs, and thus be able to place my successor in full possession of the details of the subject; and this service having been performed, I am about to return to Halifax.

I brought the *Royal Alfred* into the Harbour of Charlottetown, and am glad to have the assurance of the Administrator of the Government, Sir Robert Hodgson, that the presence of my flag-ship, moored close to the Queen's Wharf, is likely to be productive of good effect.

I have, &c.

His Excellency the Right Honourable (Signed) RODNEY MUNDY.
Sir John Young, Bart., G.C.B., G.C.M.G. Admiral.
Governor-General of the Dominion of Canada.

PRINCE EDWARD ISLAND.

Fishing Licences taken out by American fishing-vessels from 1866 to 1869 :—

	£	s.	d.
1866—From the 9th of June to the 8th of September, 89 vessels at 3s. currency per ton	834	16	9
1867—From the 13th of June to the 27th of September, 26 vessels at 6s. currency per ton	446	14	7½
1868—From the 25th of June to the 22nd of August, 5 vessels at 12s. currency per ton	152	13	9
1869—From the 14th of July to the 28th of July, 6 vessels at 12s. currency per ton	128	9	3

Four of the vessels of 1869 are of the following tonnage: 5 $\frac{47}{100}$, 18, 26 $\frac{95}{100}$, and 27 tons.

No. 15.

No. 15.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 18th December, 1869.

I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Earl Granville, copy of a letter from Vice-Admiral Wellesley, dated 18th of November, No. 118, with enclosures in original, reporting on the Canadian Fisheries for the year 1869.

2. Their Lordships desire me to request you will draw the attention of Lord Granville to the very limited assistance reported by Admiral Wellesley to be rendered by the Dominion of Canada in protecting the Fisheries, and they beg to refer to their letter of the 4th of June last,* in which was pointed out the inexpediency of employing Her Majesty's ships to enforce the revenue and municipal laws of a colony having such powers of self-government as are enjoyed by the Dominion, and the danger of serious complications arising in the event of collision with United States' vessels.

My Lords beg further to express a hope that some more satisfactory arrangement with regard to the Fisheries may be come to before the commencement of the next season.

I am, &c.,

The Under-Secretary of State
for the Colonies.

(Signed) JOHN HENRY BRIGGS.

* Page 97.

Enclosures in No. 15.

CANADIAN FISHERIES.

(No. 118.)

REPORT on, for 1869.

Royal Alfred, at Bermuda.

18th November, 1869.

SIR,

I beg to enclose, for the information of the Lords Commissioners of the Admiralty, the Fishery Reports from the officers commanding the *Dart*, *Mullet*, and *Minstrel*, which have been employed during the past season in the protection of the Fisheries on the Coast of New Brunswick, Nova Scotia, Prince Edward and Cape Breton Islands.

2. The *Royalist* was despatched also on this duty, but was recalled early in the season, and sent to reinforce the squadron at the Bahamas, as reported at the time by my predecessor. The others were also withdrawn for some three or four weeks at the end of August and beginning of September, to attend upon His Royal Highness Prince Arthur in his visit to different ports of the Dominion.

3. The steamer *Druid*, belonging to the Dominion, has been also occasionally employed on the Fisheries on the Coast of Cape Breton Island, but as she has had to visit periodically the lighthouses around Nova Scotia and New Brunswick, very little of her time could be devoted to the Fisheries.

4. From the periodical reports of the officers I have extracted the following account of vessels boarded, distinguishing those which had taken out licences from the Dominion Government, authorising them to fish within three miles of the shore.

	<i>Dart</i> .	<i>Mullet</i> .	<i>Minstrel</i> .	Total.
Total Number boarded	141	9	12	162
No. within three- mile limit	113	8	10	131
} warned once	18	1	—	19
} warned more than once	10	—	2	12
Licensed	131	9	10	150
Not licensed				

5. It therein appears that out of 162 vessels boarded within the limits only 12, or about 7 per cent., had licensed. It is also plain why this is so. When established, the charge was fixed at half a dollar per ton, and a large proportion of vessels took out licences the first year. Some, however, did not do so, and the fishermen soon discovered that there was little risk of interference or capture, as so few cruisers were employed, and no other efficacious measures were adopted to prevent infraction of the Treaty by those not licensed. The fee was then raised to one dollar per ton, and has this year been further raised to two dollars a ton without any increase of vigilance, and the natural result has been that very few licences have been taken out, and those in fact only by vessels which, having received a warning, were liable to capture if found fishing again within the three-mile limit.

6. Moreover, in direct violation of the 1st Article of the Convention of 1818, American vessels are permitted to resort to the harbours not alone for shelter, repairing damages, or for wood and water, but in order to land and deposit their fish on bond, whence it is conveyed to the United States by a regular line of steamers.

7. So far as I am aware, the only measure adopted by the Colonial authorities has been the employment of the steamer *Druid*, which, as I have already stated, could not have effected much, as she had other and important duties calling her elsewhere. She occupied also a very anomalous position in not being a man-of-war.

8. The result, therefore, is that the encroachments of American fishing vessels are practically disregarded by the Colonial authorities, and they are actually encouraged by the inhabitants, who derive large profits from supplying their wants at the various ports. Very few Colonial vessels are engaged in fishing, owing to the almost prohibitory tariff imposed in the United States on fish imported in Colonial vessels, and the Colonial fishermen therefore in considerable numbers man the American vessels.

9. The cruising of three or four of Her Majesty's ships to watch lines of coast of several hundred miles in extent, can effect but little in preventing encroachment (especially as one warning must be given, and moreover it must be extremely difficult to determine correctly the distance at which a vessel boarded may be from the land), unless they are supplemented by more vigorous measures on the part of the Colonial authorities and people, whose interests are, I apprehend, alone affected by this question.

10. I draw attention to the want of action on the part of the Colonial authorities not

CANADA.

as a matter of complaint, but because it is commonly stated that they are anxious, and hope to force the Americans to a renewal of the Reciprocity Treaty, by confining them strictly to their fishing rights, but yet they leave them practically unmolested when they infringe them.

28th October,
1869.

11. I transmit, for their Lordships' information, a letter from the Governor-General of the Dominion, enclosing one from Her Majesty's Minister at Washington respecting a threat, on the part of the American fishermen, to resist by arms any interference. A rumour to the same effect appears to have been current on the fishing grounds, but I should not attach any credit to the story. The fishermen know perfectly well the consideration they have received, much beyond what they are entitled to, and they must also be aware that such a proceeding would probably result in the withdrawal of the system of licences and increased vigilance to prevent encroachment.

12. In conclusion I would observe, that as the American fishermen are all fully aware of the illegality of fishing within the three-mile limit, and of the means which are afforded them by the licence system of obtaining the privilege of doing so, the order as to giving them one warning should be abandoned, and public notice should be given before the next season commences that all vessels without licences found fishing within the limit will be at once captured and sent in for adjudication.

I have, &c.,

(Signed) G. G. WELLESLEY,

Vice-Admiral.

P.S.—I have forwarded a copy of this letter and enclosures to the Governor-General of Canada, for the information of his Government.

The Secretary to the Admiralty.

Sub-enclosure No. 1.

FISHERY REPORT.

H.M.S. *Dart*,

Halifax, 21st October, 1869.

SIR,

In reporting on the Fisheries on No. 6 Station for 1869, I regret that I was unable to call at the different Stations along the coast at the close of the season to ascertain what had been the take at each place.

2. I must also mention that I was called away from my station on the 6th of August, and since that time my visits have been few and intermittent.

3. The salmon fishery has been unusually good this year all along the coast.

4. The cod have been plentiful, but the herring, which is used for bait, was very scarce.

5. The mackerel during the first part of the season were plentiful but small; many vessels landed a cargo at Charlottetown, or in the Gut of Canso, in September, and returned to the coast for more.

6. In the latter part of the season the weather was tempestuous, and the schooners were doing little.

7. I have been informed that in the American markets fish caught on their own shores are quoted at a higher price than those caught in the Gulf, which is unusual, and shows that the Gulf fish this year were of an inferior quality. Large quantities of small mackerel have been seen, and it is anticipated that the fish will be plentiful next year; altogether I think that the mackerel fishing this year, though better than that of 1868, is not above average.

8. The American fleet has not been as large this season as in former years: this is owing partly to the badness of last year's take, many vessels having been a loss to their owners, and partly to the fishing being good on their own coast.

9. I have boarded 162 fishing vessels during the season, of which 144 were Americans; 23 of these vessels were boarded twice, and one of them, on being boarded a third time, was found to have taken out a licence; including her, only 10 of the vessels boarded had taken out licences, being less than 7 per cent.

10. It is almost impossible to get sufficient proof against any fishing vessel to warrant her capture, the mackerel fishing being generally carried on under sail, with a large fleet in company; and whenever they see a cruiser approaching they keep a little further off shore.

11. I have frequently seen a fleet of these vessels hovering about the three mile limit when I was at a distance, but when I got near them there was nothing within four miles.

12. To obligè these vessels either to take out licences, or to cease trespassing in our waters, I beg to recommend that they should be liable to seizure without any previous warning, as they are perfectly aware of our rights, and trespass deliberately. That they should not be encouraged in our ports, or allowed to land their fish in bond for transmission to the United States. That the number of our cruizers should be greatly increased, and that they should be supplemented by several schooners built and rigged like the Americans: these vessels, by keeping company with the fishing fleet, would harass them extremely. If it is thought advisable to exclude the Americans from Chaleur Bay, it would have a great effect, as the fishing there is very good, and the detection of the trespassers would be easy.

13. I beg to enclose the navigating Sub-Lieutenant's report on the Pilotage.

I have, &c.,

(Signed) JOHN CARNEGIE,
Commander.

Vice-Admiral George G. Wellesley, C.B.,
&c. &c. &c.

Sub-enclosure No. 2.

REPORT ON FISHERIES, STATION 5.

H.M.S. *Mullet*,

Halifax, 31st October, 1869.

SIR,

In compliance with Clause 3 of the Instructions furnished to Officers employed in the protection of the Fisheries, I have the honour to make the following Report, viz. :—

1. The fish generally found on Station No. 5, on which I have been employed, are mackerel, cod, ling, and haddock, the mackerel being by far the most productive; the season commences about the last week in July, and continues until the third week in October. The fish this summer have been very scarce, and the weather in September unusually rough, which has been a great drawback to the fishermen.

2. The fishing, as a rule, has been conducted by the American fishermen off shore, that is to say, without the three mile limit, although they not unfrequently follow the fish closer in, and run out again on the appearance of a cruizer; from my experience few of them, if any, are furnished with licences; the only reason I can assign for this being that they prefer running the risk of being seized or captured within the proscribed limits to paying such a large sum for a licence.

3. Of the vessels employed fully two-thirds of them are Americans; they are schooners averaging sixty tons, and carrying from fourteen to seventeen hands; they are very well found in all respects, and remarkable for their great speed and weatherly qualities; they stow about 500 barrels, each barrel containing 200 lbs., for which they get from twenty to thirty dollars in America, according to the quality of the fish.

4. With regard to the best means for the effectual protection of the Fisheries on Station 5 during the ensuing year, I am of opinion that no improvement can be made on the system now in force, as I think the most suitable vessels for this service are the *Mullet* class, that is, during the months of July, August, and September; in October it would perhaps be advisable to have a more powerful vessel, as the N.E. winds set in during that month, and a gun-boat would find considerable difficulty in working off what would become a dead lee shore.

In conclusion I would observe that Her Majesty's ship under my command, having been detached to the Bay of Fundy during the greater part of the Fishery season, I regret I am unable to furnish as full a Report as I could wish on this staple of Colonial commerce.

I have, &c.,

(Signed) EDWARD KELLY,
Commander.

Vice-Admiral George G. Wellesley, C.B.,
&c. &c. &c.

Sub-enclosure No. 3.

FINAL FISHERY REPORT.

H.M.S. *Minstrel*, at Halifax,
2nd November, 1869.

SIR,

The mackerel fishing being now over for 1869, I have the honour to inform you that on my Station, marked No. 4 in the Fishery Instructions, the fishing has been slightly below the average during the season.

CANADA.

The first part (the season being divided into two parts) was remarkably good, but the No. 1 mackerel being mostly outside the prescribed boundary.

The second part of the season (or second cargoes) has been very bad, I believe owing to the stormy weather driving the fish away into deeper water.

There has been a large quantity of very small mackerel seen inshore, which portends good fishing for next year.

I beg respectfully to recommend, if Her Majesty's Government really intends to put a stop to the illegal fishing by Americans, to charter several schooners of the same build as those used for fishing, man them by the Navy, and let them cruize about with the fishing fleet, doing away with the warning altogether.

Fishermen can see a man of war sooner than we can see them, owing to our greater height of mast, and square rig; so that, having been warned, they can, if fishing within the three mile boundary, come out before they can be proved to have been there at all.

This may account for the small number of licences taken out, which I have found to be only about 6 per cent. of the vessels I have boarded.

Vice-Admiral George G. Wellesley, C.B.,
&c. &c. &c.

I have, &c.,
(Signed) H. F. YEATMAN,
Lieutenant and Commander.

Sub-enclosure No. 4.

Government House, Ottawa, Canada,
28th October, 1869.

SIR,

I have the honour to forward herewith, for your information, a copy of a Despatch which I have received from Her Majesty's Minister at Washington, together with a copy of the newspaper extract to which Mr. Thornton refers.

I have, &c.,
(Signed) JOHN YOUNG.

Vice-Admiral George G. Wellesley, C.B.,
&c. &c. &c.

20th October,
1869.

Extract.

(No. 25.)

SIR,

Washington, 20th October, 1869.

I have the honour to enclose, for your Excellency's information, an article from the *New York Daily Tribune* of yesterday, relative to the intention of the fishermen of Gloucester, Massachusetts, to resist by force the pretension of British cruizers to exclude them from waters where the fishermen think they have a right to fish.

No great reliance can be placed upon newspaper reports generally in this country, but I think it my duty to call your Excellency's attention to the enclosed statement.

I have, &c.,
(Signed) EDWARD THORNTON.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

"We have received intelligence of the interesting fact that the Gloucester fishermen, irritated at the frequent and persistent interference of British cruizers in their legitimate pursuits, and determined to submit no longer to expulsion from waters in which they believe themselves entitled to cruize, applied some time ago for legal advice as to the extent of their right to resist, and acting under this advice have armed themselves abundantly with Enfield rifles on their last two or three voyages, with the firm resolution of maintaining their position by force in case of molestation by meddlesome revenue cutters. The patience of the fishermen is exhausted, and being now satisfied that their just privileges have been invaded, they will not hesitate to make quick work of any British crew that may overstep what, according to their instructions, is its proper authority. The issue of a conflict between a fleet of a dozen schooners and a cutter would not be very doubtful, excepting in the matter of the international complications to which it would give rise, and these might be endless."

No. 16.

The Colonial Office to the Admiralty.

SIR, Downing Street, 15th January, 1870.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 18th of December,* enclosing copy of a letter from Vice-Admiral Wellesley reporting on the Canadian Fisheries for the year 1869.

* Page 108.
No. 10; 12th
Jan. 1870,
page 108.

I am desired to transmit to you, for the information of the Lords Commissioners of the Admiralty, the enclosed copy of a despatch which Lord Granville has addressed to the Governor-General of Canada on this subject.

The original enclosures which accompanied your letter are herewith returned.

I am, &c.,

FREDERIC ROGERS.

The Secretary to the Admiralty.

No. 17.

No. 17.

The Colonial Office to the Admiralty.

SIR, Downing Street, 30th April, 1870.

In Mr. Secretary Cardwell's letter to the Lords Commissioners of the Admiralty of the 12th April, 1866,* it was stated that American vessels should not be seized for violating the Canadian Fishing Law, "except after wilful and persevering neglect of the warnings which they may have received; and in case it should become necessary to proceed to forfeiture cases should, if possible, be selected for that extreme step in which the offence of fishing has been committed within three miles of land."

* Page 119.

The Canadian Government has recently determined, with the concurrence of Her Majesty's Ministers, to increase the stringency of the existing practice by dispensing with the warnings hitherto given, and seizing at once any vessel detected in violating the law. In view of this change, and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their Lordships to instruct the officers of Her Majesty's ships employed in the protection of the Fisheries that they are not to seize any vessel unless it is evident and can be clearly proved that the offence of fishing has been committed, and the vessel itself is captured within three miles of land.

I am, &c.,

FREDERIC ROGERS.

The Secretary to the Admiralty.

No. 18.

No. 18.

The Admiralty to the Colonial Office.

SIR, Admiralty, 5th May, 1870.

With reference to your letter of the 30th ultimo, in regard to the protection of the Canadian Fisheries, I am commanded by my Lords Commissioners of the Admiralty to request you will inform the Secretary of State for the Colonies that, on receiving from the Foreign Office notice of the resolution of the House of Representatives at Washington in regard to the intention of the Government of the Dominion of Canada to suspend the licences to foreign vessels for the in-shore fisheries on the coasts of the Dominion, orders were sent to the naval Commander-in-Chief in the West Indies (on the 9th of April last) to detach a sufficient force to Canadian waters to protect Canadian fishermen and maintain order, co-operating cordially with any United States force sent on the same service.

2. A copy of your letter has now been forwarded to Vice-Admiral Wellesley, with instructions to direct the commanding officers of the ships selected to exercise the

CANADA. — utmost discretion in carrying out the service, observing that no vessel should be seized unless it is evident, and can be clearly proved, that the offence of Fishing has been committed, and that the vessel is captured within three miles of land.

The Under-Secretary of State
for the Colonies.

I am, &c.,
THOMAS WOLLEY.

No. 19.

No. 19.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 9th May, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a despatch* received through the Foreign Office from Mr. Thornton, together with copy of its enclosure, respecting the Canadian Fisheries.

* Vide Enclosures to Foreign Office Letter, of the 27th April, 1870, page 159.

The Secretary to the Admiralty.

I am, &c.,
H. T. HOLLAND.

No. 20.

No. 20.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 19th May, 1870.

I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for the Colonies, a copy of a letter from Vice-Admiral Wellesley, dated 27th April, No. 151, stating that the *Plover*, *Royalist*, *Philomel*, and *Britomart* were about to be despatched to the Bay of Fundy and the coasts of Nova Scotia and Prince Edward Island for the protection of the Canadian Fisheries.

No. 151.
27th April,
1870.

Enclosed is a copy of the special instructions furnished to these ships, as stated in Vice-Admiral Wellesley's letter, in addition to instructions similar to those which were issued last year for the guidance of Her Majesty's officers employed on this service.

The Under-Secretary of State,
Colonial Office.

I am, &c.,
VERNON LUSHINGTON.

Enclosure in No. 20.

Enclosure
in No. 20.

(No. 151.)

CANADIAN FISHERIES.

SIR,

Royal Alfred, Bermuda, 27th April, 1870.

You will be pleased to inform the Lords Commissioners of the Admiralty, with reference to your letter of the 9th instant (M), that the *Plover* will leave Bermuda to-morrow for St. John, New Brunswick, to protect the Canadian fishermen, and to maintain order in the Bay of Fundy, and that the *Royalist*, *Philomel*, and *Britomart* will leave in a few days to occupy the different stations on the coasts of Nova Scotia and Prince Edward Island.

2. I enclose a copy of the instructions which will be given to the *Plover*, and with which all the other ships to be employed on similar duty will be supplied.

The Secretary of the Admiralty.

I have, &c.,
(Signed) GEORGE G. WELLESLEY,
Vice-Admiral.

ADDITIONAL INSTRUCTIONS FOR OFFICERS EMPLOYED IN THE PROTECTION OF THE
CANADIAN FISHERIES FOR THE SEASON OF 1870.

(Confidential.)

The Lords Commissioners of the Admiralty have informed me that it is probable that a force of United States vessels of war will be sent to the Canadian fishing grounds this season to watch over the interests of American vessels; and I have therefore to impress on you the great importance which is attached by their Lordships to a cordial understanding being maintained between the officers commanding the cruisers of both countries, and you will consider it your duty to co-operate frankly and cordially with the United States officers in order to prevent, if possible, any misunderstanding or chance of collision between the American and English fishermen.

2. The Canadian Government have refused to continue the system formerly adopted of granting licences to foreigners for the in-shore Fisheries, and have expressed their intention to employ Colonial cruisers to act as a police force in the prevention of any encroachments.

(Signed)
H. M. S. *Royal Alfred*, at Bermuda,
27th April, 1870.

GEORGE G. WELLESLEY,
Vice-Admiral.

No. 21.

No. 21.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 3rd June, 1870.

I am directed by Lord Granville to request that you will state to the Lords Commissioners of the Admiralty that he would be glad to be furnished with a copy of the instructions recently issued by the Admiral commanding on the North American and West Indian station, to officers employed in the protection of the Canadian Fisheries.

I am, &c.,

The Secretary to the Admiralty.

H. T. HOLLAND,

No. 22.

No. 22.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 4th June, 1870.

With reference to your letter of the 3rd instant, I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Earl Granville, a copy of the Printed Instructions recently issued by the Vice-Admiral commanding on the North American and West Indian station, to officers employed in the protection of the Canadian Fisheries.

I am, &c.,

The Under-Secretary of State,
Colonial Office.

THOS. WOLLEY.

CANADA.

Enclosure
in No. 22.

Enclosure in No. 22.

INSTRUCTIONS FOR PROTECTION OF THE FISHERIES, 1870.

By **GEORGE GREVILLE WELLESLEY**, Esquire,
Companion of the Most Honourable Order of the
Bath, Vice-Admiral in Her Majesty's Fleet, and
Commander-in-Chief of Her Majesty's Ships and
Vessels employed, and to be employed, on the
North American and West Indian Station.

To
The respective
Captains, Commanders,
and Commanding Officers
of H. M. Ships employed in the protection of the Fisheries.

It being my intention to employ H. M. Ship under your command in the protection of the Fisheries, the following Instructions are furnished for your guidance in conducting that important duty, and they comprise what is necessary for your employment on any of the Stations to which you may be detached for that purpose.

See also
Art. 7.

1. The mode in which it is the decision of Her Majesty's Government that the United States fishermen are to be dealt with, is clearly set forth in the annexed letter (A) from the Colonial Secretary to the Lords Commissioners of the Admiralty, dated 12th April, 1866. In the margin of this letter are noted explanations for your guidance, which have received their Lordships' sanction.

2. The several Stations with their limits you will find described in the Appendix (B).

3. Your first duty on arriving on your Station will be to acquaint yourself by personal inquiry amongst the Fishermen and others on the spot, with such information in regard to the Fisheries as will enable you, with the experience you will have gained at the end of the season, to make a full report on this staple of Colonial commerce, and of the best means to be adopted in the ensuing year for its effectual protection.

4. You are to make yourself thoroughly acquainted with the Coasts and the various Ports and anchorages where you will be able to seek shelter in bad or thick weather, so that you will experience no difficulty under such circumstances in making out the land when you close it.

5. A letter from the Lords Commissioners of the Admiralty on the subject of Pilotage is annexed (C) by which you are to be guided. To your report (Art. 3) is to be added one from your Navigating Officer relative to the Navigation and Pilotage of your Station.

6. You will regulate your cruising according to the information you may obtain from time to time, giving your principal attention to that part of your Station on which you find the United States fishermen are chiefly engaged, and unless detained by stress of weather you are not to remain in harbour more than forty-eight hours at one time. During the night, where strong currents prevail and during fogs, it will be well to anchor whenever the weather, depth of water, and other circumstances permit, using your stream for the purpose in deep water.

You are to cruise as much as possible under sail, but you are to keep your fires banked, in order that you may be prepared to use steam whenever the service renders it requisite that you should do so.

7. In reference to the second paragraph of marginal note G in the annexed letter (A), the Lords Commissioners of the Admiralty have decided that one previous warning will be sufficient before seizing any Vessel fishing in violation of the law. (See also Article 1.)

On boarding any Foreign fishing vessel for the purpose of warning her, the boarding Officer will inform the Master, in the presence of a competent witness, that if he is again found fishing or having fished within the prescribed limits, he will be subject to seizure.

8. You will keep a list of all Vessels boarded, in the following form; and you will take every opportunity of furnishing lists of the Foreign Vessels which you may have

warned to Her Majesty's Ships and the Colonial Cruisers, in order that the law may not be evaded.

CANADA.

Boarded.		Name.					If Warned.		Remarks.
Date.	Where.	Vessel.	Under what Colours.	Owner.	Master.	Port belonging to.	Date.	Under what circumstances.	(If Master had been previously warned, to be so stated.)

9. You will keep me fully informed of your intended movements, in order that I may be able to communicate with you should I desire to do so, and on arriving at each place of call you will send to the Telegraph Office to ascertain if there are any orders for you there.

10. Your proceedings are to be reported weekly for my information, accompanied by your Log and a Track Chart for the week.

In every case of seizure a special report of the circumstances attending it is to be made to me forthwith.

Should no opportunity be presented of forwarding the Report at the expiration of the week, it is to be sealed and transmitted by the first opportunity which may occur subsequently.

These Reports are to be numbered consecutively as Fishing Report No. 1, 2, &c.; and if in harbour the week's Log is to be accompanied by a blank Report duly numbered. They are to include a Return of all Fishing Vessels boarded since the date of the last Return, on the same form as that given in Article 8.

11. Such Papers as are requisite for your information and guidance, arranged under the heads of the several Provinces, are added.

Such of these papers as do not apply to the Station on which you are employed, will prove useful as giving you a general knowledge of this special service, and preparing you to act on any other Station where I may find it necessary to employ you.

12. You will omit no precaution in your power to prevent collisions between the subjects of Her Majesty and those of the United States who may be brought into contact with each other in prosecuting the Fisheries in those places which, during the period the Reciprocity Treaty was in force, were common to both nations.

13. These Instructions are to be carried out in a spirit of conciliation, force being only resorted to after every other effort has failed; and you are at all times to use the utmost temper and forbearance compatible with the duty entrusted to you.

14. You are to remain on this service until recalled, but you will report specially to me when you consider your presence no longer required on your Station.

Given under my hand on board the
at the

(Signed)

day of 187
GEORGE G. WELLESLEY.

ADDITIONAL INSTRUCTIONS FOR OFFICERS EMPLOYED IN THE PROTECTION OF THE CANADIAN FISHERIES FOR THE SEASON OF 1870.

(Confidential.)

1. The Lords Commissioners of the Admiralty have informed me that it is probable that a force of United States vessels of war will be sent to the Canadian fishing grounds this season to watch over the interests of American vessels; and I have therefore to impress on you the great importance which is attached by their Lordships to a cordial understanding being maintained between the officers commanding the cruisers of both countries, and you will consider it your duty to co-operate frankly and cordially with the United States officers, in order to prevent, if possible, any misunderstanding or chance of collision between the American and English fishermen.

2. The Canadian Government have refused to continue the system formerly adopted of granting licences to foreigners for the in-shore fisheries, and have expressed their intention to employ Colonial cruisers to act as a police force in the prevention of any encroachments.

(Signed)

GEORGE G. WELLESLEY,
Vice-Admiral.

H. M. S. *Royal Alfred*, at Bermuda,
27th April, 1870.

CANADA.

A. The Report here directed is to be forwarded to me in triplicate for transmission to the Lords Commissioners of the Admiralty.

APPENDIX A.

NORTH AMERICAN FISHERIES.

(Confidential.)

LETTER respecting INSTRUCTIONS to be sent to the ADMIRAL on the North American Station, with reference to the Determination of the Reciprocity Treaty.

Copy of a Letter from the Secretary of State for the Colonies to the Lords of the Admiralty.

MY LORDS,

Downing Street, April 12th, 1866.

The determination of the Reciprocity Treaty contracted in 1854 between Great Britain and the United States revives the 1st Article of a Convention* of the 20th of October, 1818, with various Imperial and Colonial Acts enumerated in the margin †, of which the operation had been suspended during the continuance of the Treaty by the Imperial Act 18 & 19 Vict. cap. 3, sec. 1, or otherwise.

The precise provisions of that Article will be seen by reference to the Convention. Its general result is as follows :

1. American fishermen may fish, "in common with the subjects of Her Britannic Majesty," in certain specified parts of Newfoundland and Labrador, and on the shores of the Magdalen Islands, with liberty to dry and cure fish on the shores of certain of the unsettled—or with the consent of the inhabitants of the settled bays, harbours, and creeks of Newfoundland and Labrador.

2. Except within the above limits American fishermen are not to take, dry, or cure fish on or within three miles of the coasts, bays, creeks, and harbours of British North America. But they may enter such bays and harbours for certain specified purposes under such restrictions as may be necessary to prevent abuse by fishing or otherwise.

I. With regard to Newfoundland and Labrador, the Convention does but continue within certain geographical limits, and subject to a qualification in respect to the curing of fish, the privileges which have hitherto been exercised under the Reciprocity Treaty. It does not, therefore, call for much observation. It is only requisite to say that although the privilege of drying and curing fish on the Magdalen Islands is not expressly given to American fishermen, Her Majesty's Government have no desire at present to exclude them from it, nor to impose any narrow construction on the word "unsettled." A bay containing a few isolated houses is not to be considered as "settled" for the purpose of this clause of the Convention.

On the other hand, naval officers should be aware that Americans who exercise their right of fishing in Colonial waters in common with subjects of Her Majesty, are also bound, in common with those subjects, to obey the law of the country, including such Colonial laws as have been passed to insure the peaceable and profitable enjoyment of the fisheries by all persons entitled thereto.

The enforcement of the Colonial laws must be left, as far as the exercise of rights on shore is concerned, to the Colonial authorities, by whom Her Majesty's Government desire they shall be enforced with great forbearance, especially during the present season. In all cases they must be enforced with much forbearance and consideration, and they must not be enforced at all by Imperial officers if they appear calculated to place the Americans at a disadvantage in comparison with British fishermen in the waters which, by the Treaty of 1818, are opened to vessels of the United States. On the contrary, their unequal operation should, in this case, be reported to their Lordships, a copy of the report being at the same time sent to the Governor of the Colony.

* Copy annexed.

† Imperial, 59 Geo. III., c. 38. Nova Scotia Revised Statutes (3rd Series), c. 94, ss. 1—18. New Brunswick, 16 Vict., c. 69, ss. 1—18. Prince Edward Island, 6 Vict., c. 14, declared to contain the Fishery Regulations by Order in Council of 3rd September, 1844. (Copies annexed.)

B. In all cases in which inconvenience would arise from the Clause in the Colonial Acts which prescribes the delivery of the Vessel seized, "to the Officer of the Colonial Revenue next to the place where seized," prosecute under this Act.

C. When prosecuted as above directed, avail yourself of the procedure authorised by the 103rd Clause of the Merchant Shipping Act.

An extract of a letter from the Under Secretary of State for the Colonies descriptive of the mode in which the combination of these two Acts is rendered effective for the purposes of prosecution is given herewith. See Extract from Colonial Office letter of 23rd June, 1866.

D. This will enable you to send the vessel for adjudication to *any* Admiralty Court, and consequently to that situated in the *Port most convenient* to you, *i. e.* a Vessel seized in Nova Scotian waters could be sent to Charlotte Town, Prince Edward Island for condemnation, and so of all the other Provinces respectively.

E. You may prosecute under the Colonial Acts when it will not be inconvenient to you, to adhere strictly to the Clause directing the delivery of the Vessel seized to the Revenue Officer *next to the place* where seized, but in no other case.

F. You will observe that the Colonial Acts prescribe the delivery of Vessels which are seized "to the Officers of the Colonial Revenue *next to the place where seized,*" and further prescribe the Court in which the forfeiture shall be prosecuted.

In all cases in which delay would ensue from delivering the Vessel over as above directed, you are to send the Vessel direct to the Port where the Court exists, in which the Vessel seized is to be prosecuted, and there to deliver her over to the Revenue Officers.

G. You are to make every proper allowance for mistakes which may have arisen in the position of the Fishing Vessels from thick weather or other sufficient causes, confining yourself in such cases to warning them off.

You are to give every vessel warning only on one separate occasion of finding her in the act of fishing within the prohibited limits, after which, should you find the same Vessel committing a trespass for the second time, and are satisfied that the neglect of your warning is wilful and persevering, you are to seize her and send her into Port for condemnation. (See also Art. VII. of the Instructions.)

II. Fuller explanation is necessary respecting that part of the Convention by which the United States renounce the right of fishing, except within the permitted limits—"on or within three miles of any of the coasts, bays, creeks, or harbours" of British North America, and are forbidden to enter such bays or harbours, except for certain defined purposes.

The Act of Parliament (59 Geo. III., cap. 38), already mentioned, subjects to forfeiture any foreign vessel which is found fishing, or having fished, or preparing to fish, within the prohibited limits, and authorizes the enforcement of this forfeiture by the like means and in the same Courts as may be resorted to under any Act of Parliament in the case of any offence against the laws relating to Customs, or the laws of trade and navigation.

The statutory mode of enforcing the law against Customs' offences committed in the Colonies will be found in the Act 16 and 17 Vict., cap. 107, and particularly in the 2nd, 183rd, 186th, and 223rd clauses. But as it would probably be held under this Act that a vessel could only be seized safely by a naval officer "duly employed for the prevention of smuggling" (section 233), it will be probably more convenient for naval officers to take advantage of the procedure authorized by the 103rd clause of the Merchant Shipping Act, which is a law relating to "trade and navigation."

Under that clause* (of which a copy is annexed) any commissioned officer on full pay in the military or naval service of Her Majesty, may seize any ship subject to forfeiture, and bring her for adjudication before any Court having Admiralty jurisdiction in Her Majesty's dominions.

It will probably be advisable, as a general rule, that officers of the navy should proceed against vessels engaged in unlawful fishing under the Act of Geo. III. and the Merchant Shipping Act, which extends to all the closed waters of British North America, and do not require the officer's authority to be fortified by any Colonial commission or appointment. But more extended powers are conferred by the above-mentioned local Acts of Nova Scotia, New Brunswick, and Prince Edward Island, on persons commissioned by the Lieutenant-Governors of these Colonies, and any officer who is permanently charged with the protection of the fisheries in the waters of any of these Colonies may find it useful to obtain such a commission.

It will invest him with a special authority in the waters of the Colony to which it relates, to bring into port any foreign vessel which continues within these waters for twenty-four hours after notice to quit them, and, in case she shall have been engaged in fishing, to prosecute her to condemnation. It will also enable him to prosecute the forfeiture of the vessel, if it shall be found to have prohibited goods on board. But this power it would be undesirable to exercise, as Her Majesty's Government do not at present desire officers of the navy to concern themselves with the prevention of smuggling.

These being the powers legally exercisable by officers of Her Majesty's navy, it follows to consider within what limits and under what conditions they should be exercised.

Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing, not only within three miles of the Colonial Shores, but within three miles of a line drawn across the mouth of any British bay or creek. But the question what is a British bay or creek is one that has been the occasion of difficulty in former times.

It is, therefore, at present the wish of Her Majesty's Government neither to concede nor, for the present, to enforce, any rights in this respect which are in their nature open to any serious question. Even before the conclusion of the Reciprocity Treaty, Her Majesty's Government had consented to forego the exercise of its strict right to exclude American fishermen from the Bay of Fundy; and they are of opinion that during the present season that right should not be exercised in the body of the Bay of Fundy, and that American fishermen should not be interfered with either by notice or otherwise,

* 17 and 18 Vict., c. 104, s. 103.

CANADA.
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In all such cases, you are to be careful that the Vessel seized is within three miles of the land, her position being determined by bearings taken in such a mode as will admit of their accuracy being sworn to in Court by three competent witnesses; and you are to have the same amount of evidence of the commission of the offence, whether that be of having fished, of fishing, or of preparing to fish, observing as regards this last offence, the evidence must be very conclusive to ensure condemnation.

In the event of making a seizure, you are, when practicable, to tow the Vessel into Port, being careful in all cases to remove her Crew, with the exception of the Master, observing that when in tow her Colours are not to be hoisted. Should you not take the Vessel into Port yourself, her Crew are to be landed at the nearest Port where there is an American Consul.

H. By "substantial invasion of British rights," you are to understand such proceedings as are detrimental to the British fishermen in the prosecution of their calling. Any case of this description is to be reported to me, in order to its being dealt with as I may direct, and the same course is to be pursued in regard to the Navigation of the Gut of Canso, should you observe it to be injurious to the Colonial fishermen, or otherwise detrimental to British interests.

unless they are found within three miles of the shore or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width, in conformity with the arrangement made with France in 1839.* American vessels found within these limits should be warned that by engaging or preparing to engage in fishing they will be liable to forfeiture, and should receive the notice to depart which is contemplated by the laws of Nova Scotia, New Brunswick, and Prince Edward Island, if within the waters of one of these Colonies under circumstances of suspicion. But they should not be carried into port except after wilful and persevering neglect of the warnings which they may have received; and in case it should become necessary to proceed to forfeiture, cases should, if possible, be selected for that extreme step in which the offence of fishing has been committed within three miles of land.

Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend some substantial invasion of British rights. And in particular, they do not desire American vessels to be prevented from navigating the Gut of Canso (from which Her Majesty's Government are advised they may be lawfully excluded), unless it shall appear that this permission is used to the injury of Colonial fishermen, or for other improper objects.

I have it in command to make this communication to your Lordships as conveying the decision of Her Majesty's Government on this subject.

I have, &c.,
EDWARD CARDWELL.

(Signed)

APPENDICES.

No. 1.

ARTICLE I of Convention between His Britannic Majesty and the United States of America. Signed at London, October 20, 1818.

Article I. WHEREAS differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits: Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

* Hertslet, vol. v., p. 89; Convention of August 2, 1839, Arts IX. and X.

No. 2.

59 GEO. III., CAP. 38.

AN ACT to enable His Majesty to make Regulations with respect to the taking and curing Fish on certain parts of the Coasts of Newfoundland, Labrador, and His Majesty's other Possessions in North America, according to a Convention made between His Majesty and the United States of America.

[14th June, 1819.]

[This Act will be found printed in Appendix I., page 310.]

No. 3.

NOVA SCOTIA ACT, REVISED STATUTES, 3RD SERIES, TIT. 25, CHAP. XCIV.
OF THE COAST AND DEEP SEA FISHERIES.

[This Act will be found printed in Appendix II., page 326.]

No. 4.

NEW BRUNSWICK ACT, 16 VICTORIA, CAP. 69.

[This Act is printed in Appendix II., at page 333.]

No. 5.

PRINCE EDWARD ISLAND ACT, 6 VICTORIA, CAP. 14.

AN ACT relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the Coasts and Harbours thereof.

[This Act will be found printed in Appendix II., page 336.]

No. 6.

ORDER IN COUNCIL OF SEPTEMBER 3, 1844.

At the Court at Windsor, the 3rd September, 1844.

Present:

The Queen's Most Excellent Majesty in Council.

WHEREAS by an Act passed by the Lieutenant-Governor, Council, and Assembly of Prince Edward Island, on the 15th of April, 1843, intituled "An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the Coasts and Harbours thereof," it is amongst other things enacted that the said Act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto, and an Order be made by Her Majesty in Council that the clauses and provisions of the said Act shall be the rules, regulations, and restrictions respecting the Fisheries on the coasts, bays, creeks, or harbours of the Island of Prince Edward: And whereas Her Majesty hath, by an Order in Council, bearing even date therewith, signified her Royal assent to the aforesaid Act, by specially confirming the same: And whereas it is expedient that, in pursuance of the said recited Act, the rules, regulations, and restrictions respecting the Fisheries in the said Act mentioned, should be confirmed, and Her Majesty was this day pleased, by and with the advice of Her Privy Council, and in pursuance of the said Act, to declare, and it is hereby accordingly declared, That the clauses and provisions of the aforesaid Act, shall be the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbours of the Island of Prince Edward. Whereof the Governor, Lieutenant-Governor, or Commander-in-chief of Her Majesty's said Island of Prince Edward for the time being, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed)

C. C. GREVILLE.

No. 7.

17 & 18 VICT., CAP. 104, SEC. 103.

103. That the offences hereinafter mentioned shall be punishable as follows Penalties:
(that is to say):—

- (1) If any person uses the British flag and assumes the British national character on board any ship owned in whole or in part by any persons not entitled by law to own British ships, for the purpose of making such ship appear to be a British ship, such ship shall be forfeited to Her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same: For unduly assuming a British character.
- (2) If the master or owner of any British ship does or permits to be done any matter or thing; or carries or permits to be carried any papers or documents, with intent to conceal the British character of such ship from any person entitled by British law to enquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to Her Majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanour: For concealment of British assumption of foreign character.
- (3) If any unqualified person, except in the case of such transmitted interests as are hereinbefore mentioned, acquires as owner any interest, either legal or beneficial, in a ship using a British flag and assuming the British character, such interest shall be forfeited to Her Majesty: For acquiring ownership if unqualified.
- (4) If any person, on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons, to own British ships or any shares therein, the declarant shall be guilty of a misdemeanour; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to Her Majesty: For false declaration of ownership.

And in order that the above provisions as to forfeitures may be carried into effect it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of Customs, or any British Consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the High Court of Admiralty in England or Ireland, or any Court having Admiralty jurisdiction in Her Majesty's dominions; and such Court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

APPENDIX B.

STATIONS.

No. I. Coast of New Brunswick.—Bay of Fundy.

1. Limits. From three miles south of the S. W. Head of the Grand Manan, round the shores of that Island, and from Owen Head on the south, to Cape Spencer on the north to the coast of New Brunswick, including the off-lying Islands.
2. Head Quarters. St. John, New Brunswick, where coal is to be completed as requisite, and such other supplies are to be purchased as can be procured.
3. Remarks. The Mackerel, which strike the coast of America at Cape Cod about the middle of May, are said not to run higher up the Bay of Fundy than the northern end of the Grand Manan.
Should this prove to be the case, the cruising ground will be confined to the vicinity of that Island and Campo-Bello.

No. II. Coast of Nova Scotia.—Bay of Fundy.

1. Limits. From Cape Sable on the south, to the entrance of the Chignecto Channel, as shewn by a line drawn from Squally Point on the coast of Nova Scotia, to Wolfe River on that of New Brunswick.
2. Head Quarters. Digby, but coal is to be completed at St. John, New Brunswick, and such other supplies procured as cannot be obtained at Digby.
3. Remarks. The Cod and Halibut Fishery, which commences on this coast early in the year, is resorted to by the Americans, from Bryer Island to Digby Gut, between the 1st of April and the 30th of June, and the Mackerel which appear on the coast towards the end of May, rarely run higher up the Bay than Digby.
Should this prove to be the case, the cruising ground will be in the main confined to the coast between Digby Gut and Cape Sable.

No. III. East Coast of Cape Breton.

1. Limits. From Cape Canso, including the Bay of Chedabucto, to Cape North, being divided into three Sections.
 - I. From Cape Canso, including Chedabucto Bay, to Scatare Island.
 - II. From Scatare Island to Cape Dauphin.
 - III. From Cape Dauphin to Cape North.
2. Head Quarters. Sydney, where coal is to be completed, and such other supplies are to be purchased as can be obtained and cannot be procured at the out-ports.
3. Remarks. From Cape Canso to Scatare Island, including Chedabucto Bay, the Fishery though good is said not to be much resorted to by the Americans.
The Mackerel strike this coast at periods varying from the 15th of June to the 15th of July, and the Fishery lasts till November, probably as late as the weather will permit.

No. IV. West Coast of Cape Breton.

1. Limits. From Cape North to Arisaig on the coast of Nova Scotia, including George Bay, thence across to Cape Bear and along the coast of Prince Edward Island to East Point, being divided into two Sections.
 - I. The coast of Cape Breton north to Port Hood.
 - II. The remainder of the Station.
2. Head Quarters. Port Hood, but coal is to be completed at Pictou, and such other supplies are to be obtained there, as cannot be procured at Port Hood.
3. Remarks. Refer to those of the sixth Station.

No. V. North Coast of Prince Edward Island.

1. Limits. From East Point to North Point.
2. Head Quarters. George Town, in Cardigan Bay, there being no Harbour on the north coast fit for the purpose. Coal is to be completed at Pictou, and such other supplies obtained there as cannot be procured at George Town.
3. Remarks. Refer to those of the sixth Station.

No. VI. Coast of New Brunswick.—Gulf of St Lawrence.

1. Limits. From North Point, Prince Edward Island, to Cape Wolfe, thence across to Richibucto Head, and along the coast of New Brunswick, round Point Birch, and the Bay of Chaleurs to Cape Rozier.
2. Head Quarters. Pictou (there being no Harbour on this coast fit for the purpose), where coal is to be completed and such provisions procured as cannot be obtained at the out-ports.
3. Remarks. The Fishery on this and the two preceding Stations is of the best description, observing that in Northumberland Strait, within the limits across it assigned to the fourth and sixth Stations, there is no Fishery.

It is said to commence at the end of June, but till the beginning of August to be conducted off-shore on the edge of the Bank, and round the Magdalen Islands, after which the in-shore Fishery commences, and lasts till November, or as long as the weather will permit.

There is no Fishery in the Gut of Canso, but it has been resorted to by the Americans for the purpose of transferring their cargoes.

The Fish in the Gulf of St. Lawrence being caught chiefly in the fall of the year, are fat and of a finer description than those caught earlier in the year, which are lean.

APPENDIX C.

IN REFERENCE TO ARTICLE 5 OF THE FISHERY INSTRUCTIONS.

(No. 584 M. M.)

PILOTAGE.

Admiralty, 7th December, 1868.

SIR,

I am commanded by my Lords Commissioners of the Admiralty to acquaint you that it appears that H. M. S. *Cadmus*, Captain Gordon, when engaged in the protection of the Fisheries on the Coast of Cape Breton, took on board a local Pilot at Sydney on the 19th of July, 1867, and then made a trip round the Island by the North and West Coasts, through the Gut of Canso to the East coast, and back to Sydney on the 9th of August, after calling at various places on the way.

Although the Pilot was on board, at the daily rate of 10s., the highest allowed on the Station for general service, Captain Gordon granted certificates to the Navigating Officer, contrary to the custom of the service, for taking the Ship into and out of all the harbours that were visited, including Sydney, and also for the Gut of Canso; stating in reply to a letter from the Hydrographer of the Admiralty that "the Pilot was borne for the purpose of recognising the coast during foggy weather, by the express orders of the Commander-in-Chief, as contained in the Fishery Instructions issued by him, and was not in any way employed, or even qualified to pilot the Ship into or out of the several Ports."

Although in the Fishery Instructions issued by Sir James Hope in 1866, the chief use of the permanent Pilot is stated to be for the purpose of making out the land in foggy weather, to give information as to the set and strength of the tides, and the approach of bad weather, my Lords do not apprehend that this was intended to be the only use of the permanent Pilot, who is engaged as a rule at a daily rate, for general service (i.e. for the coasts and principal harbours); and that other local Pilots, or the Navigating Officer, should be paid for all the Ports and Anchorages; thus involving much additional expense.

Permanent Pilots are allowed on the Station solely on account of the fogs; and they have always been expected to be competent for the principal harbours, many of which are easy of access; and as the Pilot (James Muggale) in the *Cadmus* did not even take her out of his own harbour, of Sydney, nor through the Gut of Canso, with the assistance

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of Steam; and as the Ship was at anchor more than half the time he was on board, his services could not be of much, if of any value, and no Pilot who is so incompetent should be employed at all, as the payment of Pilotage to two persons, the Pilot and the Navigating Officer, for the same period, is contrary to the Regulations, and the presence of a bad Pilot only acts as a bar to the claim of the Navigating Officer.

As many of the Pilots are merely Fishermen, accustomed to small Vessels, and are often found incapable of handling large Ships of War, and as, with the facilities afforded by Steam, Her Majesty's Ships are more independent of these men than in former times, my Lords, with the view of encouraging the Navigating Officers to take pilot charge, while cruising for the protection of the Fisheries, will, for the future, sanction the payment of an allowance at the rate of 5s. a day for every day their Ships are under way within the limits undermentioned, viz:

All the waters to the Northward of an imaginary line from Cape Canso, Nova Scotia, to St. Pierre on the coast of Newfoundland, comprising the Gut of Canso, Northumberland Strait, Gulf and River St. Lawrence to Bic, and the Strait of Belle Isle.

The East coast of Labrador and Newfoundland when running into and out of the bays and harbours, and when cruising not more than three leagues from the mainland or from the outlying Islands and dangers.

The Bay of Fundy inside an imaginary line drawn from Mount Desert Rock on the West to Seal Island Light on the East.

The Pilotage Certificate should show in a tabular form the dates and places or the latitude and longitude between which the Ship was employed, and the total number of days she was under way.

The allowance is only to be paid, provided no Pilots have been employed on the coast or at those places for which the Chart is a sufficient guide.

I am, &c.,

(Signed) HENRY G. LENNOX.

Vice-Admiral Sir Rodney Mundy,
West Indies.

APPENDIX E.

PAPERS SUPPLIED.

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|-----------------------|---|
| Dominion of Canada: | 1. |
| | 2. Fishery Acts of the Dominion (1868). |
| | 3. Authority of Officers as Magistrates—Consol: Stat: Cap. 101.
amended—27 and 28 Vict. Cap. 20. |
| | 4. Fishery Act 1865. (English.) |
| | 5. " " (French.) |
| | 6. Nova Scotia—Colonial Act, Cap. 94, amended. |
| | 7. |
| | 8. |
| | 9. |
| | 10. |
| | 11. |
| | 12. |
| Prince Edward Island: | 1. Colonial Commission. |
| | 2. |
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| | 12. |

No. 23.

CANADA.

The Colonial Office to the Admiralty.

No. 23.

SIR,

Downing Street, 20th June, 1870.

I am directed by Earl Granville, with reference to previous correspondence, to transmit to you the copy of a telegram which has been received in this department from the Governor-General of Canada, on the subject of the instructions to officers engaged in the protection of the Fisheries.

Telegram.
28th June.
1870. Page
33.

With reference to the despatches from Earl Granville to Sir J. Young, copies of which are transmitted herewith, I am to request you to move the Lords Commissioners of the Admiralty to instruct the Admiral commanding on the station, that Her Majesty's Government desire that American fishermen should not be excluded from the Fisheries, except within three miles of shore, or within a bay which, though in parts is more than six miles wide, is less than six miles at its mouth.

No. 138,
6th June,
page 81.
No. 139,
7th June,
page 82.

The Secretary to the Admiralty.

I am, &c.,
FREDERIC ROGERS.

No. 24.

No. 24.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 21st June, 1870.

1. With reference to your letter of the 20th instant, on the subject of the instructions to be given to Her Majesty's ships engaged in protecting the North American Fisheries, in regard to the limits within which American fishermen are to be excluded from the Fisheries, I am commanded by my Lords Commissioners of the Admiralty to acquaint you for the information of Earl Granville, that the following telegram, in cypher, has this day been received from Vice-Admiral Wellesley.

"With reference to enclosure letter No. 20,* annulled unintentionally—Do you intend wording within three miles from land to alter former arrangements in respect to mouth of bays less than ten miles wide?"

* Qy., words omitted.

2. The figures of the cypher message having been imperfectly transmitted, the words of the translation underlined are doubtful.

3. In reply to this message, my Lords propose to telegraph to the Vice-Admiral the instructions suggested in your letter of yesterday, viz., "that American fishermen should not be excluded from the Fisheries, except within three miles of the shore, or within a bay which, though in parts more than six miles wide, is less than six miles wide at its mouth."

4. My Lords desire me to add, that since sending to you a copy of the instructions forwarded by Vice-Admiral Wellesley, in his letter of the 27th of April (see my letter of the 4th of June),* they have received from him the enclosed copy of revised instructions, forwarded in his letter of the 30th of May. It is requested that this copy may be returned. A duplicate will be sent to you as soon as it is received from the Vice-Admiral.

* Page 97.

Sir Frederic Rogers, Bart.,
Colonial Office.

I am, &c.,
THOS. WOLLEY.

ENCLOSURE No. 3 in North American and West Indian Letter, No. 238; of 16th June, 1870.

Enclosure in No. 24.

Enclosure
in No. 24.

INSTRUCTIONS FOR PROTECTION OF THE FISHERIES, 1870.

By GEORGE GREVILLE WELLESLEY, Esquire,
Companion of the Most Honourable Order of the Bath, Vice-Admiral in Her Majesty's Fleet, and Commander-in-Chief of Her Majesty's Ships and Vessels employed, and to be employed, on the North American and West Indian Station.

To
The respective
Captains, Commanders,
and Commanding Officers

of H. M. Ships employed in the protection of the Fisheries.

It being my intention to employ H. M. Ship under your command in the protection of the Fisheries, the following Instructions are furnished for your guidance in

S

CANADA.

conducting that important duty, and they comprise what is necessary for your employment on any of the Stations to which you may be detached for that purpose.

1. The mode in which it is the decision of Her Majesty's Government that the United States' fishermen are to be dealt with, is clearly set forth in the annexed letters (A) from the Colonial Secretary to the Lords Commissioners of the Admiralty, dated 12th April, 1866, and 30th April, 1870. In the margin of these letters are noted explanations for your guidance; and I have to impress upon you the extreme importance their Lordships attach to your exercising the greatest discretion in carrying out their instructions, and to your using at all times the utmost temper and forbearance compatible with the duty entrusted to you.

2. The several Stations with their limits you will find described in the Appendix (B).

3. Your first duty on arriving on your Station will be to acquaint yourself by personal inquiry amongst the fishermen and others on the spot, with such information in regard to the Fisheries as will enable you, with the experience you will have gained at the end of the season, to make a full report on this staple of Colonial commerce, and of the best means to be adopted in the ensuing year for its effectual protection.

4. You are to make yourself thoroughly acquainted with the Coasts and the various Ports and anchorages where you will be able to seek shelter in bad or thick weather, so that you will experience no difficulty under such circumstances in making out the land when you close it.

5. A letter from the Lords Commissioners of the Admiralty on the subject of Pilotage is annexed (C) by which you are to be guided. To your report (Art. 3) is to be added one from the Navigating Officer of the Ship relative to the Navigation and Pilotage of your Station.

6. You will regulate your cruising according to the information you may obtain from time to time, giving your principal attention to that part of your Station on which you find the United States' fishermen are chiefly engaged, and unless detained by stress of weather you are not to remain in harbour more than forty-eight hours at one time. During the night, where strong currents prevail and during fogs, it will be well to anchor whenever the weather, depth of water, and other circumstances permit, using your stream for the purpose in deep water.

You are to cruise as much as possible under sail, but you are to keep your fires banked in order that you may be prepared to use steam whenever the service renders it requisite that you should do so.

7. You are to keep a List of all Vessels boarded within three miles of land, in the following form: and should any Foreign vessel be found preparing to fish, the Master is to be informed that if he is found fishing, or having fished, within the prescribed limits he will be captured.

Boarded.		Name.					For what purpose Boarded.	Remarks.
Date.	Where.	Vessel.	Under what Colours.	Owner.	Master.	Port belonging to.		

8. You will keep me fully informed of your intended movements, in order that I may be able to communicate with you should I desire to do so, and on arriving at each place of call you will send to the Telegraph Office to ascertain if there are any orders for you there.

9. Your proceedings are to be reported weekly for my information, accompanied by your Log and a Track Chart for the week.

In every case of seizure a special report of the circumstances attending it is to be made to me forthwith.

Should no opportunity be presented of forwarding the report at the expiration of the week, it is to be sealed and transmitted by the first opportunity which may occur subsequently.

These reports are to be numbered consecutively as Fishing Report No. 1, 2, &c.; and if in harbour the week's Log is to be accompanied by a blank report duly numbered. They are to include a return of all Fishing Vessels boarded since the date of the last Return, on the same form as that given in Article 7.

10. Such papers as are requisite for your information and guidance, arranged under the heads of the several provinces, are added.

Such of these papers as do not apply to the station on which you are employed will prove useful, as giving you a general knowledge of this special service and preparing you to act on any other station where I may find it necessary to employ you. CANADA.

11. You are to remain on this service until recalled, but you will report specially to me when you consider your presence no longer required on your station.

Given under my hand on board the *Royal Alfred*,
at Halifax, the 23rd day of May, 1870,
(Signed)

GEORGE G. WELLESLEY.

ADDITIONAL INSTRUCTIONS for Officers employed in the Protection of the CANADIAN FISHERIES for the Season of 1870.

(Confidential.)

1. The Lords Commissioners of the Admiralty have informed me that it is probable a force of United States' vessels of war will be sent to the Canadian fishing grounds this season to watch over the interests of American vessels, and I have since learnt that some have already been despatched on this service; I have therefore to impress upon you the great importance which is attached by their Lordships to a cordial understanding being maintained between the officers commanding the cruisers of both countries, and you will consider it your duty to co-operate frankly and cordially with the United States' officers, in order to prevent, if possible, any misunderstanding or chance of collision between the American and English fishermen.

2. The Canadian Government have refused to continue the system formerly adopted of granting licences to foreigners for the in-shore Fisheries, and have informed me of their intention to employ Colonial Cruisers to act as a marine police in the prevention of any encroachments. A copy of the Special Instructions given to the officers in command of these cruisers, is furnished for your information.

This force is under the direction and control of Captain Peter A. Scott, R.N., commanding the Dominion steamer *Lady Head*, and you are to co-operate with the officers commanding the Colonial vessels, and assist them, when necessary, in carrying out their duties in protecting the Fisheries; affording them, when you meet, all information you may possess which is likely to prove of use.

(Signed) GEORGE G. WELLESLEY,
Vice-Admiral.

H. M. S. *Royal Alfred*,
at Halifax, 23rd May, 1870.

APPENDIX A.

NORTH AMERICAN FISHERIES.

LETTER respecting INSTRUCTIONS to be sent to the ADMIRAL on the North American Station with reference to the Determination of the Reciprocity Treaty.

Copy of a Letter from the Secretary of State for the Colonies to the Lords of the Admiralty.

(Confidential.)

Dated, Downing Street, April 12th, 1866.

[This Letter will be found printed as an Enclosure to the Admiralty Letter of the 4th June, 1870, page 119.]

Copy of a letter from the Under-Secretary of State for the Colonies to the Secretary of the Admiralty.

SIR,

Downing Street, 30th April, 1870.

In Mr. Secretary Cardwell's letter to the Lords Commissioners of the Admiralty of the 12th of April, 1866, it was stated that American Vessels should not be seized for violating the Canadian Fishing Law "except after wilful and persevering neglect of the "warnings which they may have received; and in case it should become necessary to

CANADA.

“ proceed to forfeiture, cases should, if possible, be selected for that extreme step in which the offence of fishing has been committed within three miles of land.”

The Canadian Government has recently determined, with the concurrence of Her

K. You will be guided by the directions contained in the first paragraph of the above Note H.* Majesty's Ministers, to increase the stringency of the existing practice by dispensing with the warnings hitherto given and seizing at once any Vessel detected in violating the law.

In view of this change and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their Lordships to instruct the officers of Her Majesty's Ships employed in the protection of the Fisheries that they are not to seize any Vessel unless it is evident and can be clearly proved that the offence of fishing has been committed, and the vessel itself is captured, within three miles of land.

I am, &c.,
(Signed) FREDERIC ROGERS.

* This refers to a marginal note on Mr. Cardwell's letter of the 12th April, 1866, page 119.

APPENDICES.

No. 1.

ARTICLE 1 of Convention between His Britannic Majesty and the United States of America. Signed at London, October 20, 1818.

[Printed as an Enclosure to Admiralty Letter of 4th June, 1870, page 123.]

No. 2.

59 GEO. III., CAP. 38.

AN ACT to enable His Majesty to make Regulations with respect to the taking and curing Fish on certain parts of the Coasts of Newfoundland, Labrador, and His Majesty's other Possessions in North America, according to a Convention made between His Majesty and the United States of America. [14th June, 1819.]

[This Act will be found printed in Appendix I., page 310.]

No. 3.

NOVA SCOTIA ACT, REVISED STATUTES, 3RD SERIES, TIT. 25, CHAP. XCIV. OF THE COAST AND DEEP SEA FISHERIES.

[This Act will be found printed in Appendix II., page 326.]

No. 4.

NEW BRUNSWICK ACT, 16 VICTORIA, CAP. 69.

[Printed in Appendix II., page 333.]

No. 5.

PRINCE EDWARD ISLAND ACT, 6 VICTORIA, CAP. 14.

AN ACT relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the Coasts and Harbours thereof.

[Printed in Appendix II., page 336.]

No. 6.

ORDER IN COUNCIL OF SEPTEMBER 3, 1844.

At the Court at Windsor, the 3rd September, 1844.

Present:

The Queen's Most Excellent Majesty in Council.

[Printed as an Enclosure to Admiralty Letter of 4th June, 1870, page 124.]

No. 7.

17 & 18 VICT., CAP. 104, SEC. 103.

[Printed as an Enclosure to Admiralty Letter of 4th June, 1870, page 125.]

APPENDIX B.

STATIONS.

[Printed as an Enclosure to Admiralty Letter of 7th June, 1870, page 126.]

APPENDIX C.

IN REFERENCE TO ARTICLE 5 OF THE FISHERY INSTRUCTIONS.

PILOTAGE.

[Printed as an Enclosure to Admiralty Letter of 4th June, 1870, page 127.]

APPENDIX E.

PAPERS SUPPLIED.

[Printed as an Enclosure to Admiralty Letter of 4th June, 1870, page 128.]

No. 25.

The Colonial Office to the Admiralty.

No. 25.

SIR,

Downing Street, 22nd June, 1870.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 21st instant relating to the Canadian Fisheries, and I am to request that you will inform the Lords Commissioners of the Admiralty that he concurs in the telegram which their Lordships propose to send to the Admiral commanding on the station on this subject.

I am, &c.,

The Secretary to the Admiralty.

FREDERIC ROGERS.

No. 26.

The Colonial Office to the Admiralty.

No. 26.

SIR,

Downing Street, 23rd of June, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Admiralty, copies of the correspondence and documents noted in the margin relating to the Canadian Fisheries.

The instructions issued by the Canadian Government on this question formed the

Governor
of Canada,
confidential
of 16th May,
1870, page 14,
sending
Canadian
instructions.
Foreign
Office, 5th
May, 1870.
Confidential,
page 160.

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• Page 81.
 † Page 129.
 ‡ Page 168.
 Colonial
 Office to
 Foreign
 Office, 14th
 May, 1870.
 Page 164.
 Foreign
 Office to
 Colonial
 Office, 7th
 June, 1870.
 Page 167.
 Colonial
 Office to
 Foreign
 Office, in
 reply, 17th
 June, 1870.
 Page 170.
 Secretary
 of State to
 Governor,
 No. 156, 16th
 June, 1870.
 Page 83.
 Secretary
 of State to
 Governor,
 confidential,
 16th June,
 1870, page 83.
 • Page 129.
 † Page 133.
 25 June 1870.

subject of the despatch from Lord Granville, of the 6th instant, No. 138,* a copy of which was communicated to you in my letter of the 20th instant.†

It will be observed that Mr. Thornton has been instructed to point out to Mr. Fish the view taken by Her Majesty's Government of a passage in the circular issued by Mr. Boutwell, enclosed in the Foreign Office letter of the 7th instant,‡ which relates to the limit of Colonial jurisdiction. It will be seen that Mr. Boutwell's circular is also not now strictly correct, in consequence of a recent alteration in the Canadian law, and that by the alteration of the Canadian boundaries on the Labrador coast since the Treaty of 1818 was concluded, that the Americans have a right to fish in certain waters on that coast which are now waters of Canada.

On this latter point it will be for their Lordships to consider whether, under these circumstances, any instructions should be addressed to the Admiral commanding on the station.

The Secretary to the Admiralty.

I am, &c.,

FREDERIC ROGERS.

No. 27.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 25th June, 1870.

With reference to your letters of the 20th* and 23rd† instant, I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Secretary of State for the Colonies, the enclosed copy of a letter which will be sent out by the next mail to the Naval Commander-in-Chief on the North American Station, relative to Canadian Fisheries.

I am, &c.,

THOMAS WOLLEY.

The Under-Secretary of State
for the Colonies.

Enclosure in No. 27.

SIR,

Admiralty, 25th June, 1870.

I am commanded by my Lords Commissioners of the Admiralty to transmit for your information and guidance copies of letters from the Colonial Office, dated 20th and 23rd of June, with copies of accompanying correspondence and documents relative to the limits within which fishermen belonging to the United States are to be excluded from fishing on the coasts of the Dominion of Canada, and also as to the right acquired by the inhabitants of the United States, under the Treaty of 1818, to fish in certain waters now belonging to the Dominion.

With reference to these communications, and to the telegram of the 22nd instant in reply to yours of the 20th instant (a copy of which is enclosed in my separate letter of the 23rd instant), my Lords desire that you will furnish to the officers commanding Her Majesty's cruisers engaged in the protection of the Fisheries with such further instructions as may be requisite, and that you will also forward to this office four copies of the instructions so issued, in order that their Lordships may be able to give precise information to the Foreign and Colonial officers on the subject.

I am, &c.,

Vice-Admiral Wellesley, C.B.,
Halifax, Nova Scotia.

(Signed) THOMAS WOLLEY.

No. 28.

No. 28.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 29th June, 1870.

1. I am commanded by my Lords Commissioners of the Admiralty to acquaint you for the information of the Secretary of State for the Colonies, that Vice-Admiral Wellesley, in a letter dated Halifax, 17th June, reports that he left that place in H. M. S. *Plover* on the 6th instant to visit the Fishery districts of the Bay of Fundy, returning to Halifax on the 15th.

2. The *Plover* was to resume her Fishery duties in the Bay of Fundy on the 20th instant.

3. The *Philomel* and *Royalist* sailed on the 3rd instant for the Fishery districts on the North Coast of Prince Edward Island, and East Coast of Cape Breton respectively.

CANADA.

The Under-Secretary of State
for the Colonies.

I am, &c.,

THOMAS WOLLEY.

No. 29.

No. 29.

The Admiralty to the Colonial Office.

SIR,

Admiralty, June 30th, 1870.

With reference to my letter of the 25th instant, and to previous correspondence in regard to the protection of the Canadian Fisheries, I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Secretary of State for the Colonies, the enclosed copies of a Despatch, No. 228, of the 15th instant, from Vice-Admiral Wellesley, and its enclosures, by which it appears that the instructions given to the commanding officers of the Colonial cruisers have been assimilated to those under which the commanding officers of Her Majesty's ships are acting by the omission of the direction to give one warning before capturing offending vessels.

15th June,
1870.

I am, &c.,

THOMAS WOLLEY.

The Under-Secretary of State
for the Colonies

Enclosures in No. 29.

Enclosures
in No. 29.

CANADIAN FISHERIES.

REVISED INSTRUCTIONS GIVEN TO COLONIAL CRUISERS.

(No. 228.)

SIR,

Royal Alfred, Halifax, 15th June, 1870.

With reference to my letter of the 30th ultimo, No. 201, I have the honour to transmit, for the information of the Lords Commissioners of the Admiralty, a copy of a letter from the Governor-General of the Dominion of Canada, dated the 9th instant, with its enclosures, from which their Lordships will perceive that the instructions given to the commanding officers of the Colonial cruisers have been assimilated to those under which the commanding officers of Her Majesty's ships are acting by the omission of the direction to give one warning before capturing offending vessels.

I have, &c.,

(Signed)

GEORGE G. WELLESLEY,

Vice-Admiral.

The Secretary of the Admiralty.

Note.—Enclosure No. 3 is a printed paper of instructions with the alteration made as described above.

ENCLOSURE No. 1 in North American and West Indian Letter, No. 228, of 15th June, 1870.

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SIR,

Government House, Ottawa, June 9th, 1870.

With reference to your despatch of the 30th May, enclosing a copy of the Revised Instructions to officers commanding Her Majesty's ships employed in the protection of the Fisheries, I have the honour to transmit herewith a Minute of the Privy Council of the Dominion sanctioning the alteration introduced under the head of "Action," at paragraph 1, page 5, of their Instructions, with a view to making them assimilate with those issued under your authority.

I have, &c.,

(Signed)

JOHN YOUNG.

Vice-Admiral Wellesley, C.B.

ENCLOSURE No. 2 in North American and West Indian Letter, No. 228, of 15th June, 1870.

Copy of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General on the 8th day of June, 1870.

The Committee have had under consideration the despatch, dated 30th May, from Vice-Admiral Wellesley, with reference to the special instructions given to

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commanders of Canadian cruizers engaged in the protection of the Fisheries. The Honourable the Minister of Marine and Fisheries recommends that the special instructions to officers commanding the Marine Police vessels, approved in Council on the 14th ultimo, be amended as follows:—

Under the head "Action," at paragraph 1 (p. 5), all the words after "you will" in the eleventh line down to the end of the next succeeding paragraph (at the words "present session") be omitted, and the words following be adopted in their stead:—"In accordance with the above recited Acts seize at once any vessel detected in violating the law, and send or take her into port for condemnation. It must be evident and susceptible of the clearest proof that the offence has been committed, and the capture effected within the prohibited limits."

[Certified.]

(Signed)

W. H. LEE,

Clerk P. C.

No. 30.

No. 30.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 2nd July, 1870.

I am directed by Earl Granville to transmit to you, for the consideration of the Lords Commissioners of the Admiralty, a copy of a Despatch from the Governor-General of Canada, enclosing a Minute of the Privy Council requesting that the Canadian Government vessels employed in the protection of the Fisheries may be permitted to wear pendants while on active service.

Lord Granville desires me to request to be informed of the answer which their Lordships would desire to be returned to this application.

The Secretary to the Admiralty.

I am, &c.,

FREDERIC ROGERS.

No. 31.

No. 31.

The Admiralty to Colonial Office.

SIR,

Admiralty, 7th July, 1870.

With reference to your letter of the 2nd instant, forwarding a copy of a Despatch from the Governor-General of Canada, enclosing a Minute of the Privy Council requesting that the Canadian Government vessels employed in the protection of the Fisheries may be permitted to wear pendants while on active service, I am commanded by my Lords Commissioners of the Admiralty to forward herewith, for the information of the Secretary of State for the Colonies, copy of a letter from the Commander-in-Chief of Her Majesty's ships on the North American and West Indian station on this subject, and also a copy of their Lordships' reply thereto, from which you will observe that the Commander-in-Chief will issue a certain number of licences for the flying of pendants by vessels of the Canadian Government while protecting the Fisheries, such licences to remain in force for this season only.

The Under Secretary of State
for the Colonies.

I am, &c.,

VERNON LUSHINGTON.

17th June,
1870.Enclosures
in No. 31.

Enclosures in No. 31.

(No. 239.)

SIR,

Royal Alfred, at Halifax, 17th June, 1870.

You will be pleased to inform the Lords Commissioners of the Admiralty that, having observed last year that the steamer *Druid*, belonging to the Dominion Government and employed for the protection of the Fisheries, was in the habit of flying a blue pendant at her masthead, with a blue ensign at the peak, I informed the officer in command that he had no right to fly a pendant; but on his representation that it was important he should do so while on the Fisheries, as strengthening his authority in dealing with the American fishermen, I permitted him to continue to wear the pendant for the remainder of the season. I have since been in communication with His Excellency

the Governor-General of Canada on the subject, and I understand that a communication has been addressed by his Government to the Secretary of State for the Colonies to obtain the sanction of the Lords Commissioners of the Admiralty to the vessels employed in the protection of the Fisheries wearing a pendant.

2. These vessels, if they can be considered at all as being under the Colonial Defence Act, which I doubt, as the approval of Her Majesty in Council has not been obtained for them, would come under the second of the two clauses of the Admiralty Instructions, Addenda, 1868, Article 25, page 10, and clearly are not entitled to wear a pendant; but as I believe it would be advantageous that they should do so, I would submit for their Lordships' consideration that it would be advisable that a certain number of licences should be given for this season, and that some permanent arrangement should be adopted before next year, as I conceive that by Article 29, page 11, of the Addenda, I am not justified in permitting these vessels to fly pendants without authority from the Admiralty. I have, however, under the special circumstances, informed His Excellency the Governor-General that I shall not interfere with them until the pleasure of the Admiralty has been made known to me.

I have, &c.,

The Secretary of the Admiralty. (Signed) GEORGE G. WELLESLEY,
Vice-Admiral.

(No. 302.)

SIR, Admiralty, 2nd July, 1870.

With reference to your letter of the 17th ultimo, No. 239, I am commanded by the Lords Commissioners of the Admiralty to acquaint you that they approve of your suggestion that you should grant a certain number of licences to vessels of the Government of the Dominion of Canada employed in the protection of the Fisheries (for this season only) to fly a blue pendant while so employed.

Vice-Admiral G. G. Wellesley, C.B.,
North America.

I am, &c.,
VERNON LUSHINGTON.

No. 32.

No. 32.

The Admiralty to the Colonial Office.

SIR, Admiralty, 12th July, 1870.

With reference to your letter of the 22nd ultimo,* and previous correspondence, I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State for the Colonies, copy of a letter from Vice-Admiral Wellesley, dated Halifax, 25th June, 1870, forwarding copy of a Memorandum he has issued to the officers in command of the ships employed in the protection of the Canadian Fisheries, modifying the limits within which American fishermen are prohibited from fishing, in accordance with their Lordships' telegraphic orders of the 22nd ultimo, which were sent to the Vice-Admiral with the concurrence of the Secretary of State for the Colonies.

* Page 133.

25th June,
1870.

The Under-Secretary of State
for the Colonies.

I am, &c.,
THOS. WOLLEY.

Enclosures in No. 32.

Enclosures
in No. 32.

CANADIAN FISHERIES.

ALTERATION IN LIMITS within which American Vessels are prohibited
from Fishing.

(No. 245.)

SIR, *Royal Alfred*, at Halifax, 25th June, 1870.

In acknowledging the receipt of your telegram of the 22nd instant, I have the honour to report, for the information of the Lords Commissioners of the Admiralty, that, in accordance with the directions therein contained, I have issued a Memorandum to the officers in command of the ships employed in the protection of the Canadian Fisheries,

CANADA.

which alters the previous instructions under which they have been acting, by modifying the limits within which American fishermen are prohibited from fishing.

Copies of the Memorandum are herewith enclosed.

The Secretary of the
Admiralty.

I have, &c.,
(Signed) GEORGE G. WELLESLEY,
Vice-Admiral.

Memo.

Royal Alfred, at Halifax, 23rd June, 1870.

The following alterations are to be made in the Instructions for the protection of the Fisheries, with which you are furnished; and you are to report the date of your having done so.

To

H. M. S.

GEORGE G. WELLESLEY,
Vice-Admiral.

Over marginal note G (which is hereby cancelled) in the Colonial Secretary's letter of the 12th April, 1866, paste

G. By telegram inserted below in note L, these limits have been modified.

Insert on the blank page opposite the 3rd paragraph of the Colonial Secretary's letter of the 30th April, 1870.

L. (*Admiralty telegram of 22nd June, 1870.*) American fishermen are not to be excluded from the fisheries except from within three miles of the shore, or within a bay which, though in parts more than six miles wide, is less than six miles wide at its mouth.

No. 33.

No. 33.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 22nd July, 1870.

I have laid before the Earl of Kimberley your letter of the 12th instant, with one from Vice-Admiral Wellesley, enclosing a memorandum he had issued to the officers in command of the ships employed in the protection of the Canadian Fisheries, modifying the limits within which American fishermen are prohibited from fishing as agreed on between this department and the Board of Admiralty.

I am directed to observe, that there is one question which is not determined in Admiral Wellesley's Memorandum.

The Instructions of 1866 state, that United States' vessels are to be allowed in the Bay of Fundy "for this season." These instructions are republished without note in this respect, though with correct notes in others.

Lord Kimberley would suggest, therefore, that it would be desirable to ascertain from Admiral Wellesley whether our cruisers are permitting or forbidding fishery in the Bay of Fundy.

The Secretary to the Admiralty.

I have, &c.,
FREDERIC ROGERS.

No. 34.

No. 34.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 27th July, 1870.

With reference to the letter from this department of the 22nd instant, suggesting that Admiral Wellesley should be instructed to report whether fishing by American vessels is allowed or not in the Bay of Fundy, I am directed by the Earl of Kimberley to request that you will state to the Lords Commissioners of the Admiralty that it is no longer necessary to ask Admiral Wellesley for this information.

The Secretary to the Admiralty.

I have, &c.,
FREDERIC ROGERS.

No. 35.

The Admiralty to the Colonial Office.

CANADA.

No. 35.

SIR,

Admiralty, 29th July, 1870.

With reference to my letter of the 25th of June,* I am commanded by my Lords Commissioners of the Admiralty to send you, herewith, a copy of a letter from Vice-Admiral Wellesley, dated 14th of July, stating that he had not thought it necessary to give any further instructions to the commanding officers of Her Majesty's ships employed in the protection of the Fisheries, beyond those issued on the receipt of the telegram of the 22nd of June, and communicated to the Colonial Office on the 12th of July.

* Page 131.
14th July,
1870.

Sir Frederic Rogers, Bart.,
Colonial Office.

I am, &c.,
THOS. WOLLEY.

Enclosure in No. 35.

Enclosure
in No. 35.

CANADIAN FISHERIES.

(No. 286.)

ALTERATIONS IN INSTRUCTIONS TO SHIPS EMPLOYED IN PROTECTION OF.

SIR,

Royal Alfred, at Halifax, 14th of July, 1870.

In reply to your letter of the 25th ultimo, No. 289, in forwarding correspondence respecting the Canadian Fisheries, I have the honour to report, for the information of the Lords Commissioners of the Admiralty, that, having read this correspondence, I have not thought it necessary to give any further instructions to the commanding officers of Her Majesty's ships employed in the protection of the Fisheries, beyond those issued on the receipt of your telegram of the 22nd ultimo, and of which I forwarded copies to you in my letter of the 25th ultimo, No. 245.

2. A copy of these instructions was also forwarded on the 23rd ultimo to Her Majesty's Minister at Washington.

I have, &c.,
GEO. WELLESLEY,
Vice-Admiral.

The Secretary to the Admiralty.

No. 36.

No. 36.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 8th August, 1870.

I have laid before the Earl of Kimberley your letters of the 30th of June* and the 29th ultimo, enclosing respectively despatches from Vice-Admiral Wellesley, on the subject of the protection of the Canadian Fisheries.

* Page 135.

The Secretary to the Admiralty.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 37.

No. 37.

The Admiralty to the Colonial Office.

SIR,

Admiralty, August 9th, 1870.

With reference to my letter of the 29th ultimo, and to previous correspondence, in regard to the instructions for the cruisers employed in the protection of the Canadian Fisheries, I am commanded by my Lords Commissioners of the Admiralty to transmit to you the enclosed copy of a letter from Vice-Admiral Wellesley, requesting directions as to the course which should be pursued with reference to foreign fishing vessels found within three miles of land, but neither actually fishing nor, so far as could probably be proved, either having fished or preparing to fish within the three-mile limit.

2. My Lords would be glad to be furnished with the opinions of the Secretary of

CANADA. State for the Colonies as to the answer which should be sent to Vice-Admiral Wellesley.

The Under-Secretary of State
for the Colonies.

I am, &c.,
VERNON LUSHINGTON.

Enclosure
in No. 37.

Enclosure in No. 37.

(No. 290.)

CANADIAN FISHERIES.

REQUESTING INSTRUCTIONS as to the Treatment of Foreign Fishing Vessels found (not fishing) within three-mile limit.

SIR,

Royal Alfred, at Halifax, 21st July, 1870.

With reference to the letters quoted in the margin, I request the Lords Commissioners of the Admiralty will be pleased to inform me what course is to be pursued in regard to foreign fishing vessels found within three miles of land, but neither actually fishing nor, so far as could probably be proved, either having fished or preparing to fish within the three-mile limit.

* Appendix
A. in Admiralty Letter of
11th June,
1870, page
119.

2. In the letter from the Colonial Office of 12th April, 1866,* it is laid down that "American vessels found within these limits," that is, within three miles of the shore or of a line drawn across the mouth of a bay less than ten miles in width, "should be warned that by engaging or preparing to engage in fishing they will be liable to forfeiture, and should receive the notice to depart which is contemplated by the laws of Nova Scotia, New Brunswick, and Prince Edward Island, if within the waters of one of these Colonies, under circumstances of suspicion."

The laws of these Colonies on this subject are almost verbatim alike, and the Acts of the Dominion of Canada (of the 22nd May, 1868, Section 3, and of 12th May, 1870), which embraces Nova Scotia and New Brunswick, enact that vessels under the above circumstances may be carried into port, and the master examined on oath touching the cargo and voyage, and if he shall not truly answer the questions put to him in such examination he shall forfeit four hundred dollars.

3. It may, I think, be anticipated that many instances will occur of vessels being found within bays less than six miles wide at the mouth, or within three miles of the shore, of whose intentions to violate the law there could be no reasonable doubt, though it would probably be impossible to prove anything against them.

4. I would beg to be informed whether it is intended that Her Majesty's ships should in such cases of neglect or refusal to depart, or if found within the limits after previous warnings, carry the offenders into port for this disregard of the law.

The Secretary of the
Admiralty.

I have, &c.,
(Signed) GEO. G. WELLESLEY,
Vice-Admiral.

No. 38.

No. 38.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 12th August, 1870.

* Page 131.

With reference to my letter of the 25th June,* in reply to Colonial Office despatches of the 20th and 23rd June, respecting a complaint of the want of protection afforded to American fishermen in Canadian Waters, I am commanded by my Lords Commissioners of the Admiralty to send you, herewith, for the information of the Earl of Kimberley, a copy of a letter from Vice-Admiral Wellesley, stating that Commander Pasley, of H. M. S. *Niobe*, has been instructed to make inquiries into the case on visiting Labrador.

21st July,
1870.

A similar communication has been made to the Foreign Office, in reference to their letter to the Colonial Office of 9th May.

Sir Frederic Rogers, Bart.,
Colonial Office.

I am, &c.,
VERNON LUSHINGTON.

(No. 289.)

Enclosure in No. 38.

PROTECTION TO AMERICAN FISHERMEN ON THE LABRADOR COAST.

SIR,

Royal Alfred, at Halifax, 21st July, 1870.

With reference to the Foreign Office letter of the 9th May last, respecting a complaint of the want of protection afforded to American fishermen in Canadian waters, transmitted in the Colonial Office letter of the 23rd June last, a copy of which was enclosed in your letter, No. 289 M, of the 25th ultimo. I have the honour to state, for the information of the Lords Commissioners of the Admiralty, that on receipt of Mr. Thornton's private note to Sir John Young on the subject of the complaint made by Mr. Dodge, I instructed Commander Pasley, of the *Niobe*, to make inquiries, on visiting Labrador, into the case.

I have now learnt, by private note from Commander Pasley, that Mr. Dodge fishes at Bonne Esperance, which place will be visited by the *Niobe* during her present tour. The complaint probably refers to depredations committed, not by the inhabitants of the Coast, but by strangers from Newfoundland, who are, I fear, in the habit of crossing over, and when sure of not being prosecuted are very apt to commit lawless acts.

I have the honour, &c.,

The Secretary of the
Admiralty.(Signed) GEORGE G. WELLESLEY.
Vice-Admiral.

No. 39.

No. 39.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 18th August, 1870.

I am directed by the Earl of Kimberley to acknowledge the letter of the 30th of June,* and to state for the information of their Lordships, that although, as stated in that letter, the Colonial Instructions were assimilated upon one point to those under which the commanding officers of Her Majesty's ships are acting, they still require a further alteration with respect to the limit within which United States' fishing vessels were to be excluded.

This point has, however, been since satisfactorily settled, and the Colonial instructions have now been brought, as appears by the Governor-General's despatch of July the 9th, a copy of which is herewith annexed, into practical conformity with the instructions issued by their Lordships.

I am, &c.,

(Signed) H. T. HOLLAND.

No. 40.

No. 40.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 23rd August, 1870.

I am directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 9th instant,* enclosing copy of a letter from Vice-Admiral Wellesley, requesting directions as to the course which should be pursued with reference to foreign fishing vessels found in Canadian waters, within three miles of land, but not actually fishing nor so far as could probably be proved, either having fished or preparing to fish, within the three-mile limit.

Lord Kimberley desires me to state, for the information of the Lords Commissioners of the Admiralty, that as the Canadian Act of the 12th of May, 1870 † (a copy of which was forwarded to you in my letter of the 23rd of June), has not yet been transmitted by Sir J. Young, with the explanation usual in such cases, his Lordship is not informed of the precise object of the Canadian Government in passing it, or the spirit in which they expected it to be enforced.

The Act appears to give British officers the power of bringing into port for examination any foreign vessel found within three miles of the "coast, creeks, or harbours" of Canada, without the warnings required in accordance with earlier Acts, by the Imperial

* Page 135.

No. 165.
9th July,
1870, p. 42.

* Page 139.

† *Title Appen-*
dix, page 326.

CANADA. Instructions of 1866, and independently of the circumstances of suspicion referred to in those instructions.

The summary power thus given is evidently one which should be carefully exercised, and taking the Act as it now stands, Her Majesty's Government think it advisable that foreign vessels should not be taken into port for examination unless there is reasonable expectation that by doing so some evidence would be obtained that the vessel had been fishing or preparing to fish within three miles of land.

If during the present season the power thus exercised is found ineffective for the protection of the Canadian rights, Admiral Wellesley should report to the Admiralty, and should suggest such measures as would in his opinion be best calculated for that purpose, without giving just ground of offence to foreigners passing through Canadian waters without any unlawful intention.

I am, &c.,
H. T. HOLLAND:

No. 41.

No. 41.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 23rd August, 1870.

* Page 133.
No. 173,
26th July,
1870, p. 52.

With reference to that part of the correspondence enclosed in my letter of the 23rd of June,* which relates to the complaint of Mr. Dodge, a citizen of the United States, of insufficient protection to his fishing-boats and nets on the coast of Labrador, I am directed by the Earl of Kimberley to transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a Despatch received from the Governor-General of Canada.

A copy of this Despatch has also been communicated to the Foreign Office, together with a copy of your letter on this subject, dated the 12th instant.†

† Page 110.

The Secretary to the Admiralty.

I am, &c.,
H. T. HOLLAND.

No. 42.

No. 42.

The Colonial Office to the Admiralty.

SIR,

Downing Street, 13th October, 1870.

* Page 233;
(Prince Edward Island portion.)

† Page 310 (in Appendix).

‡ Page 356 (in Appendix).

With reference to your letter of the 6th of September,* forwarding copy of a Report from Admiral Wellesley, in which he states that an American schooner, the *Clara B. Chapman*, had transhipped fish and shipped provisions in Charlottetown Harbour, which he describes as being in contravention of the Act 59 Geo. 3, c. 38,† and of the Prince Edward Island Act, 6 Vic. c. 14:‡

Lord Kimberley desires me to observe, that the Prince Edward Island law does not appear to prohibit the purchase of stores or the transshipment of fish, but only to provide for the prevention and punishment of smuggling and of fishing in British waters.

The British Act, though wide in the scope of its penalties, makes no reference to trade or transshipment. Both alike are founded on the 1st Article of the Convention of 1818, which provides as follows, "provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever."

But, whatever may be the strict effect of this clause, and the Acts founded on it, the practical views of Her Majesty's Government were expressed as follows in Mr. Cardwell's letter to the Lords of the Admiralty of the 12th of April, 1866:§ "Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend some substantial invasion of British rights."

§ Appendix A. in Admiralty Letter of 4th June, 1870, page 119.

I am desired to request that the Lords Commissioners of the Admiralty will call Admiral Fanshawe's attention to this passage in Mr. Cardwell's letter, and will inform him that the transshipment of fish, and obtaining supplies by American fishing-vessels, cannot be regarded as a "substantial invasion of British rights," such as is contemplated by those instructions, and will instruct him that unless there is some further ground of

interference than the Convention of 1818, and the consequent enactments of 59 Geo. 3, c. 38 (Imperial), and 6 Vic. c. 14 (Prince Edward Island), he is not to prevent United States' fishermen from entering British bays for such purposes.

If the Admiral should be of opinion that this admission of United States' vessels renders it difficult practically to enforce the law against fishing in British waters, he should report that opinion, and the grounds on which he has formed it. Her Majesty's Government will then consider whether it is necessary that any further steps should be taken for the more effectual protection of encroachments on the Colonial Fisheries by foreign vessels.

I am, &c.,
(Signed) FREDERIC ROGERS.

The Secretary to the Admiralty.

CORRESPONDENCE

BETWEEN

The Colonial Office and Foreign Office.

No. 1.

No. 1.

Colonial Office to Foreign Office.

SIR,

Downing Street, 8th June, 1869.

No. 104—5th
June, page 77.

I am directed by Earl Granville to transmit to you, for the information of the Earl of Clarendon, the accompanying copy of a Despatch respecting the system to be observed in issuing licences to American fishermen, to enable them to fish in British North American waters. This Despatch was sent to Sir John Young on the 5th June.

Right Hon. E. Hammond.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 2.

No. 2.

Colonial Office to Foreign Office.

SIR,

Downing Street, 29th November, 1869.

1st Nov., 1869,
page 212.
(Newfound-
land portion.)

I am directed by Earl Granville to submit to you, to be laid before Lord Clarendon, a copy of a letter from the Board of Admiralty, forwarding a copy of a letter from Vice-Admiral Wellesley, and of a Report from Commander Pasley, of H.M.S. "Niobe," relative to the state of the Fisheries on the coasts of Newfoundland and Labrador, between the months of June and September last inclusive.

Lord Granville proposes, with Lord Clarendon's concurrence, in acknowledging the Admiralty letter, to state that his Lordship would be glad if Naval Officers hereafter visiting the French shore of Newfoundland would try to ascertain whether any definition of the limits of French fishery in the rivers would be framed which might be agreed on by the English and French Governments, without provoking any reasonable complaint on the part of the fishermen of either country.

The Under-Secretary of State,
Foreign Office.I have, &c.,
(Signed) FREDERIC ROGERS.

No. 3.

No. 3.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 23rd December, 1869.

• Page 108.

I am directed by the Earl of Clarendon to state to you that the Lords Commissioners of the Admiralty have communicated to his Lordship a copy of their letter to the Colonial Office of the 18th instant,* regarding the state of affairs as between the Canadian authorities and the American fishermen, and I am now to request that you will lay before Earl Granville the enclosed draft of a Despatch which Lord Clarendon proposes to address to Mr. Thornton, with Lord Granville's concurrence, on the state of matters connected with the Fisheries.

The Under-Secretary of State,
Colonial Office.I have, &c.,
(Signed) CHARLES SPRING RICE.

CANADA.

Enclosure in
No. 3.

Enclosure in No. 3.

(Draft.)

SIR,

Foreign Office, December, 1869.

The Lords Commissioners of the Admiralty have communicated to me a letter from Vice-Admiral Wellesley on the subject of the Canadian Fisheries in 1869, in which the following facts are stated:

The system of licences has proved ineffectual, owing to the absence of a sufficient number of cruisers to superintend the Fisheries.

American vessels, in violation of the Convention of 1818, resort to the harbours not alone for shelter, repairs or supplies, but in order to land and deposit fish for conveyance to the United States. These encroachments do not appear to be met with sufficient vigilance on the part of the Colonial authorities, and are actually encouraged by the Colonists, who derive large profit from intercourse with the fishermen.

On the other hand, very few Colonial vessels are engaged in fishing, owing to the almost prohibitive tariff in the United States, and it seems indeed that the Colonial fishermen in considerable numbers engage on board the American vessels.

These facts appear to show that the system of licences is not leading to useful results, although the American fishermen are well aware of the illegality of fishing within the three mile limit, as also of the means by which they could secure the privilege under the licensing system.

I think it desirable to call your attention to these facts, as I learn that you have been in communication with the Governor-General of Canada respecting the reported intention of the fishermen to resist by arms any interference with their operations.

No. 4.

No 4.

Colonial Office to Foreign Office.

SIR,

Downing Street, 24th December, 1869.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 23rd inst.,* enclosing the draft of a Despatch which Lord Clarendon proposes to address to Her Majesty's Minister at Washington on points connected with the Canadian Fisheries.

* Page 144.

Lord Granville desires me to request that you will inform Lord Clarendon that his Lordship concurs in this proposed communication to Mr. Thornton.

The Under Secretary of State,
Foreign Office.

I have, &c.,
(Signed) F. R. SANDFORD.

No. 5.

No. 5.

Foreign Office to Colonial Office.

(Confidential.)

SIR,

Foreign Office, 9th March, 1870.

I am directed by the Earl of Clarendon to transmit to you, for the information of Earl Granville, the accompanying copy of a Despatch from Her Majesty's Minister at Washington, enclosing a copy of a private and confidential letter addressed by him to the Governor-General of Canada, communicating to him the substance of certain statements made to Mr. Thornton by the United States Secretary of State upon the subject of the commercial relations between the Dominion of Canada and the United States.

The Under-Secretary of State,
Colonial Office.

I have, &c.,
(Signed) CHARLES SPRING RICE.

CANADA.

Enclosures in No. 5.

(No. 5, Commercial.)

MY LORD,

Washington, 14th February, 1870.

I have the honour to enclose copy of a private and confidential letter, which I addressed on the 10th instant to his Excellency Sir John Young, communicating to him the substance of certain statements made to me on that day by Mr. Fish.

Your Lordship will perceive that at the investigation of some of the Western members of Congress Mr. Fish asks for the free navigation of the Welland Canal and the River St. Lawrence, and the improvement of the former, and the freedom of the Canadian Fisheries, in exchange for a reduction of the duties on lumber, salt, fish and coal, and perhaps even the abolition of the import duties on the first three articles.

I observed to Mr. Fish that the Western members asked a good deal and offered very little. He replied, however, that though he would be the last man to tell them so, he himself considered that the navigation of the St. Lawrence would be of very little value as a competitive means of transport for the Western produce to the sea. It would be several years before the necessary improvements in the Welland Canal could be completed, and the St. Lawrence itself would not be open to navigation more than four or five months in the year.

With regard to the Fisheries he thought that, once the import duty on fish was removed, Canadian fishermen would easily compete with Americans, because they would be fishing in waters with which they were much better acquainted than the latter, and all their appliances, such as vessels, supplies, and crews could be obtained at a much cheaper rate in Canada than in the United States.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

(Private and Confidential.)

SIR,

Washington, 10th February, 1870.

With reference to the Memorandum relative to the commercial relations between the Dominion of Canada and this Republic, which was left in the hands of the Secretary of State of the United States by Mr. Rose and myself last July, I have the honour to inform your Excellency that Mr. Fish has this day stated to me that he has been in communication confidentially with the members individually of the Committee of Ways and Means, and that he regrets that the conviction is forced upon him that the contents of the above-mentioned project would meet with decided opposition from that body as well as from the House of Representatives, and that it would be quite useless to attempt at present to negotiate any convention founded upon the proposals made by Mr. Rose and myself.

Mr. Fish has, however, begged me to state to your Excellency, that he has within the last four days been approached by certain members of the Western States, whose constituents are interested in obtaining an additional outlet for the agricultural produce of those regions, so as to defeat the combination which is now formed against their interests by those who are able to control the present means of communication between the Western States and the sea. These gentlemen have urged Mr. Fish to inquire through me whether the Government of the Dominion would be willing to enter into a negotiation upon the following or any similar basis.

The free navigation of the Welland Canal and the River St. Lawrence to be granted to citizens of the United States, and certain improvements to be made in the former so that it might be sufficient for the vessels which would then pass through it; the Fisheries to be also free to citizens of the United States, who would be with regard to them on the same footing as the Canadians.

The United States would grant a very considerable reduction on the following four articles, viz., lumber, fish, salt and coal; they might possibly agree to the total removal of the import duties on the first three articles, and to such a reduction of the duty on coal that Nova Scotia coal would easily compete with that of the United States.

The members of Congress who have called Mr. Fish's attention to this matter are of opinion that an arrangement of the above nature could be carried through Congress, that the votes of the Western members would be gained by the free navigation of the Welland Canal and the St. Lawrence, and those of the Eastern members by the freedom of the Fisheries as well as by the reduction of the duty on coal.

I therefore venture to suggest, without offering an opinion upon the subject, that your Excellency should confidentially submit the matter to your Ministers, in order that they may consider it, and that I may be made acquainted with their views, so as to be able to communicate them to Mr. Fish.

CANADA.

His Excellency the Right Hon.
Sir John Young, G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

No. 6.

No. 6.

Colonial Office to Foreign Office.

SIR,

Downing Street, 12th March, 1870.

I am directed to transmit, for Earl Clarendon's consideration, the copy of a Despatch received from the Governor-General of Canada,* enclosing among other papers the copy of an approved Report of a Committee of the Privy Council of Canada respecting the Fisheries of the Dominion. The Canadian Government are of opinion that it is expedient to discontinue the issue of fishing licences to foreign vessels. They propose to place on the fisheries six sailing vessels to prevent encroachments, and they request Her Majesty's Government to place on the Station a sufficient naval force to prevent riotous combinations among foreign fishermen.

* Confidential.
11th Jan.,
1870, page 8.

Lord Clarendon is aware that the Treaty of Independence gave the citizens of the United States the liberty to fish in Colonial waters. The war of 1812 is held by our Government to have abrogated this provision—the effect of which was disputed—and it was not renewed in the Treaty of 1815. The Americans, however, continued to claim and exercised the right of fishing, till our cruisers brought the matter to issue by seizing some twenty fishing boats.

These differences led to the Treaty of 1818, by which England gave the Americans the right of fishing in certain specified parts of Newfoundland and Labrador, while the United States “renounced for ever any liberty theretofore enjoyed or claimed by the “inhabitants thereof” (*i.e.* of the United States) to take fish in Colonial waters.

This was superseded by the so-called “Reciprocity Treaty” of 1854, which established a modified free trade and gave the United States fishermen almost unrestricted access to the fisheries.

The Reciprocity Treaty was abrogated by the American Government in March, 1866, after the conclusion of the civil war; and the provisions of 1818 of course revived.

But hopes were entertained that a fresh Commercial Treaty would be made, and Canada, though for the time losing the advantages of free trade, continued, in conformity with the wishes of Great Britain, to allow the United States fishermen access to her waters, imposing payment of a licence fee, first, of half a dollar; next, of two dollars a ton. The fee, however, was not easy to collect effectually. In 1866, it is said, the Colonial waters were fished by about 800 United States vessels, of whom only 454 took out licences at half a dollar a ton. The proportion of payments diminished (as might have been expected) when the fee was raised.

Meantime the negotiations for the renewal of the Reciprocity Treaty have proved abortive; while the British Government has informed that of Canada, that Her Majesty's ships cannot be employed in collecting payments imposed by the municipal law of the Dominion, and that Colonial vessels should be fitted out for this purpose, one of Her Majesty's ships remaining on the station, and the officer in command of that ship exercising control over the Colonial vessels.

To this, however, the Canadian Government object, partly because, if they are to enforce the law at their own expense, they desire to do it in their own way—partly because they claim from England a greater security against foreign interference than one vessel would afford.

Their case is that the United States, by a hostile system of duties, is bringing to bear upon them a pressure calculated to undermine their independence; that their legitimate mode of defence against this is by refusing to the United States those fishing privileges which were only conceded to them in consideration of that commercial intercourse which they now refuse to continue; and that in this just defence of their own interests they have a right to look to England for protection from unlawful violence from a foreign Power, which is, in fact, threatened by the New England fishermen.

CANADA.

With these views, they propose, as has been said, the abolition of the licence system, and urge that a sufficient naval force to prevent collision should be sent out from England.

It appears to Lord Granville that although Canada might properly be expected to refrain from the assertion of her unquestioned rights while the renewal of the Reciprocity Treaty was under serious consideration, she can no longer be called upon to do so now that the negotiations respecting that renewal are broken off, and at the cost of practically weakening those rights by their continued non-assertion. Nor, in his Lordship's opinion, can Her Majesty's Government properly or wisely refuse her the support of such a force as may be sufficient to secure the Colony against lawless violence.

If Lord Clarendon should concur in these conclusions, Lord Granville would suggest that Mr. Thornton should be instructed to communicate them to the United States Government, and should submit the expediency of coming to an understanding respecting the amount of naval force which the British and American Governments should respectively send to the neighbourhood of the Canadian waters, with the view of preventing collisions hazardous to the good understanding between the countries.

I have, &c.,

(Signed) **FREDERIC ROGERS.**

To the Under-Secretary of State,
Foreign Office.

No. 7.

No. 7.

Foreign Office to Colonial Office.

Sir,

Foreign Office, 23rd March, 1870.

* Page 145.

Mr. Thornton,
No. 13,
28th Feb.,
1870.

With reference to my letter of the 9th instant,* enclosing a copy of a Despatch from Her Majesty's Minister at Washington, covering a copy of a confidential letter addressed by him to Sir John Young, on the subject of the commercial relations between the United States and Canada, I am now directed by the Earl of Clarendon to transmit to you the accompanying copies of a further Despatch and its Enclosure, from Mr. Thornton, on the same subject, and I am to request that, in laying these Papers before Earl Granville, you will move his Lordship to inform Lord Clarendon whether there is anything in the communications relating to this matter which have passed between Her Majesty's Minister and the Governor-General of Canada which would lead Lord Granville to alter the views expressed by his Lordship in your letter of the 12th instant,† in regard to the communication which his Lordship suggests that Mr. Thornton should be instructed to make to the United States Government respecting the Canadian Fisheries.

I have, &c.,
(Signed) **CHARLES SPRING RICE.**

The Under Secretary of State,
Colonial Office.

Enclosure 1 in No. 7.

Mr. Thornton to the Earl of Clarendon.

(No. 13.)

My Lord,

Washington, 26th February, 1870.

With reference to my commercial Despatch No. 5, of the 14th instant, in which I enclosed a copy of a Despatch addressed by me on the 10th instant to Sir John Young, I have the honour to inform your Lordship that I have this morning received an answer from his Excellency, enclosing a confidential Memorandum prepared by the Government of the Dominion.

This Memorandum, after tracing what has occurred since Mr. Rose's visit to Washington during last summer for the purpose of conferring with Mr. Fish with regard to commercial intercourse between Canada and the United States, proceeds to state that after a careful perusal of my Despatch of the 10th instant, the Committee of Council do not find that Mr. Fish has made any proposition on the part of the American Government. Had he done so, the Committee would have been prepared to give it prompt and respectful consideration.

Enclosure 1
in No. 7.

It adds that there is nothing in my Despatch to lead the Committee of Council to believe that the Government of the United States has made any formal or authorized proposition to me, such as would form a basis for negotiations for placing the commercial relations between the United States and the Dominion of Canada on a more satisfactory footing, and the Committee of Council are therefore of opinion that it is inexpedient for them to offer any suggestions on the subject.

The Memorandum concludes by stating that the policy of the Canadian Government has been uniformly favourable to the most liberal commercial intercourse between the Dominion and the neighbouring States, and they made great concessions in 1854 in order to obtain an approximation of that object, but they do not think that it would tend to any satisfactory solution of the questions at issue if they were to offer any opinion on the suggestions which appear to have been made to me.

I need hardly tell your Lordship that this answer caused me some surprise and regret, and being animated with the strongest desire to maintain and improve friendly relations between Canada and the United States, I have some hesitation in communicating to Mr. Fish its tenour, at which he could hardly fail to feel hurt. As far as I can judge from Mr. Fish's language, he is personally in favour of a great reduction of the present high tariff of the United States, and would gladly seize any opportunity that might offer of effecting a change in that sense. I believe that a similar feeling is steadily gaining ground throughout the country; but the actual composition of Congress is such that measures having that tendency would with the greatest difficulty be carried in that body. The mining and manufacturing interests are strongly represented there, and the protection of these is carefully watched.

As soon, however, as the Census shall have been taken during this year, and the new apportionment of representation shall have been made in accordance with the results shown by it, it is probable that the Western States will obtain greater influence in Congress, and will urge the reduction of the import duties upon many articles of which they are in daily need, and the high price of which materially diminishes the profits of their citizens upon their agricultural produce.

Mr. Fish thought he saw an opportunity of beginning, with the assistance of the members from the Western States, to bring about a reduction of a few of the import duties at once, in return for certain advantages, disproportionately considerable, perhaps, to be given by Canada. But if the Canadian Government persist in refusing to say whether such a basis might be considered admissible or not, the movement is arrested at once. A decided negative would probably have been less objectionable, for those who have taken the matter up might then have been induced, for their own interests' sake, to offer to the Canadian Government advantages more proportionate to their demands.

I have therefore thought it advisable to address to Sir John Young a letter, a copy of which I have the honour to enclose, and to abstain, if possible, from speaking to Mr. Fish upon the subject until I shall receive a further communication from the Canadian Government, and I venture to hope that this step may meet with your Lordship's approval.

I have, &c.,
(Signed) EDWARD THORNTON.

The Earl of Clarendon, K.G.,
&c. &c. &c.

28th Feb.
1870.
Mr. Thornton
to Sir J.
Young.

Enclosure 2 in No. 7.

Mr. Thornton to Sir John Young.

Enclosure
in No. 7.

(Confidential.)
(No. 5.)

Sir,

Washington, 28th February, 1870.

I have the honour to acknowledge the receipt of your Excellency's confidential Despatch of the 25th instant, enclosing a confidential Memorandum prepared by your Ministers in answer to my private and confidential Despatch of the 10th instant.

In reply, I cannot but express my regret that your Ministers should not have enabled me to give a more explicit answer to the inquiries, which I took the liberty of addressing to your Excellency at the request of Mr. Fish. When he made the above request, I

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took it for granted, and I think it was implied, that in case the Canadian Government should give a favourable answer to the question now put to them, he would then be ready to enter into a negotiation upon the subject. It is true that his inquiries did not exactly commit him, but neither would an affirmative or a negative answer commit the Government of the Dominion.

I need hardly assure your Excellency that one of the objects I have had much at heart, since my arrival here, has been to maintain and improve good relations between Canada and the United States, and that I have found it no easy task, on account of the sensitive character of the people of this country. I would now earnestly entreat your Excellency to endeavour to induce your Ministers to give me an answer upon the subject of the contents of my Despatch of the 10th instant which might be less likely to wound the feelings of the United States Government than that conveyed in the Memorandum you have been good enough to forward to me. A plain rejection of the proposal which the Government of the Dominion have, of course, a right to give, would, as I believe, be less unacceptable than their refusal to offer an opinion upon the suggestions made to me. That Mr. Fish is interested in the matter, I cannot doubt: for he has more than once asked me whether I have received any answer to the communication which, at his request, I made to your Excellency.

It seems to me that the inquiry was made merely for the purpose of ascertaining confidentially whether your Ministers would consent to enter upon a negotiation upon such a basis as that contained in my Despatch of the 10th instant.

Without that knowledge nothing formal could be proposed, but it is certain that negotiations upon matters of much greater importance have frequently originated in overtures of a much less formal character.

I have, &c.,
(Signed) EDWARD THORNTON.

His Excellency the Right Hon.
Sir John Young, G.C.B.,
&c. &c. &c.

No. 8.

No. 8.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 5th April, 1870.

* Page 148.
No. 18.
14th March,
1870.
No. 19.
21st March,
1870.

With reference to my letter of the 23rd ultimo,* I am directed by the Earl of Clarendon to transmit to you, for the consideration of Earl Granville, the accompanying copies of further Despatches and Enclosures from Her Majesty's Minister at Washington, on the subject of the commercial relations between the United States and Canada.

I have, &c.,
(Signed) E. HAMMOND.

April 2.

P.S. I am also to annex a copy of a letter which, by his Lordship's directions, has been addressed to the Admiralty on the subject of Mr. Thornton's suggestion that some of Her Majesty's ships should be present in the Canadian waters during the approaching fishing season.

The Under Secretary of State,
Colonial Office.

Enclosures in
No. 8.

Enclosures in No. 8.

(No. 18.)
MY LORD,

Washington, 14th March, 1870.

I have the honour to enclose three printed copies of a resolution which was submitted to the House of Representatives, on the 7th instant, by Mr. Churchill, a member for New York, and adopted by that body, to the effect that the President should be requested to furnish any information he might possess as to the determination of the Canadian Government to refuse licences for the inshore Fisheries, and to inform the House what measures had been taken for the protection of American fishermen in their rights.

The measure above alluded to, which has been announced by the Canadian Government, will, I fear, excite a good deal of bad feeling amongst the marine population of the New England States, and it will require great discretion and prudence on the part of the Canadian cruisers to prevent collisions with American fishermen, which may have very disagreeable consequences, especially as it is not to be supposed that the officers commanding those vessels have as yet so much experience in a service of that nature as Her Majesty's Naval officers. I trust, however, that some of Her Majesty's vessels may also be on the spot during the approaching season, especially if the United States Government should send any vessels there, for it is seldom that our Naval officers fail to agree upon such matters with those of the United States.

I have, &c.,

(Signed) EDWARD THORNTON

The Earl of Clarendon, K.G.,
&c. &c. &c.

(Confidential.)

(No. 7.)

SIR,

Government House, Ottawa, Canada,
12th March, 1870.

With reference to previous correspondence on the same subject, and to your communication of the 28th ultimo, I have the honour to forward herewith a copy of a Minute with Enclosures of the Privy Council of Canada on the subject of the commercial relations between Canada and the United States.

2. A perusal of these with the former papers will place you in possession of the views of this Government on the present phase of the question. The Government of the Dominion leave to your discretion the confidential communication of the substance of these papers to Mr. Fish.

You will perceive that the Ministers are anxious for an early reply.

I have, &c.,

E. Thornton, Esq., C.B.

(Signed) JOHN YOUNG.

(Secret and Confidential.) For Mr. Thornton's information, and for such use as he may think it expedient to make.

COPY of a REPORT of the COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 11th day of March, 1870.

With reference to the Schedules to be transmitted to Mr. Thornton, together with the confidential Minute in Council of the 9th March instant, the Committee would recommend your Excellency to acquaint Mr. Thornton that if he should find the American Government disposed to negotiate on the proposed basis, he might modify the 5 per cent. ad valorem rates, and accept 10 per cent. in lieu thereof; which might also be accepted as to lumber, which is now on the free list in Schedule I.

The Committee would strongly recommend your Excellency to request Mr. Thornton to endeavour to ascertain as soon as possible whether there is any probability of an arrangement being effected.

Certified,

(Signed) W. H. LEE, Clerk P.C.

(Confidential Minute.)

9th March, 1870.

The Committee of the Privy Council have had under consideration a confidential Despatch from Mr. Thornton, Her Majesty's Minister at Washington, dated the 28th ultimo, in which he expresses a desire that your Excellency's advisers should enable him to give a more explicit answer to certain enquiries made by Mr. Fish, Secretary of State of the United States, than he has hitherto been enabled to do.

Your Excellency will no doubt assure Mr. Thornton that the reluctance on the part of the Committee of the Privy Council to offer any opinion on the proposition submitted in Mr. Thornton's confidential Despatch of the 10th of February, arose solely from the doubt which they entertained as to the propositions having been made on

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proper authority—Mr. Thornton having assured your Excellency that he took it for granted, and thought it was implied, that in case the Canadian Government should give a favourable answer to the questions put to them Mr. Fish would be ready to enter into a negotiation on the subject, the Committee of the Privy Council are of opinion that it is their duty to communicate to your Excellency, for Mr. Thornton's information, their views on the various questions affecting the commercial relations between the United States and Canada.

The Committee of the Privy Council desire to acquaint Mr. Thornton, in order that he may assure the Government of the United States, that it is their anxious desire to place the commercial relations between the United States and Canada on the most liberal footing possible.

After making more than one ineffectual effort to induce the Government of the United States to renew the Reciprocity Treaty of 1854, the Government of Canada refrained from further action in the matter, until, at Mr. Fish's request, one of their members visited Washington in July last. The prosperity of Canada has gone on increasing, notwithstanding the restrictions on her commerce with the United States, and new avenues of trade have been opened up since the confederation of the Provinces. Meantime, a strong pressure has been brought to bear on the Government by the people throughout the Dominion, and their Representatives, to impose duties on United States products similar to those to which the products of the Dominion are subjected in the United States. The Government have hitherto resisted this proposition, on the ground that there was yet a reasonable prospect of a satisfactory commercial arrangement between the two Governments.

The time has arrived when it is absolutely necessary for them to announce their commercial policy to Parliament, but before doing so, they deem it only courteous to Mr. Fish to make him acquainted with their views, as Mr. Thornton has assured your Excellency that he is interested in the matter, and has more than once inquired whether Mr. Thornton had received an answer to his late suggestions.

The Committee of the Privy Council noticed with regret that no reference was made by Mr. Fish, in his communication to Mr. Thornton, to the natural products of the most populous sections of the Dominion; and that the advantages held out to Canada in return for the large concessions demanded from her were comparatively slight.

It is not clear that Canada would derive any material advantage from the free admission of lumber into the United States, as there has been a steady increase in that trade since the termination of the Reciprocity Treaty. Salt is a commodity produced to a very limited extent in one locality in Canada, while it is a leading article of import into Canada from the United States. It would no doubt be satisfactory to Canada that fish should be admitted free into the United States; but that is the chief advantage held out. Coal was to be subjected to a duty, but as no rate was named, the Committee of Council have no means of judging of the value of the proposed concession regarding that article.

The proposition submitted in Mr. Thornton's Despatch has been avowedly made by Mr. Fish in order to secure the support of persons having conflicting interests, viz., the Western producers who desire the most unrestricted access to the seaboard, and the Eastern shipowners and consumers of coal, who are interested in obtaining a right to fish in Canadian waters, and in obtaining coal from a province contiguous to their own country.

The Committee of the Privy Council are equally bound to consider the interests of the entire population of the Dominion of Canada, and they hope that Mr. Thornton will remind Mr. Fish that the natural products of Quebec and Ontario are chiefly bread-stuffs and animals, to which no reference whatever is made in Mr. Fish's proposition.

On reference to Mr. Rose's Report of his interview with Mr. Secretary Fish, in July last, the Committee of Council find that Mr. Fish was of opinion that, "under existing circumstances it would probably be necessary to have two Schedules; one a free list and the other embracing articles which might have to be subject to certain rates of duty."

The Committee of Council are, therefore, of opinion that it is desirable that they should prepare and submit two Schedules; one embracing articles which should be admitted free of duty, and the other, articles which should be subject to the same rates of duty on admission into either country. The Committee of Council have framed these Schedules with a view of meeting the wishes of the Government of the United States; but in doing so they desire to record their opinion that they would much prefer that all the articles enumerated should be admitted free of duty, and that they will be prepared to

consider favourably any proposition from the Government of the United States for more unrestricted commercial relations between the two countries.

It would be impossible for the Canadian Government to take any step at present towards the abandonment of the exclusive right to fish in Canadian waters, and would involve negotiations on a much wider basis than was contemplated by Mr. Fish when he made his late suggestions to Mr. Thornton.

The Committee of the Privy Council are of opinion that your Excellency should transmit to Mr. Thornton a copy of two Schedules; one embracing articles which in their opinion should be admitted free of duty, the other, articles which might be admitted at moderate revenue rates with great advantage to the people of both countries.

They regret that coal cannot be included in the free list, but, in accordance with Mr. Fish's suggestion, they have placed it in Schedule 2.

Should the Government of the United States adopt the two Schedules which accompany this Minute, or propose any modification of them which can be accepted by the Dominion Government, Canada will be prepared to concede the free navigation of the St. Lawrence and the use of her canals to the citizens of the United States, and Mr. Thornton may safely assure Mr. Fish that the policy of the Canadian Government is to maintain the canals in a state of the greatest efficiency.

SCHEDULE I.

Schedule I.

Hides and pelts.
 Furs, skins, and tails (undressed).
 Fish (fresh).
 Eggs.
 Timber and lumber (round, hewed, sawed, manufactured in whole or in part).
 Pitch, tar, turpentine, ashes.
 Firewood.
 Plants, bulbs, trees, and shrubs.
 Salt.
 Broom corn.
 Bristles.
 Ores and minerals of all kinds.
 Cotton wool.
 Stone and marble (unwrought).
 Slate.
 Gypsum (unground).
 Flax, hemp, and tow (undressed).
 Manufactured tobacco.
 Rags.
 Burr or grindstones.
 Dye-stuffs.
 Horns.
 Manures.
 Fish oil.
 Clays, earth, and gravel.
 Emery.
 Plaster of Paris (not ground nor calcined).
 Rosin.
 Sand.
 Tanners' bark and extracts thereof.
 Wool.

SCHEDULE II.

Schedule II.

Animals of all kinds <i>ad val.</i>	5 per cent.
Poultry	5 "
Fish, viz., Mackerel	per barrel \$1
" Salmon	" \$1
Herrings, and all other fish in barrels	50 cents.
Fish not in barrels and not otherwise described <i>ad val.</i>	5 per cent.

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Meats, fresh, salted and smoked	per lb.	1 cent.
Butter	"	2 "
Cheese	"	2 "
Lard	"	1 "
Tallow	"	1 "
Grease and grease soap, <i>ad val.</i>		5 per cent.
Fruits, green, dried and undried		5 "
Seeds, not including cererals		5 "
Hay and straw		5 "
Bran		5 "
Vegetables, including potatoes and other roots		5 "
Hops	per lb.	5 cents.
Wheat	per bushel	4 "
Barley and rye	"	3 "
Oats, buckwheat, and Indian corn	"	2 "
Peas and beans	"	2 "
Flour of wheat or rye	per barrel	25 "
Indian and buckwheat meal and oatmeal	"	15 "
Coal	per ton	50 "

SIR,

Foreign Office, 2nd April, 1870.

I am directed by the Earl of Clarendon to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying copy of a Despatch from Her Majesty's Minister at Washington enclosing a copy of a resolution of the House of Representatives connected with the Canadian Fisheries.

Mr. Thornton, it will be seen, fears that a good deal of bad feeling will be excited amongst the marine population of the New England States owing to the refusal of the Canadian Government to grant licences for the inshore Fisheries, and he states that great discretion and prudence will be required on the part of Canadian cruisers to prevent collisions with American fishermen which may have any disagreeable consequences, more especially as the officers commanding those vessels have not as yet had as much experience in a service of that nature as Her Majesty's Naval forces.

Under these circumstances Lord Clarendon would be glad to be favoured with the opinion of the Lords of the Admiralty as to the answer which should be returned to the suggestion of Mr. Thornton that some of Her Majesty's ships may be on the spot during the approaching fishing season.

The Secretary to the Admiralty.

I have, &c.,
(Signed) C. SPRING RICE.

(No. 19.)

MY LORD,

Washington, 21st March, 1870.

With reference to my commercial Despatch No. 13, of the 28th ult., I have the honour to transmit herewith copy of a further communication and its Enclosures, which I have received from Sir J. Young in reply to my letter of the 28th ult., copy of which was forwarded in the above-mentioned Despatch.

Your Lordship will perceive, from the Minute of the Privy Council of Canada, that the Government of the Dominion suggest a more extended reduction of import duties between the two countries than was contemplated by Mr. Fish in return for the free navigation of the St. Lawrence and the Canadian canals unaccompanied by the freedom of the Fisheries, which last measure they decline to entertain without entering into negotiation upon a wider basis.

On the 17th inst. I communicated to Mr. Fish the nature of the answer I had received from Sir J. Young, and, at his request, subsequently addressed him a private letter transmitting the substance of the suggestions made by the Canadian Government, with a copy of the two Schedules of articles, some to be put on the free list, and others to pay certain duties.

During one interview Mr. Fish said that the Canadian Government seemed to desire a negotiation upon a larger scale than he had contemplated, but this he feared was impossible as long as the majority of Congress were animated by their present feelings upon the subject. He had hoped, indeed, to make a small beginning of more liberal relations by combining in favour of them antagonistic interests in this country. But he

thought it would be out of the power of the supporters of the scheme to carry any measure of the nature suggested, unless the freedom of the Fisheries for American citizens were one of the concessions; indeed this was considered the principal point, and without it it would be useless even to begin any negotiation.

Mr. Fish himself believed, though his opinion was not entirely acquiesced in by Western Members of Congress, that the navigation of the St. Lawrence and canals was a minor question. It would be available for not much more than four months in the year, and might never, perhaps, be practically used except for the purpose of inducing the monopolists of the transport to the sea in the United States to lower their prices by the threat of competition.

Indeed Mr. Fish seemed to consider the freedom of the Fisheries a necessity without which it would be impossible to procure a sufficient number of votes to carry such a measure as that he had suggested.

With regard to the Schedules enclosed in the Minute of the Privy Council, I fear that there are many articles, such as coarse wool, which the United States would not consent to admit duty free; and many others on which they would not be induced to lower the duty, such as wheat, though they might do so with regard to some of the other cereals. I am inclined to believe that no difficulty would be made about reducing the import duty on coal to fifty cents a ton. Indeed, in the not impossible event of no arrangement being come to with Canada, I am not sure that the pressure of public opinion may not oblige Congress to lower the duty on that article.

I have not yet received an answer to the private letter which I have addressed upon this subject to Mr. Fish; but I have no hope of a favourable result unless the Canadian Government should consent to come to some arrangement with regard to the Fisheries. In the meantime, as that Government have already announced their determination to refuse fishing licences to foreigners, it is to be apprehended that some irritation may arise from that decision in the New England States, and that it may be a fruitful source of collision, especially if the police of the Canadian waters be left entirely to the new cruisers which are to be stationed there, and whose officers are not so likely, being more personally interested in the matter, to be calm and discreet in preventing encroachments as Her Majesty's naval officers. It would probably be advisable that a few United States vessels of war should also be stationed in the neighbourhood, whose officers would assist in preventing violations of the Canadian laws by their countrymen, and would be witnesses to the good faith and moderation of the English and Canadian officers against any misrepresentations which might be made by interested parties. So great a spirit of economy now prevails, however, in Congress, that the Government have few ships at their disposal; and those that are now available in the neighbourhood are employed on the coast of Cuba in protecting American property and citizens during the conflict now going on in that island.

I have, &c.,

The Earl of Clarendon, K.G. (Signed) EDWARD THORNTON.
&c. &c. &c.

P. S. I have communicated in a private letter to Sir John Young the substance of my interview with Mr. Fish, as well as my own impressions upon the subject, and shall write to him officially as soon as I receive a definitive answer from Mr. Fish.

E. T.

CANADIAN FISHERIES.

Mr. Churchill, by unanimous consent, submitted the following preamble and resolution, which were read, considered, and adopted:—

Whereas it has been officially announced that it is not the intention of the Canadian authorities to issue licences to foreign fishermen for the privilege of the inshore fisheries of the Canadian coast during the ensuing year, and that arrangements would be made to protect the rights of Canadian fishermen by the employment of vessels as a marine police, which are to cruise about the fishing-grounds: Therefore,

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, any information in his possession as to the determination of the Canadian authorities in the matter of the fisheries in the Gulf of St. Lawrence and upon the coast of Canada; and whether any steps have been taken for the protection of the interests of American citizens engaged in the fishing trade on said coast, and securing to them the privileges which they have heretofore enjoyed in the inshore fisheries thereof.

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No. 9.

No. 9.

Colonial Office to Foreign Office.

SIR,

Downing Street, 8th April, 1870.

* Page 148.

† Page 150.

‡ Page 147.

I am directed by Earl Granville to acknowledge your letters of 23rd ultimo* and 5th instant,† relating to certain communications which have passed between Her Majesty's Minister at Washington and the Governor-General of Canada, respecting the Canadian Fisheries and the commercial relations between Canada and the United States.

In the first of those letters you request to be informed whether, after its perusal, Lord Granville retains the views expressed in my letter of 12th ultimo.‡

It appears that Mr. Fish, acting under a pressure from certain sections of the community, has led Mr. Thornton to suppose that his Government would entertain a proposal for reducing the duty on a certain limited number of articles, if the Canadians would concede the free navigation of the St. Lawrence, and admission of the United States fishermen to their Fisheries.

At first the Canadian Government, doubting, it would seem, the seriousness of the proposal, declined to entertain it. But on receiving explanations from Mr. Thornton, they have made a counter-proposal, which is not perhaps entirely unambiguous, but which seems correctly understood by Mr. Fish as meaning that, in consideration of reductions of duty much more extensive than those which he proposed, they would be ready to concede the free navigation of the St. Lawrence, but not admission to the Fisheries.

Mr. Fish replies, or is expected to reply, that no scheme would have any chance of acceptance with Congress which did not involve admission to the Fisheries; but he appears to indicate that with that concession the proposed alterations of the Tariff, or something like them, might pass.

With regard to the Fisheries, Mr. Thornton writes that it will be very desirable that an adequate force of Her Majesty's ships should be placed on the coast, with, if possible, an American force also, to prevent collision and the complaints likely to arise out of it.

Lord Granville is glad to find his own views in this respect corroborated by those of Mr. Thornton, and he sees no reason for altering them.

It appears to him probable that the attitude of the Canadian Government in respect to the Fisheries may have had its share in producing that pressure which disposes Mr. Fish towards a commercial arrangement.

Lord Granville sees no reason to find fault with the Canadian proposal if viewed merely as a mode of opening negotiations; but, on comparison of this project with that approved by Sir John Rose last year, he is inclined to believe that if the American Government were to accept, with some modification, the Schedules proposed by the Canadian Ministry, Canada might fairly be expected to open the Fisheries. It appears to him that the language held by Mr. Fish points to the possibility of some such arrangement.

I have, &c.,

(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office.

No. 10.

No. 10.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 9th April, 1870.

Above.

5th April.

With reference to your letter of the 8th instant,* I am directed by the Earl of Clarendon to enclose, for the information of Earl Granville, copy of a letter from the Admiralty, from which it appears that the Board are prepared to instruct the Naval Commander-in-Chief on the North American Station to detach to the Canadian waters a naval force for the protection of Canadian fishermen, and the maintenance of order, under the present state of things as regards the Fisheries.

I am also to enclose the Draft of the reply which Lord Clarendon proposes to address

to the Admiralty, and I am to request that you will move Lord Granville to favour Lord Clarendon at his earliest convenience with his opinion whether he concurs in its terms.

I have, &c.,
(Signed) CHARLES SPRING RICE.

The Under Secretary of State,
Colonial Office.

Enclosures in No. 10.

Enclosures in
No. 10.

SIR,

Admiralty, 8th April, 1870.

I have laid before my Lords Commissioners of the Admiralty your letter of the 22nd instant, enclosing a copy of a Resolution of the House of Representatives at Washington, in reference to the decision of the Government of the Dominion of Canada, that licences to foreign fishermen for the inshore Fisheries of the Canadian coast are not to be granted during the present year, and requesting that you may be furnished with their Lordships' opinion as to the answer which should be returned to the suggestion of Mr. Thornton that some of Her Majesty's ships may be on the spot during the approaching fishing season.

In reply, my Lords desire me to state that in the event of Her Majesty's Government determining to sanction the proposed policy of the Government of the Dominion, in refusing altogether to grant the licences, and if Lord Clarendon should request them to do so, their Lordships will instruct the Commander-in-Chief to detach, for the protection of Canadian interests, as many vessels as in his opinion will adequately perform that service.

I am to request that Lord Clarendon's instructions may be communicated to me as soon as possible.

I have, &c.,
(Signed) VERNON LUSHINGTON.

The Right Hon. E. Hammond,
Foreign Office.

Draft.—Admiralty.

SIR,

Foreign Office, 9th April, 1870.

With reference to your letter of the 18th instant (M.), I am directed by the Earl of Clarendon to request that you will state to the Lords Commissioners of the Admiralty that in the present state of feeling, as regards the Fisheries on the Canadian coast, and the proposed termination of the fishing licenses, it appears to his Lordship desirable that the Commander-in-Chief of Her Majesty's naval forces on the station should detach to the waters in question a force sufficient to protect Canadian fishermen, and to maintain order. Lord Clarendon also considers it very desirable that the naval force employed on this service should be in a position to act in conjunction with an American force, and it is his Lordship's intention, on learning that the Lords of the Admiralty have taken steps in the above, to instruct Mr. Thornton to invite the co-operation of the Government of the United States.

Lord Clarendon will therefore be glad to learn, with as little delay as possible, the nature of the instructions addressed by the Lords of the Admiralty to the naval authorities for their guidance in this matter.

No. 11.

No. 11.

Colonial Office to Foreign Office.

SIR,

Downing Street, 9th April, 1870.

I have laid before Earl Granville your letter of this day's date,* enclosing the draft of the answer which the Earl of Clarendon proposes to return to a letter from the Lords Commissioners of the Admiralty stating that they are prepared to instruct the

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naval Commander-in-chief on the North American station to detach to the Canadian waters a naval force for the protection of Canadian fishermen.

I am desired to express Lord Granville's concurrence in the proposed answer.

The Under Secretary of State,
Foreign Office.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 12.

No. 12.

(Confidential.)

Foreign Office to Colonial Office.

SIR,

Foreign Office, 12th April, 1870.

I am directed by the Earl of Clarendon to transmit to you, to be laid before Earl Granville, a copy of a Despatch and of its Enclosure, from Her Majesty's Minister at Washington, relative to the negotiations between Canada and the United States in regard to the questions of the navigation of the St. Lawrence and the canals, the reduction and abolition of import duties on certain articles, and the Canadian Fisheries.

The Under Secretary of State,
Colonial Office.

I have, &c.,
E. HAMMOND.

No. 22. Commercial.

Confidential.
25th March,
1870.Enclosures
in No. 12.

(No. 22.) (Confidential.) Enclosures in No. 12.

MY LORD,

Washington, 28th March, 1870.

In an interview which I had with Mr. Fish on the 24th instant, I inquired of him whether he had come to any decision on the subject of the confidential counter proposal which had been made by the Canadian Government relative to the navigation of the St. Lawrence and the canals, and the reduction and abolition of import duties upon certain articles.

Mr. Fish replied that he had communicated with most of the Western Members who had originally asked him to make inquiries upon the subject, as well as with other persons interested in the matter, and that they had expressed the strongest opinion that it would be impossible, in the first place, to obtain the assent of Congress to a reduction of duties on so extensive a scale as that proposed by Canada, and that no further arrangement could be entertained unless the freedom of the Fisheries in Canadian waters for citizens of the United States should form a part of it.

I therefore lost no time in addressing to Sir John Young the Despatch, of which I have the honour to enclose a copy.

As on both sides there seems to be a determination not to yield upon this point, I fear there is no chance for the present of any arrangement being arrived at—a result which is to be regretted more perhaps on account of the irritation which will arise amongst American fishermen from their exclusion from Canadian waters than for any other reason.

The Earl of Clarendon, K.G.
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

(No. 9.) (Confidential.)

SIR,

Washington, 24th March, 1870.

With reference to your Excellency's confidential Despatch No. 7, of the 12th instant, I have the honour to inform you that Mr. Fish has to-day stated to me that he has consulted with several of the Western Members of Congress who had previously made inquiries of him as to the possibility of an arrangement with Canada, based upon a reduction or abolition of the import duties upon certain articles in exchange for the free navigation of the St. Lawrence and the canals, and the freedom of the Canadian fisheries for United States citizens.

No. 9. 24th
March, 1870.

The result of his communication with them, he adds, has been that they consider it impossible that any arrangement could be carried through Congress based upon the modification or abolition of the import duties upon so many articles, or with* the freedom of the Fisheries for American citizens, which would be considered an essential and indispensable point in any negotiation.

CANADA.
* Query
"without."

The Right Hon. Sir J. Young, Bart. (Signed) I have, &c., EDWARD THORNTON.
&c. &c. &c.

No. 13.

No. 13.

Foreign Office to Colonial Office.

SIR, Foreign Office, 27th April, 1870.

With reference to my letter of the 5th instant,* I am directed by the Earl of Clarendon to transmit to you, to be laid before Earl Granville, the accompanying copy of a Despatch from Mr. Thornton, and its Enclosure respecting the Canadian Fisheries.

* Page 150.

12th April,
1870.

The Under Secretary of State,
Colonial Office.

I have, &c.,
(Signed) E. HAMMOND.

Enclosures in No. 13.

Enclosures in
No. 13.

MY LORD, Washington, 12th April, 1870.

With reference to my commercial Despatch No. 18, of the 14th ultimo, I have the honour to enclose three printed copies of a short Message from the President to the House of Representatives, transmitting a Report from the Secretary of State relative to the Canadian Fisheries. This Report has not yet been published, but Mr. Fish has at the same time forwarded to the House Committee on Foreign Relations a copy of the Canadian Fisheries Act of May 22, 1868.

"Globe," 7th
April, 1870.

The President intimates in his Message that a United States steamer will be sent to the fishing grounds for the purpose of preventing any infraction by American fishermen of the Canadian Fishery laws, or any illegal interference with the pursuits of those fishermen.

It was announced in the Washington "Morning Chronicle" of the 10th instant that the Secretary of the Navy has ordered the United States steamer "Dispatch" to proceed immediately on this service to the fishing grounds near Prince Edward Island.

I have, &c.,

The Earl of Clarendon, K.G., (Signed) EDWD. THORNTON.
&c. &c. &c.

Extract from "Globe" of 7th April, 1870.

Fisheries in British Waters.

"The Speaker, by unanimous consent, laid before the House the following Message from the President of the United States.

"To the House of Representatives:

"In answer to the resolution of the House of Representatives of the 7th instant, relating to fisheries in British waters, I transmit a report from the Secretary of State and the papers which accompanied it; and I have to state that the commanding officer of the naval steamer ordered to the fishing-grounds will be instructed to give his attention, should circumstances require it, to cases which may arise under any change which may be made in the British laws affecting fisheries in the British jurisdiction, with a view to preventing, so far as it may be in his power, infractions by citizens of the United States of the first article of the treaty between the United States and Great Britain of

CANADA.

"1818, the laws in force relating to fisheries within British jurisdiction, or any illegal interference with the pursuits of the fishermen of the United States.

"Washington, 31st March 1870.

"U. S. GRANT.

"The Message and accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed."

No. 14.

No. 14.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 9th May, 1870.

* Page 159.
No. 31. Commercial.

With reference to Mr. Hammond's letter of the 27th ultimo,* I am directed by the Earl of Clarendon to transmit to you a copy of a Despatch from Her Majesty's Minister at Washington, reporting a conversation he has had with Mr. Secretary Fish respecting the despatch to Canadian waters of a United States' Naval force to co-operate with Her Majesty's vessels for the maintenance of good order between the fishermen of the respective countries, and I am to request that you will lay Mr. Thornton's Despatch before Earl Granville, and move his Lordship to cause Lord Clarendon to be furnished with a copy of the Instructions which have been given to the Canadian Naval officers on the subject, in order that his Lordship may forward them to Mr. Thornton for communication to the United States Government.

The Under Secretary of State,
Colonial Office.

I have, &c.,
(Signed) CHARLES SPRING RICE.

Enclosure in
No. 14.

(No. 31).

Enclosure in No. 14.

MY LORD,

Washington, 25th April, 1870.

With reference to your Lordship's commercial Despatch No. 23, of the 9th inst., I have the honour to inform you that on the 21st inst. I announced to Mr. Fish the intention of Her Majesty's Government to employ a British Naval force in the waters of the Dominion of Canada, and I expressed to him their hope that a sufficient force would be despatched to the same quarter by the United States' Government with instructions similar to those which the officer in command of Her Majesty's Naval force will receive, so that both may co-operate together for the maintenance of good order.

Mr. Fish replied that the Government had very few spare vessels at their disposal just now, it being necessary to keep an unusual number on the coast of Cuba; he believed, however, that the "Despatch," a small revenue steamer, and the "Frolic," a paddle-wheel steamer of about 600 tons, had already been sent to Canadian waters with instructions to their commanders to use the greatest moderation and discretion in the maintenance of order at the Fisheries, and to concert, as far as possible, with the officers of the Canadian cruisers and of Her Majesty's vessels.

Mr. Fish added that if it were in their power, the Government of the United States would send additional vessels to those waters; and if I would let him know the precise nature of the instructions given to the commanders of Her Majesty's vessels, those given to the United States officers would be assimilated to them as far as possible. I promised Mr. Fish that if I should receive more detailed information of the instructions given to Her Majesty's officers, and should be authorized to communicate it to him, I would do so without delay.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

No. 15.

No. 15.

(Confidential.)

Foreign Office to Colonial Office.

SIR,

Foreign Office, 9th May, 1870.

No. 166.

I am directed by the Earl of Clarendon to transmit to you a copy of a Despatch from Her Majesty's Minister at Washington, reporting a conversation he has had with Mr. Secretary Fish respecting a complaint of Mr. Dodge, a citizen of the United States,

of the want of protection afforded to American fishermen in Canadian waters, and enclosing a copy of a letter which, at Mr. Fish's request, he had addressed to Sir John Young upon the subject; and I am to request that, in laying this Despatch before Earl Granville, you will state to him that Lord Clarendon proposes, with his concurrence, to approve Mr. Thornton's proceedings in this matter, and that he would be glad to be informed of the answer which should be returned to his Despatch.

I have, &c.,
(Signed) CHARLES SPRING RICE.

The Under Secretary of State,
Colonial Office.

P.S.—I am also to enclose a copy of another Despatch from Mr. Thornton in regard Canadian Fisheries.

No. 165.

Enclosures in No. 15.

Enclosures
in No. 15.

(Confidential.) (No. 166.)

MY LORD,

Washington, 25th April, 1870.

Mr. Fish stated to me a few days ago that his attention had been called by a Mr. Dodge, a citizen of the United States, residing in one of the New England States, to the want of protection furnished to American fishermen who, in accordance with the Treaty of 1818, were entitled to fish on the coast of Labrador. Mr. Dodge, he said, had come to Washington for the purpose of making a representation upon the subject to his Government; he had already made a written one about three years ago, and had imagined that it existed in the State Department. It could not, however, be found, and Mr. Dodge had now returned to New England for the purpose of obtaining the documents upon which he had made his previous representation, and renewing it in writing.

Mr. Fish, however, expressed his wish that I should, in the meantime, write privately upon the subject to Sir John Young, so that instructions might be given to any Canadian cruisers which might be in that direction to afford protection to the American fishermen as far as they might be entitled to it.

I have the honour to enclose copy of the private letter which I consequently addressed to Sir John Young, and of which I have also forwarded a copy to Vice-Admiral Wellesley, Commander-in-chief of Her Majesty's naval forces on this station, thinking it possible that he may deem it expedient to give instructions upon the subject to the officers commanding Her Majesty's vessels which may be sent to the Canadian fishing grounds during the approaching season.

The Earl of Clarendon, K.G.
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

(Private and Confidential.)

MY DEAR SIR,

Washington, 21st April, 1870.

Mr. Fish has begged me to make a confidential communication to you on the following subject.

A Mr. Dodge, an American citizen, has represented to Mr. Fish that he has for some years been interested in the fishery business on the coast of Labrador, in which business he has invested a large capital, and owns vessels and large seines of considerable value. No objection has been made to his fishing within the three miles in conformity with the terms of the Treaty of 1818, and he has willingly paid, when called upon by the authorities, a duty or tax upon the salt which he uses in salting the fish which he catches. In following this occupation his men are in the habit of drawing the two ends of the seine together, thus enclosing the fish which they subsequently take out by degrees. Whilst the fish are thus imprisoned Mr. Dodge declares that on more than one occasion men, natives of Newfoundland, have come in their boats in great and overpowering numbers and have, before the eyes of his fishermen, taken the fish out of their nets, they being unable and unwilling to use force to resist them. The American fishermen have, as Mr. Dodge asserts, made representations upon the subject to Her Majesty's naval officers, who have frankly acknowledged that such proceedings were an outrage, but have added that they were unable to interfere from want of instructions.

Mr. Dodge has engaged, at Mr. Fish's desire, to make him a written representation upon this subject, but as he has to return to his home in New England to obtain the necessary

CANADA.

data, it may be some time before he will receive this document. In the meantime, as the fishing season is commencing, and both the cruisers of the Canadian Government and of Her Majesty's Navy may soon be on the spot, Mr. Fish has begged me to ask you in this informal manner that such measures may be taken as will ensure protection to the American fishermen in the lawful pursuit of their occupation in conformity with the stipulations of the Treaty of 1818.

On the receipt of Mr. Dodge's promised official representation, I presume that Mr. Fish will address me a note on the subject.

I have, &c.,
(Signed) E. THORNTON.

The Right Hon. Sir J. Young, G.C.B.,
&c. &c. &c.

(No. 165.)

MY LORD,

Washington, 25th April, 1870.

At the beginning of this month Mr. Fish requested me to furnish him with any laws relating to the Fisheries in Canada, or any rules which might have been officially issued with regard to them, in consequence of the determination recently announced to grant no more licences to foreign fishermen. I therefore requested the Governor-General of Canada to furnish me any such documents which might exist.

In reply, Sir J. Young sent me a copy of the law of May 22, 1868, and a Minute signed by Sir John A. Macdonald as Minister of Justice, in which was comprised an Order in Council of the 8th of January last, relative to the Fisheries. Copies of Sir J. Young's Despatch and of the Minute I have the honour to enclose. Of the latter, and of the law of May 22, 1868, I forwarded copies to Mr. Fish, and I now enclose copy of a note from Mr. Fish of the 21st inst., from which your Lordship will perceive that he takes exception to the wording of the Order in Council. Mr. Fish objects to American fishermen being prevented from fishing in the "waters of Canada," because, as he told me, seeing that the frontiers of Canada have been advanced beyond their original extent, a part of the coast on which by the Treaty of 1818, United States fishermen are entitled to fish may now be said to be washed by "waters of Canada."

I have thought it best to communicate Mr. Fish's objection to Sir John Young in a letter, copy of which I have the honour to enclose.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

(No. 11.)

SIR,

Government House, Ottawa,
11th April, 1870.

With reference to your Despatch of April 2nd (No. 10), I have the honor to transmit to you herewith a Memorandum from the Prime Minister of the Dominion, together with copies of the Fishery Acts (1868), in order to supply the Secretary of State of the United States with the information he requires.

I have, &c.,
(Signed) JOHN YOUNG.

Department of Justice, Ottawa,
8th April, 1870.

The undersigned has the honour to acknowledge the receipt of a reference to the Privy Council, of a Despatch from Her Britannic Majesty's Minister at Washington to the Governor-General, transmitting copy of a note which the former had received from the Secretary of State of the United States, requesting him to transmit any information he might be able to communicate concerning any official action, having force of law, or valid regulation, on the part of the Canadian authorities in connexion with the announcement recently made that the Government of the Dominion intend to issue no more licences to foreign fishermen, and that they are taking every step possible to protect their fisheries.

Upon this Despatch the undersigned has the honour to report that by an Act passed

on the 22nd of May, 1868 (31 Vic., cap. 61), certain provisions were made respecting fishing by foreign vessels in British waters, a copy of which Act is herewith annexed.

These provisions are taken very much from enactments previously existing in the late Province of Canada (Consol. Stat. Canada, cap. 62), in Nova Scotia (Revised Stat. cap. 94), and in New Brunswick (Revised Stat. cap. 111).

The undersigned has the honour further to state that his Excellency the Governor-General in Council, on the 8th of January last, was pleased to order—

“That the system of granting fishing licences to foreign vessels under the Act 31 Vic., cap. 61, be discontinued, and that henceforth all foreign fishermen be prevented from fishing in the waters of Canada.”

Also that six suitable sailing vessels, similar to “La Canadienne,” in addition to the two vessels at present employed, be chartered and equipped for the service of protecting the Canadian in-shore Fisheries against illegal encroachments by foreigners, these vessels to be connected with the police force of Canada, and to form a marine branch of the same.

These police vessels will be commanded by competent officers with magisterial powers, will be stationed in Canadian waters, with instructions to act with the greatest discretion, and only in clear cases of infringement of the law.

(Signed) JOHN MACDONALD.

Department of State, Washington,
21st April, 1870.

SIR,

I have the honour to acknowledge the receipt of your note of the 14th instant, enclosing a copy of a Despatch from his Excellency the Governor-General of the Dominion of Canada, and of the papers which accompanied it.

I must invite your attention, and that of Her Majesty's authorities, to the first paragraph of the Order in Council of the 8th of January last, as quoted in the Memorandum of the Prime Minister of the Dominion of Canada, accompanying the Despatch of his Excellency the Governor-General, which paragraph is in the following words—to wit:—

“That the system of granting fishing licences to foreign vessels under the Act 31 Vic., cap. 61, be discontinued, and that henceforth all foreign fishermen be prevented from fishing in the waters of Canada.”

The words underscored seem to contemplate an interference with rights guaranteed to the United States under the first Article of the Treaty of 1818, which secures to American fishermen the right of fishing in certain waters understood to be claimed at present as belonging to Canada.

E. Thornton, Esq., C.B.,
&c. &c. &c.

I have, &c.,
(Signed) HAMILTON FISH.

(No. 13.)

SIR,

Washington, 22nd April, 1870.

With reference to your Excellency's Despatch (No. 11) of the 11th instant, enclosing a communication from Sir John A. Macdonald relative to the Canadian Fisheries, I have the honour to enclose copy of a note which I have received from Mr. Fish, and in which he invites my attention to the first paragraph of the Order in Council of the 8th of January last. Mr. Fish also made a verbal communication to me upon the same subject yesterday, and said that the phrase “waters of Canada” might be supposed to include some of those waters in which, by the Treaty of 1818, American fishermen have a right to fish, but which, by the extension of the boundaries of Canada, may now be comprised within the “waters of Canada.”

I assured Mr. Fish of my conviction that the above-mentioned Order in Council had no intention of abridging any of the rights to which citizens of the United States are entitled by the Treaty of 1818, and that I would call your Excellency's attention to the subject.

I have &c.,
(Signed) EDWARD THORNTON.

The Right Hon. Sir J. Young, G.C.B.,
&c. &c. &c.

CANADA.

No. 16.

No. 16.

Colonial Office to Foreign Office.

SIR,

Downing Street, 13th May, 1870.

* Page 160.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 9th inst.,* requesting to be furnished, for communication to the Government of the United States, with copies of the instructions issued to the Commanders of the Canadian vessels engaged in the protection of the Fisheries.

Lord Granville desires me to state, for the information of Lord Clarendon, that the Governor-General of the Dominion has been requested by telegraph to forward to this Office any instructions already issued on this subject or that may be issued in consequence of Lord Granville's Despatch to the Governor-General, of which a copy is enclosed.

No. 98—
30th April,
1870,
page 80.

The Under Secretary of State,
Foreign Office.

I have, &c.,
(Signed) H. T. HOLLAND.

No. 17.

No. 17.

Colonial Office to Foreign Office.

SIR,

Downing Street, 14th May 1870.

* Page 160.

I am directed by Earl Granville to acknowledge the receipt of your letter of 9th inst.,* enclosing copies of two Despatches from Mr. Thornton (Nos. 165 and 166), relating to the Canadian Fisheries and to the complaint of Mr. Dodge, a citizen of the United States, of the want of protection afforded to American fishermen.

Lord Granville desires me to request that you will inform Lord Clarendon that he concurs with his Lordship in the proposed approval of Mr. Thornton's proceedings.

It would seem that by the Convention of October 20th, 1818, § 1, the fishing rights of the citizens of the United States extend over the S.E. coast of Labrador as far as Mont Joly (about 61° 30' W. long.), all which at the date of the Treaty was within the Government of Newfoundland.—*Vide* 49 Geo. III., cap. 27, sect. 14.

But by 6 Geo. IV., cap. 59, sect. 9, the limits of Canada were advanced from the River St. John, which is a few degrees west of Mont Joly, to Anse Sablon, which is some seven degrees east of it. Those waters, therefore,—viz., those between Mont Joly and Anse Sablon, although Canadian, appear to be subject to the rights of the citizens of the United States. Of this the Canadian Government are fully aware.

Assuming Mr. Dodge's statement to be true, the question remains to be asked whether he was fishing east or west of Mont Joly. If the former (east), he was interrupted in the exercise of a lawful right. If the latter (west), he may have been treated with unlawful violence, but was a trespasser.

If he was fishing eastward of Anse Sablon he was exercising a lawful right, not within the jurisdiction of Canada but within that of Newfoundland. And Lord Granville is inclined to suspect that this may have been the case.

He thinks it convenient, however, that all diplomatic communications between the British North American Provinces and the United States should pass through the Governor-General. And he would suggest that Mr. Thornton should receive instructions to this effect. Lord Granville proposes, with Lord Clarendon's concurrence, to give similar instructions to Sir John Young, and in sending to the Governor of Newfoundland copies of this correspondence, so far as it relates to the case of Mr. Dodge, to direct him, if the complaint of the United States Government should be brought before him, to be guided by the advice of Sir J. Young,

The Under-Secretary of State,
Foreign Office

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 18.

No. 18.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 19th May, 1870,

No. 191.
18th May,
1870.

I am directed by the Earl of Clarendon to transmit to you, to be laid before Earl Granville, the accompanying copy of a Despatch which his Lordship has addressed to

Mr. Thornton, enclosing a copy of your letter of the 14th inst., and instructing him that diplomatic communications between the British North American Provinces and the United States should pass through the Governor-General of the Dominion of Canada.

CANADA.

The Under Secretary of State,
Colonial Office.

I have, &c.
(Signed) E. HAMMOND.

(No. 194.)

Enclosure in No. 18.

Enclosure in
No. 18.

SIR, Foreign Office, 18th May, 1870.

With reference to my Despatch No. 193, of the 17th inst., approving your proceedings with regard to Mr. Dodge's complaint of insufficient protection to his fishing-boats and nets on the Labrador coast, I transmit to you, herewith, a copy of a letter from the Colonial Office containing observations on this particular case as well as on the question of American fishery rights in the waters of Labrador.

14th May.
Page 164.

I have at the same time, in accordance with Earl Granville's suggestion, to instruct you that all diplomatic communications between the British North American Provinces and the United States should pass through the Governor-General of Canada.

E. Thornton, Esq., C.B.
&c. &c. &c.

I have, &c.,
(Signed) CLARENDON.

No. 19.

No. 19.

Foreign Office to Colonial Office.

(Immediate and Confidential.)

Foreign Office, 23rd May, 1870.

SIR, With reference to previous correspondence upon the question of the Canadian Fisheries, I am directed by the Earl of Clarendon to transmit to you, to be laid before Earl Granville, a copy of a confidential Despatch from Mr. Thornton upon this subject.

No. 184.
Confidential.
9th May,
1870.

The Under Secretary of State,
Colonial Office.

I have, &c.,
(Signed) E. HAMMOND.

(Confidential.)

Enclosure in No. 19.

Enclosure in
No. 19.

(No. 184.)

MY LORD,

Washington, 9th May, 1870.

I received on the 7th instant a confidential Despatch from the Governor-General of Canada, enclosing copies of a telegram to his Excellency from Lord Granville, of the 30th ultimo, requesting that steps should be taken to secure that American fishing vessels should not be seized even between headlands, except within three miles distance from shore,—of an order in Council, of the 3rd instant,—and of special instructions, dated the 12th ultimo, to Commanders in Marine Police.

Having always felt that as the Canadian Government had determined not to continue the practice of granting licences to foreign fishermen, the question of the right of the latter to fish in bays within headlands, but without the three miles from the shore, would be the most likely of all others to lead to disputes, I was very glad to learn that it had been referred for decision to Her Majesty's Government, who, I was convinced, would be inclined to take the most liberal view of the matter. And, indeed, I interpret Lord Granville's telegram to mean that Americans are to be allowed to fish everywhere, even within headlands, provided they do not encroach upon the three miles from the shore, except upon the coasts where they are allowed to do so by the Treaty of October 20th, 1818.

But in the instructions of the 12th ultimo, it is intimated that American vessels are not to be allowed to fish within three miles of the shore, or within three miles of the entrance of any bay, harbour, or creek which is less than ten geographical miles in width.

I can hardly think that this instruction is in conformity with the idea which Lord Granville intended to convey in his Telegram of the 30th ultimo. On the contrary, I

CANADA.

should have supposed that his Lordship wished that Americans should be allowed in fishing to follow the sinuosities of the coast, and to fish even in bays whose entrance was six miles wide, and, possibly, to enter such bays, if they should, farther in, open out to more than six miles width, always provided they did not fish within three miles of the shore. The fact of ten miles being fixed as the limit of width is a proof that it was considered necessary to specify a certain width; but why that particular distance should have been chosen rather than any other, does not seem clear. The simple wording of Lord Granville's Telegram, that American vessels should not "be seized even between "headlands, except within three miles distance of shore," would appear to be all that is required, and that there is no necessity for specifying any particular width of the entrance of bays as a limit for exclusion.

It would seem, from Sir J. Young's having sent me a copy of the instructions alluded to in the same Despatch as the copy of Lord Granville's Telegram, that they are those which are now in force; as, however, they are of an anterior date to the latter, it is possible that they may have been modified.

I did not think that I should be justified in making an official representation upon this subject to Sir J. Young; but as I cannot but look upon it as a matter of some importance with reference to the good relations which it is desirable should be maintained between the two countries, I have written to him privately, in the same sense as I have now had the honour of addressing your Lordship, in the hope that if the instructions, a copy of which have been forwarded to me, are really those which were to be carried out, the Government of the Dominion may still think it expedient to direct that they shall be modified.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

No. 20.

No. 20.

Colonial Office to Foreign Office.

SIR,

Downing Street, 3rd June, 1870.

* Page 165.

I am directed by Earl Granville to acknowledge your letter of the 23rd May,* enclosing the copy of a letter from Mr. Thornton, respecting the Canadian Fisheries, and urging that American fishing vessels should not only be exempted from seizure when more than three miles from shore, but should be allowed to fish beyond those limits.

Lord Granville is of opinion that in the present state of feeling in the United States, it will be expedient, if possible, to avoid raising any question respecting these Fisheries, and therefore to restrict the enforcement of British rights as far as possible within uncontested limits.

It would, however, not be just to Canada to make this concession in such a shape as to prejudice their rights permanently, or to strengthen any claim of right on the part of the United States. And Earl Granville would propose, with Lord Clarendon's concurrence, to address to Sir John Young a Despatch, of which a copy is enclosed, and also a Telegram referring to his correspondence with Mr. Thornton, and stating that the Telegram of the 30th April was intended to express the desire of Her Majesty's Government that United States fishermen should not for the present be prevented from fishing, except within three miles of land, or in bays which are not more than six miles broad at the mouth, and which, therefore, could not be entered without passing through Canadian waters.

The Under Secretary of State,
Foreign Office.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 21.

No. 21.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 4th June, 1870.

I have laid before the Earl of Clarendon your letter of yesterday, enclosing the Draft of a Despatch which Earl Granville proposes to address to Sir John Young, to be preceded by a Telegram to the same effect, explaining that it is the desire of Her

No. 138, of
6th June,
page 81.

No. 139, of
7th June,
page 82.

Majesty's Government that fishermen of the United States should not for the present be precluded from fishing, except within three miles of land, or in bays which are not more than six miles broad at the mouth, and which therefore could not be entered without passing through Canadian waters; and I am to request that you will acquaint Lord Granville that Lord Clarendon concurs in the proposed instruction and Telegram, and would be glad to be informed whether a copy of the instruction may be sent to Her Majesty's Minister in the United States by the mail of to-day.

CANADA.

The Under Secretary of State,
Colonial Office.

I have, &c.,
(Signed) E. HAMMOND.

No. 22.

No. 22.

Colonial Office to Foreign Office.

SIR, Downing Street, 6th June, 1870.

I have laid before Earl Granville your letter of the 4th instant,* expressing the Earl of Clarendon's concurrence in the proposed instruction to Sir John Young, on the subject of the privileges to be allowed to United States fishermen.

* Page 166.

I am desired to acquaint you, in order that Mr. Thornton may be informed, that Lord Granville will telegraph to Sir John Young as follows:

"Her Majesty's Government hope that United States fishermen will not for the present be prevented from fishing, except within three miles of land, or in bays which are less than six miles broad at the mouth."

I have, &c.,
(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office.

(Confidential.)

No. 23.

No. 23.

Foreign Office to Colonial Office.

SIR, Foreign Office, 7th June, 1870.

I am directed by the Earl of Clarendon to acquaint you, for the information of Earl Granville, and with reference to your letter of yesterday, that a Telegram in cypher has been sent to Mr. Thornton to-day in the following words:

"With reference to Enclosure in my Despatch No. 233, of 4th June, Canadian Government will be informed by Telegraph that Her Majesty's Government hope that United States fishermen will not for the present be prevented from fishing except within three miles of land, or in bays which are less than six miles broad at the mouth."

The Enclosure above referred to was a copy of Lord Granville's Despatch to Sir John Young which was transmitted in your letter of the 3rd instant.

I have, &c.,
(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

No. 24.

No. 24.

Colonial Office to Foreign Office.

SIR, Downing Street, 7th June, 1870.

I am directed by Earl Granville to call Lord Clarendon's attention to a notice which is printed in the "Times" newspaper of the 2nd of June, as having been addressed by Mr. Boutwell, Secretary of the Treasury Department in the United States, to the Collectors of Customs.

It states that the Dominion of Canada have terminated the system of granting licences, permitting foreign fishing vessels to fish within the maritime jurisdiction of the Dominion, "that is to say, within three marine miles of the shores thereof."

It will be seen by my letter of yesterday's date, that Lord Granville is desirous that the Canadian right of exclusion should not be, in fact, enforced beyond the three mile limit.

CANADA. But the temporary abandonment of the right in practice, is rendered much more difficult, if the United States authorities put forth statements which involve the denial of it in principle.

The principle that the maritime right of a country extends not only to the three mile limit, but also, in the words of Wheaton (p. 248,) "to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea enclosed by headlands," is, Lord Granville believes, not disputed by jurists. And the United States are bound to respect it in the present case, by the words of the Treaty of 1818, in which they renounce the right of fishing within three miles, not of the coasts only, but of the "bays, creeks, or harbours, of His Britannic Majesty's Dominions in America."

If the British right is not to be practically enforced, it would seem very desirable that the claim of right should be held in abeyance on both sides. Or if this cannot be done, that the United States Government should be very distinctly made aware that Her Majesty's Government claim, on the part of Canada, that jurisdiction, above described, over bays and creeks, which was recognized by them in the Treaty of 1818, and according to the American writer already quoted, rests on "the generally approved usage of nations, which forms the basis of international law."

The Under Secretary of State,
Foreign Office.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 25.

No. 25.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 7th June, 1870.

I am directed by the Earl of Clarendon to transmit to you, to be laid before Earl Granville, the accompanying copies of Despatches from Mr. Thornton respecting the Canadian Fisheries.

No. 214.
May 23/70.

No. 22.
May 24/70.

The Under Secretary of State,
Colonial Office.

I have, &c.,
E. HAMMOND.

Enclosures in
No. 24.

(No. 214.)

Enclosures in No. 24.

MY LORD,

Washington, 23rd May, 1870.

With reference to my Despatch, No. 165, of the 25th ultimo, reporting to your Lordship that Mr. Fish had taken exception to a phrase made use of in the Canadian Order in Council of the 8th of January last, relative to the Fisheries, I now have the honour to enclose copy of a Despatch and its Enclosures, which I have received from Sir John Young, in answer to that objection, and of which I have forwarded a copy to Mr. Fish. I presume he will be satisfied with the assurance given by the Canadian Government, that they never contemplated any interference with rights secured to United States citizens by the Treaty of 1818. As, however, Mr. Fish did not state in his previous note the grounds upon which he founded his objection, and has only mentioned them to me verbally, it may be well that I should repeat them to your Lordship.

By the 14th section of 49 George III., cap. 27, the coast of Labrador from the river St. John to Hudson's Straits was annexed to Newfoundland. But this Act was so far reversed by the 9th Section of 6 George IV., cap. 59, that the part of the coast of Labrador to the westward of Ance Sablon was re-annexed to Lower Canada, as were also the Magdalen Islands. These Islands then, and the coast of Labrador from Ance Sablon to Mont Joli, may be said to be within the waters of Canada, unless any new arrangement of the frontier, of which I am not aware, may have been made since 1825. It is, therefore, from these waters as well as others, that the Order in Council of the 8th of January excludes all foreign fishermen, comprising of course the Americans. But by the Treaty of 1818 the latter are allowed to fish as far west as Mont Joli and on the shores of the Magdalen Islands. It was on this account that Mr. Fish objected to the wording of the Order in Council, because it seemed to exclude citizens of the United States from fishing in waters where they were entitled to do so by the Treaty of 1818.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

(No. 22.)

SIR, Ottawa, 14th May, 1870.

With reference to your Despatches No. 13, of 22nd April, 1870, I have the honour to forward herewith a copy of a Minute of the Privy Council of the Dominion, covering a Report of the Minister of Marine, on the subject of the Order in Council of the 8th of January last.

These papers will place you in possession of the views of the Dominion Government on the points alluded to in your Despatch.

E. Thornton, Esq., C.B.

I have, &c.,
(Signed) J. YOUNG.

REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL on the 10th day of May, 1870.

The Committee of Council have had before them the Despatch No. 13, dated 22nd April, 1870, from Her Majesty's Minister at Washington, enclosing copy of a note which he received from Mr. Fish, in which he invites his attention to the first paragraph of the Order in Council of the 8th of January last, discontinuing the system of Fishing Licences, and stating that Mr. Fish also made a verbal communication to him upon the same subject, and said that the phrase "waters of Canada" might be supposed to include some of those waters in which, by the Treaty of 1818, American fishermen have a right to fish, but which by the extension of the Boundaries of Canada, may now be comprised within the "waters of Canada."

Mr. Thornton states that he assured Mr. Fish of his conviction that the above-mentioned Order in Council has no intention of abridging any of the rights to which citizens of the United States are entitled by the Treaty of 1818, and that he would call your Excellency's attention to the subject.

The Committee have also had under consideration the annexed Report, dated the 28th of April, 1870, from the Honourable the Minister of Marine and Fisheries, to whom the above Despatch was referred, and they entirely concur in the views expressed in that Report, and advise that a copy thereof be transmitted by your Excellency to Mr. Thornton, for the information of the United States Government.

(Certified)

(Signed) W. H. LEE,
Clerk, Privy Council.

Ottawa, 28th April, 1870.

The Minister of Marine and Fisheries has the honour to state, with reference to Mr. Thornton's Despatch of the 22nd instant, accompanied by a note from Mr. Secretary Fish, in which the latter calls attention to the first paragraph of the Order in Council of the 8th of January last, and expresses his apprehension of interference with certain fishing rights guaranteed to the United States by Article I. of the Convention of 1818, that the wording of the Minute of Council referred to clearly shows by providing for the prevention of "illegal encroachment by foreigners" on the inshore fisheries of Canada that the Canadian Government never contemplated any interference with rights secured to United States citizens by the treaty in question between the British and American Governments.

Mr. Thornton was therefore quite right in assuring Mr. Fish, in general terms, that there could be no intention to abridge any rights to which citizens of the United States are entitled by treaty.

The undersigned remarks that Mr. Fish also labours under a misapprehension in supposing that the present boundaries of the Dominion comprise any fishing grounds affected by the existing treaty stipulations to which Mr. Fish's note refers, which were not formerly within the bounds of the old Province of Canada.

With regard to the general effect of the first paragraph of the Order in Council of the 8th of January last, quoted at length and underlined in Mr. Fish's note, the undersigned would further observe that the Act relating to fishing by foreign vessels under the authority of which licences were issued to United States fishermen, applied to all foreigners; and as the discontinuance of the licence system which had existed under it applies also to other foreign vessels and fishermen frequenting our coasts, and who are

CANADA. not entitled to fish anywhere in the waters of Canada, the terms of such formal discontinuance were necessarily general, and in any case they could apply only to those waters within which our "inshore fisheries" are situated, and in which neither American nor other foreign subjects have any legal right to fish.

The whole respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

(No. 221.)
My LORD,

Washington, 24th May, 1870.

I have the honour to enclose a printed copy of a Circular addressed by the Secretary of the Treasury to the collectors of customs at various ports on the east coast of the United States, setting forth the regulations by which American fishermen are to be guided when fishing in the Canadian fisheries.

Your Lordship will observe that Mr. Boutwell does not refer particularly to the question of the right of fishing within bays where the distance from headland to headland is more than six miles; but I am much gratified to learn from your Lordship's telegram of yesterday that the Canadian cruisers have been instructed not to capture American fishing-vessels even within headlands provided they do not encroach upon the three-mile limit.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

No. 26.

No. 26.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 10th June, 1870.

With reference to your letter of the 7th instant,* I am directed by the Earl of Clarendon to transmit to you, to be laid before Earl Granville, a copy of a telegraphic instruction which his Lordship sent yesterday in cypher to Mr. Thornton on the subject of the Canadian Fisheries.

The Under Secretary of State,
Colonial Office.

I have, &c.,
(Signed) E. HAMMOND.

Enclosure in
No. 26.

Enclosure in No. 26.

Lord CLARENDON to Mr. THORNTON.

(Telegram in cypher.)

Foreign Office, 9th June, 1870.

Take an opportunity to point out to Secretary of State that Mr. Boutwell's Circular of 16th May, 1870, respecting the Canadian inshore fisheries, may lead to future misunderstanding, inasmuch as it limits the maritime jurisdiction of the Dominion to three maritime miles of the shores thereof, without regard to international usage, which extends such jurisdiction over creeks and bays, or to the stipulations of the Treaty of 1818, in which the United States renounce the right of fishing within three miles, not of the coast only, but of the bays, creeks, and harbours of His Britannic Majesty's Dominions in America.

No. 27.

No. 27.

Colonial Office to Foreign Office.

SIR,

Downing Street, 17th June, 1870.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 7th instant,* enclosing copies of Despatches from Mr. Thornton respecting the Canadian Fisheries.

Lord Granville desires me to enclose, for Lord Clarendon's information, a copy of a Despatch which he has addressed on this subject to the Governor-General of Canada.

His Lordship desires me to point out that the Circular addressed by the Secretary of

* Page 167.
9th June,
1870.

* Page 168.
Confidential,
16th June,
1870, p. 84.

the Treasury of the United States to the Collectors of Customs on the east coast, setting forth the regulations by which American fishermen are to be guided when fishing in the neighbourhood of Canadian waters, is not now strictly correct in that part of it which quotes the third section of the Canadian Act of 1868 "respecting fishing by foreign vessels," as that section has recently been repealed and another clause enacted in its stead by an Act of the Canadian Legislature passed on the 12th of last month. Copies of both these Acts are annexed, and I am to suggest that Mr. Thornton should be instructed to notify to the United States' Government this alteration of the Canadian law.

CANADA.

The Under-Secretary of State,
Foreign Office.

I have, &c.,
(Signed) FREDERIC ROGERS.

Enclosure 1 in No. 27.

Enclosure 1
in No. 27.

CAP. LXI.

ACT respecting FISHING by FOREIGN VESSELS.

[Assented to 22nd May, 1868.]

[This Act will be found printed in the Appendix, p. 324.]

Enclosure 2 in No. 27.

Enclosure 2
in No. 27.

CAP. XV.

AN ACT to amend the Act respecting FISHING by FOREIGN VESSELS.

[Assented to 12th May, 1870.]

[This Act will be found printed in the Appendix, p. 326.]

No. 28.

No. 28.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 23rd June, 1870.

With reference to the letter from this Office of the 7th instant,* I am directed by the Earl of Clarendon to transmit to you the accompanying Despatch from Mr. Thornton, enclosing a copy of a note addressed to him by Mr. Fish, respecting the use of the expression "waters of Canada" in the Order in Council of the 8th of January last; and I am to request that in laying the same before Earl Granville you will move his Lordship to favour Lord Clarendon with his observations upon Mr. Fish's representations.

* Page 167.
No. 245,
June 6/70.

The Under Secretary of State,
Colonial Office.

I have, &c.,
(Signed) E. HAMMOND.

Enclosures in No. 28.

Enclosures
in No. 28.

(No. 245.)

MY LORD,

Washington, 6th June, 1870.

With reference to my Despatch No. 214, of the 24th ult., I have the honour to enclose copy of a further note which I have received from Mr. Fish, stating the grounds of his objection to the wording of the Canadian Order in Council of the 8th of January last, prohibiting foreigners from fishing in the "waters of Canada." I have forwarded a copy of this note to the Governor-General of Canada, in a letter, copy of which is also enclosed.

From Mr.
Fish, May 31.

Mr. Thorn-
ton to Sir J.
Young.
June 4, 1870.

With reference to the instruction contained in your Lordship's Despatch No. 194, of the 18th ult., which I have received since I addressed the enclosed letter to Sir John Young, and in which your Lordship desires that diplomatic communications between

CANADA.

the British North American Provinces and the United States should pass through the Governor-General of the Dominion, I have to state that I am in the constant habit of communicating everything of that nature to Sir John Young, and, indeed, do my best to keep his Excellency informed upon every subject which concerns the relations between the Dominion and this country.

I have, however, thought it my duty also to forward copies of such documents to your Lordship; and the more so because in the case of the amnesty suggested by the United States Government for Riel and his followers, Sir John Young stated that the consideration of the expediency of such a measure rested with the Imperial Government, as your Lordship will see from the enclosed copy of a Despatch from his Excellency; and because in the case of Mr. Dodge's representation as to the fisheries on the coast of Labrador, he thought it would be a matter for the Courts of Newfoundland or for the Admiral on the station.

Sir J. Young,
21 May, 1870.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON.

Department of State, Washington,
31st May, 1870.

SIR,

I have the honour to acknowledge the receipt of your note of the 18th instant, addressed to Mr. Davis, enclosing a Despatch from the Governor-General of Canada, forwarding copy of a Minute of the Privy Council, and also a Report of the Minister of Marine and Fisheries, dated 28th April last.

The reiteration in this Report of the assurance which you had previously given, that there could be no intention on the part of the Dominion of Canada to abridge any rights to which the citizens of the United States are entitled by Treaty, is in accordance with the confident expectations of this Government.

It has, however, attracted the notice of the Government that by an Order in Council of the 8th of January last it was ordered "that henceforth all foreign fishermen be prevented from fishing in the waters of Canada." The question arose, What are the waters of Canada?

At the date of the Treaty of 1818, the boundary of Canada, as understood, was defined by the 27th Cap., 4th George III., entitled An Act for establishing Courts of Judicature in the Island of Newfoundland and the Islands adjacent, and for reannexing part of the Coast of Labrador, and the Islands lying on said coast, to the Government of Newfoundland (30th March, 1809), by the 14th Section of which it was enacted, "That such parts of the coast of Labrador, from the River St. John to Hudson Straits, and the said Island of Anticosti, and all other smaller islands so annexed to the Government of Newfoundland by the said proclamation of the seventh day of October, one thousand seven hundred and sixty-three" (except the said Islands of Madelaine), "shall be separated from the said Government of Lower Canada, and be again reannexed to the Government of Newfoundland."

The mouth of the River St. John referred to in this Act is understood to be between the 64th and 65th meridian of longitude west from Greenwich.

We further understand that in June, 1825, by the 6th Section of Cap. 59, 6 George IV., entitled "An Act to provide for the extinction of Feudal and Seigniorial Rights and burthens on lands held *à titre de fief* and *à titre de cens*, in the Province of Lower Canada, and for the gradual conversion of those tenures into the tenure of free and common socage; and for other purposes relating to said Province," it was enacted, "That so much of the said coast as lies to the westward of a line to be drawn due north and south from the Bay or Harbour of Ance Sablon, inclusive, as far as the fifty-second degree of north latitude, with the Island of Anticosti, and all other islands adjacent to such part as last aforesaid of the coast of Labrador shall be, and the same are hereby reannexed to and made a part of the said Province of Lower Canada, and shall henceforward be subject to the laws of the said Province, and to none other."

The Bay or Harbour of Ance Sablon is understood to be in the longitude of about 57° 8' at or near the entrance of the Straits of Belle Isle.

The treaty of 1818 secures to the inhabitants of the United States, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on the shore of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount

Joly on the southern coast of Labrador to and through the Strait of Belle Isle, and thence northwardly, &c.

CANADA.

Mount Joly, thus fixed by treaty as the westernmost limit on the coast of Labrador of the liberty of fishing for the inhabitants of the United States, is understood to be in the longitude of about $61^{\circ} 40'$. From that point, eastward and northward on the shores of what was then called Labrador, the fishermen of the United States have the liberty to take fish.

The Act last above recited seems to establish the boundaries and the jurisdiction of Canada as extending to the Bay of Ance Sablon, about four and a half degrees of longitude to the east of Mount Joly, and to include the Magdalen Islands.

It was under the impression that this Act establishes the jurisdiction and the eastern boundary of Canada, as extending to a line drawn due north and south from the Bay or Harbour of Ance Sablon, and including the Magdalen Islands, that on the 21st of April last I invited your attention to the first paragraph of the Order in Council of the Dominion of Canada, of the 8th of January last, declaring that "henceforth all foreign fishermen be prevented from fishing in the waters of Canada," as contemplating a possible interference with the rights guaranteed to the United States under the Treaty of 1818.

The Minute of the Privy Council, and the Report of the Minister of Marine and Fisheries, of which you have given me copies, give assurance of the intent of the authorities of the Dominion Government not to abridge those rights; but the Order in Council may be interpreted by those to whom its execution is entrusted to authorize their interference with fishermen of the United States in the exercise of their guaranteed liberty. If our understanding, that the boundary and jurisdiction of Canada extend to the Bay or Harbour of Ance Sablon, and include the Magdalen Islands, be correct, "the waters of Canada" embrace the coast of what, in 1818, was the coast of Labrador, from Mount Joly to the Bay of Ance Sablon, and include also the Magdalen Islands.

Desirous to avoid the possibility of any misapprehension on the part of those who may be charged with the execution of the Order in Council, I beg to call your attention to the Acts to which I have referred, and to request, in case I am in error with regard to the eastern boundary, and the extent of jurisdiction of Canada, that you will advise me of the real boundary and jurisdiction. If I am correct in this respect, and if that part of the coast, of what in 1818 was known as Labrador, included between Mount Joly and the Bay or Harbour of Ance Sablon, or the Magdalen Islands, be in the "waters of Canada," I do not doubt that the authorities of the "Dominion" will recognise the necessity of such modification of the Order in Council of the 8th of January last, or of such additional instructions to be given as will secure the fishermen of the United States from interference while in the exercise of the liberty guaranteed to them by the Treaty of 1818.

Edward Thornton, Esq., C.B.
&c. &c. &c.

I have, &c.,
(Signed) HAMILTON FISH.

(No. 27.)

SIR,

Washington, 1st June, 1870.

On the receipt of your Excellency's Despatch No. 22, of the 14th ult., I transmitted a copy of it and of its Enclosures to Mr. Fish, and I have now the honour to enclose copy of a note in answer to mine, and which I received yesterday.

Your Excellency will thus become acquainted with the arguments which Mr. Fish puts forward in support of his objection to the Order in Council of the 8th of January last. I am not myself certain that there has been no alteration in the limits of Canada since the Act of 1825, quoted by Mr. Fish; but if it be true that the Dominion extends to Ance Sablon, the waters from this point westward to Mount Joly as well as those on the coast of the Magdalen Islands must be comprised in the "waters of Canada;" and it therefore does not seem an unreasonable request on the part of Mr. Fish that the above-mentioned Order in Council should be modified as far as United States fishermen are concerned.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON

CANADA.

(No. 30.) Confidential.

SIR,

Government House, Ottawa, 21st May, 1870.

I have the honour to acknowledge the receipt of your confidential Despatch (No. 21) of the 17th inst., informing me that during the discussion with Mr. Fish on the passage of Canadian vessels through St. Mary's Canal, that both he and, subsequently, the President of the United States, expressed their conviction of the expediency of a Proclamation of Amnesty being issued in favour of Riel and his followers.

In reply, I have the honour to state that the consideration of the expediency of an amnesty rests with the Imperial Government, as the north-west territory does not as yet form part of the Dominion of Canada.

Edward Thornton, Esq., C.B.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

No. 29.

No. 29.

Colonial Office to Foreign Office.

SIR,

Downing Street, 28th June, 1870.

I have the honour to acknowledge the receipt of your letter of the 23rd inst., enclosing copy of a Despatch from Mr. Thornton on the subject of a representation made by Mr. Fish respecting the right of American fishermen to fish in certain waters of Canada on the Labrador coast.

* Page 170.

On reference to my letter of the 17th inst.,* it will be observed that this question has already been brought to the notice of the Governor-General by Lord Granville, and his Lordship anticipates that the Canadian Government will readily make such alteration as may be necessary to admit United States' fishermen to such waters of Canada on the Labrador coast as they are entitled to fish in under the Treaty of 1818.

The Under-Secretary of State,
Foreign Office.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 30.

No. 30.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 30th June, 1870.

With reference to previous correspondence respecting Canadian Fisheries, I am directed by the Secretary of State to transmit to you, to be laid before Earl Granville, a Despatch, with its Enclosures, in original, from Her Majesty's Minister at Washington, upon the same subject; and I am to request that these Papers may be returned when done with.

No. 258.
13th June,
1870.

The Under-Secretary of State,
Colonial Office.

I have, &c.,
(Signed) E. HAMMOND.

Enclosures
in No. 30.

(No. 258.)

Enclosures in No. 30.

MY LORD,

Washington, 13th June, 1870.

In compliance with the instructions contained in your Lordship's Despatches Nos. 185 and 202, of the 14th and 21st ult., I communicated to the Secretary of State of the United States, in notes dated the 26th ult. and the 3rd inst., copies of the Enclosures contained in the above-mentioned Despatches relative to the measures which had been taken and the instructions which had been given for the maintenance of order at the Canadian Fisheries.

I have now the honour to enclose copy of a note which I have received from Mr. Fish, remarking upon the apparent discrepancy between the instructions relative to the capture of vessels found fishing within three miles of a line drawn across the mouth of

a bay or creek which is less than ten geographical miles in width, and those more recently issued, which direct that vessels are not to be captured unless it is evident and can be clearly proved that the offence of fishing has been committed, and that the vessel is captured within three miles of land.

A copy of my answer to Mr. Fish is also enclosed. From it your Lordship will perceive that I have availed myself of the opportunity, in compliance with your Lordship's telegram, received on the 9th inst., to call Mr. Fish's attention to the wording of Mr. Boutwell's Circular of the 16th ult.

I have communicated copies of the two enclosed notes to the Governor-General of Canada and to Vice-Admiral Wellesley.

I have further the honour to enclose copy of a Despatch which I received yesterday from Sir John Young, forwarding a Report from the Canadian Minister of Marine and Fisheries, in which the latter remarks upon certain errors which he considers are made in Mr. Boutwell's Circular above mentioned.

I also enclose copy of my answer to his Excellency, in which I explain that I can hardly look upon the statements made by Mr. Boutwell as errors at the time he wrote his Circular. As, however, I am unwilling to bring any cause of irritation into the discussion of the question, I am disinclined to transmit to Mr. Fish a copy of the Report of the Minister of Marine and Fisheries.

I have, &c.,

The Earl of Clarendon, K.G.,
&c. &c. &c.

(Signed) E. THORNTON.

Department of State, Washington,
8th June, 1870.

SIR,

I have the honour to acknowledge the receipt of your note of the 3rd inst. and of the papers accompanying it, giving the names of the British vessels to be employed in maintaining order at the Canadian Fisheries, and the instructions proposed to be issued by Vice-Admiral Wellesley to the Commanders of those vessels.

I beg leave to point out to you and to Her Majesty's Government an apprehended discrepancy between the terms of the instructions thus communicated and those which were given by the Admiralty to the Vice-Admiral, a copy of which, dated the 5th ult., accompanied your note of the 26th ult., and which direct that "no vessel should be "seized" (meaning fishing vessels of the United States) "unless it is evident and can be "clearly proved that the offence of fishing has been committed, and that the vessel is "captured within three miles of land."

On the other hand, I find with the instructions issued by Vice-Admiral Wellesley, and forming a part of them, a letter, marked "Confidential," from the Secretary of State of the Colonies to the Lords of the Admiralty, dated Downing Street, April 2nd, 1866, in which is expressed the opinion of Her Majesty's Government that the United States have renounced the right of fishing within three miles of a line drawn across the mouth of any British bay or creek, and also that American fishermen should not be interfered with either by notice or otherwise unless they are found within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width, in conformity with the arrangement made with France in 1839; and that American vessels found within these limits should be warned that by engaging or preparing to engage in fishing, they will be liable to forfeiture, and should receive notice to depart.

The Vice-Admiral communicated a copy of these instructions which he proposed to issue immediately to the commander of the "Plover" to the Secretary of the Admiralty, on the 27th of April last; and though it is not doubted that on receipt of the later instructions addressed to him on the 5th ult. by the Lords Commissioners of the Admiralty he will modify the directions to his subordinates, so that they will be in conformity with the views of the Admiralty, and without entering into any considerations of questions which might be suggested by the letter referred to, which I understand to be superseded by later instructions, I think it best to call your attention to the inconsistencies referred to, in order to guard against misunderstandings and complications that might arise in the absence of modifications of the instructions communicated in your note of the 3rd inst.

I am, &c.,

E. Thornton, Esq. C.B.

(Signed) HAMILTON FISH.

CANADA. SIR,

Washington, 11th June, 1870.

I had the honour to receive yesterday your Note of the 8th inst., relative to an apparent discrepancy between the instructions issued by Vice-Admiral Wellesley, enclosed in my Note of the 3rd inst., and those given by the Admiralty to him, which accompanied my note of the 26th ult. You are, however, quite right in not doubting that Admiral Wellesley, on the receipt of later instructions addressed to him on the 5th ult., will have modified the directions to the officers under his command, so that they may be in conformity with the views of the Admiralty.

In confirmation of this I have since received a letter from Vice-Admiral Wellesley, dated the 30th ult., informing me that he had received instructions to the effect that officers of Her Majesty's ships employed in the protection of the fisheries should not seize any vessel unless it were evident and could be clearly proved that the offence of fishing had been committed and the vessel itself captured within three miles of land.

I avail myself at the same time of the opportunity to point out to you, in compliance with an instruction which I have received from the Earl of Clarendon, that the Circular of the 16th ult., of your hon. colleague the Secretary of the Treasury, respecting the Canadian Inshore Fisheries may lead to future misunderstanding, inasmuch as it limits the maritime jurisdiction of the Dominion of Canada to three marine miles from the shores thereof, without regard to international usage which extends such jurisdiction over creeks and bays, or to the stipulations of the Treaty of 1818, in which the United States renounces the right of fishing within three miles, not of the coast only, but of the bays, creeks or harbours of Her Britannic Majesty's dominions in America.

The Hon. H. Fish,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

Canada, Government House, Ottawa,
8th June, 1870.

SIR,

In reply to your Despatch (No. 23) of May 24th, 1870, I have the honour to forward herewith a copy of a Minute of the Privy Council of the Dominion with a Report of the Minister of Marine and Fisheries enclosed, which offers corrections on points which, through inadvertence or want of full information, are erroneously stated in the Circular of the Secretary of the United States Treasury.

E. Thornton, Esq., C.B.,
&c. &c. &c.

I have, &c.,
(Signed) JOHN YOUNG.

REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 7th of June, 1870.

The Committee of Council have had under consideration the annexed Memorandum, dated 31st May, 1870, from the Honourable the Minister of Marine and Fisheries, in reference to the Despatch (No. 23) from Mr. Thornton, dated 24th May ult., and the Circular which has been addressed by the Secretary of the Treasury to the United States to Collectors of Customs for the guidance of American fishermen engaged in their pursuit in the neighbourhood of Canada.

The Committee concur in the views expressed by the Minister in his said Memorandum, and advise that a copy thereof be communicated to Mr. Thornton for the information of the United States Government.

(Certified)

W. H. LEE, Clerk P.C.

Marine and Fisheries, Ottawa,
31st May, 1870.

The Undersigned notices in the Circular of the Secretary of the Treasury to United States Collectors of Customs, dated the 16th inst., communicated to the Governor-General by the British Minister at Washington under Despatch of the 24th inst., informing them of the cessation of the system of issuing licenses to foreign fishing

vessels which admitted American fishermen to the inshore fisheries of Canada, that Mr. Secretary Boutwell commits two errors with which it may be advisable to acquaint Mr. Thornton.

This Circular quotes at some length the Canadian Statute, 31st Vic. cap. 61, passed on the 22nd of May, 1868, by which twenty-four hours' notice to foreign fishing vessels is provided for; but omits to mention the amending Act assented to on the 12th inst., by which the said twenty-four hours' notice has been dispensed with altogether.

The Government of Canada having no wish to see the owners of United States fishing vessels misled, and perhaps incurring unawares the penalties of peremptory seizure and confiscation through erroneous official information proceeding from their own Government, and considering it moreover desirable that the possibility should be avoided of any such excuse of misinformation intervening between positive acts of trespass and their legal consequences, the undersigned respectfully suggests that an early opportunity should be afforded to the United States Treasury Department to correct this error. A copy of the amended Act relative to fishing by foreign vessels, is herewith annexed for transmission through Mr. Thornton.

The second mistake occurs in the following paragraph of Mr. Boutwell's letter of instruction to United States Customs Officers:—

“It is understood that by a change of the boundaries between Canada and Labrador, the Canadian territory now includes Mount Joly and a portion of the shore to the East thereof, which in the Treaty of 1818 was described as the Southern Coast of Labrador.”

There has been no recent change of the boundaries between Canada and that part of Labrador to which the convention of 1818 relates. In 1825 a portion of the northern shore of the Gulf of St. Lawrence, west of Blanc Sablon, formerly placed for judicial purposes under the Government of Newfoundland, was re-annexed to Lower Canada without however affecting the admission of United States citizens to any part of the coast described in the Treaty. That part of the coast of the then province of Lower Canada, now the province of Quebec, along which Americans might fish, &c., under the Convention of 1818, is defined on its western boundary as at Mount Joly on the southern coast of Labrador. The limits extend thence eastwardly to and through the straits of Belleisle, an indefinite distance down the Labrador Peninsula.

The eastern boundary of the former province of Lower Canada and of the present province of Quebec is at Blanc Sablon Bay, in the entrance to the Straits of Belleisle. This provincial boundary has always included Mount Joly and all of the coast of southern Labrador, situated between that point and the eastern limit of Canada.

It is difficult to conceive whence Mr. Boutwell derives the information that it is “by a change in the boundaries between Canada and Labrador the Canadian territory now includes Mount Joly and a portion of the shore to the east thereof.”

There can be no doubt that even had any such change taken place, United States citizens would still be entitled to enjoy any express or unreserved privileges guaranteed to them by previous treaties with Great Britain. But it may as well be distinctly understood that the present fishery policy of the Canadian Government to which the Secretary of United States Treasury refers is not connected with any acquisition of confederated territory nor any alteration of boundary.

The undersigned further respectfully suggests that copies of Mr. Boutwell's Circular, together with a copy of the Minute of Council, which may be adopted on the present Report, be furnished to Vice-Admiral Wellesley.

The whole respectfully submitted.

(Signed) P. MITCHEL.

Washington, 13th June, 1870.

SIR,

I have the honour to acknowledge the receipt yesterday of your Excellency's Despatch, No. 36, of the 8th inst., enclosing copy of a Minute of the Privy Council of the Dominion with a Report of the Minister of Marine and Fisheries, pointing out errors in Mr. Secretary Boutwell's Circular of the 16th ult.

The first error pointed out by the Minister of Marine and Fisheries is the omission of the Amendment of the 12th ult to the Act of May 22nd, 1868; but as your Excellency will remember that you only communicated that Amendment to me in your Despatch, No. 26, of the 17th-ult., and as I only forwarded it to Mr. Bancroft Davis, then Acting

Lat. 50° 6' 15"
Long. 61° 43'
20"
Imp. Act. 6
Geo. IV.,
cap. 59.
Lat. 51° 25'
5" N.
Long. 57° 8'
15" W. from
Greenwich.

CANADA.

Secretary of State, on the 20th ult., I can hardly accuse Mr. Boutwell of an error in having made no mention of it on the 16th ult.; I will, however, call Mr. Fish's attention to the matter, and will suggest the issue of a further Circular with reference to the Amendment in question.

With regard to the second error alluded to by the Honourable Mr. Mitchell, I understand that by the Act 49 Geo. III., cap. 27, Canada only extended on the coast of Labrador to the mouth of the St. John, between 64° and 65° W. Long.

This was its extent when the Treaty of 1818 was concluded, which granted to citizens of the United States the right to fish on the coast of Labrador from Mount Joly eastward. The limit of Canada was, however, extended by the 9th Section of the Act 6, Geo. IV., cap. 59, to Ance Sablon, east of Mount Joly, so that the coast between these two points on which United States Citizens had the right to fish was from that time and is now comprised within the jurisdiction and waters of Canada. This is the change of boundary since the Treaty of 1818 to which I understand Mr. Boutwell to allude.

I have, &c.,

(Signed)

E. THORNTON.

His Excellency The Right Honourable Sir J. Young, G.C.B.

&c.

&c.

&c.

No. 31.

Governor.
No. 121, 3rd
June, 1870,
page 22.
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page 24.
No. 131, 9th
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June, 1870,
page 84.
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June, 1870,
page 85.

No. 32.

No. 31.

Colonial Office to Foreign Office.

SIR,

Downing Street, 5th July, 1870.

I am directed by Earl Granville to transmit to you, for the information of the Secretary of State for Foreign Affairs, copies of communications which have been received from the Government of Canada, relating to the Canadian fisheries, and of various telegraphic and other despatches which have been addressed by Lord Granville to Sir John Young.

Also of a telegram received from Admiral Wellesley by the Lords of the Admiralty, and of the answer which was returned.

It appears to Lord Granville that in any communication made on this subject to the Government of the United States, it should be clearly explained to them that the instructions respecting the limits within which the prohibition of fishing is to be enforced against United States fishermen are not to be considered as constituting an arrangement between the Governments by which any Canadian rights are waived, or the United States fishermen invested with any privilege; but only as a temporary direction given by the British and Canadian Governments to their own officers, in hopes that the question may soon be settled, and in order to prevent, in the meanwhile, any controversy arising on a subordinate point.

The proposal to revive the project of a commission for the settlement of the limits of Canadian maritime rights will form the subject of a further communication hereafter.

I am, &c.,

(Signed)

FREDERIC ROGERS.

The Right Hon. E. Hammond.

No. 32.

Foreign Office to Colonial Office.

SIR,

Foreign Office, July 11th, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of an instruction which his Lordship has addressed to Mr. Thornton respecting the Canadian Fisheries, in the sense of your letter of the 5th instant.

I am, &c.,

(Signed)

E. HAMMOND.

The Under Secretary of State,
Colonial Office.

No. 10.
9 July, 1870.

CANADA.

(No. 10.)

Enclosure in No. 32.

Enclosure in
No. 32.

SIR,

Foreign Office, July 9, 1870.

With reference to the Despatch from this office, No. 277, of the 30th ultimo, I transmit to you herewith, for your information, copies of a further letter from the Colonial Office, and its enclosures, respecting the Canadian Fisheries; and I have to request you, in any communications which you may make to the Government of the United States on this subject, to explain clearly to them, as suggested in this letter, that the instructions respecting the limits within which the prohibition of fishing is to be enforced against United States fishermen are not to be considered as constituting an arrangement between the Governments of Great Britain and of the United States, by which Canadian rights are waived, or the United States fishermen invested with any privilege, but only as a temporary direction given by the British and Canadian Governments to their own officers, in hopes that the question may soon be settled, and in order to prevent any controversy arising on a subordinate point.

E. Thornton, Esq., C.B.

I am, &c.,
(Signed) GRANVILLE.

No. 33.

No. 33.

Foreign Office to Colonial Office.

SIR,

Foreign Office, July 18th, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copy of a letter from the Admiralty, enclosing copies of the revised instructions issued for the guidance of Her Majesty's naval officers engaged in the protection of the Canadian Fisheries.

12th July,
1870.The Under Secretary of State,
Colonial Office.I am, &c.,
(Signed) F. HAMMOND.

Enclosure in No. 33.

Enclosures
in No. 33.

SIR,

Admiralty, July 12th, 1870.

With reference to my letter of the 4th instant, and previous correspondence relating to Canadian fisheries, I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Earl Granville, copy of a letter from Vice-Admiral Wellesley, dated Halifax, 25th June, 1870, forwarding copy of a memorandum he has issued to the commanding officers of the ships engaged in protecting the Canadian fisheries, modifying the limits within which American fishermen are prohibited from fishing, in accordance with the telegraphic orders communicated to the Vice-Admiral on the 22nd ultimo, with the concurrence of the Secretary of State for the Colonies.

I am &c.,
(Signed) THOMAS WOLLEY.

P.S. These alterations will have been communicated to Her Majesty's Minister at Washington by Vice-Admiral Wellesley, as stated in my letter of the 4th instant.

The Under Secretary of State
for Foreign Affairs.

CANADIAN FISHERIES.

Alteration in limits within which American vessels are prohibited from fishing.

"Royal Alfred," at Halifax, 25th June, 1870.

SIR,

In acknowledging the receipt of your telegram of the 22nd instant, I have the honour to report, for the information of the Lords Commissioners of the Admiralty, that in accordance with the directions therein contained, I have issued a memorandum to

CANADA.

the officers in command of the ships employed in the protection of the Canadian fisheries which alters the previous instructions under which they have been acting, by modifying the limits within which American fishermen are prohibited from fishing.

Copies of the memorandum are herewith enclosed.

The Secretary
to the Admiralty.

I have, &c.,
(Signed) G. G. WELLESLEY,
Vice-Admiral.

“Royal Alfred,” at Halifax, 23rd June, 1870.

Memorandum :

The following alterations are to be made in the instructions for the protection of the fisheries, with which you are furnished; and you are to report the date of your having done so.

To Her Majesty's Ships _____

(Signed) G. G. WELLESLEY,
Vice-Admiral.

Over marginal note G (which is hereby cancelled) in the Colonial Secretary's letter of the 12th April, 1866, paste :

G. By telegram inserted below in note L, these limits have been modified—

Insert on the blank page opposite the third paragraph of the Colonial Secretary's letter of the 30th April, 1870 :

L. (*Admiralty telegram of 22nd June, 1870.*) American fishermen are not to be excluded from the fisheries, except from within three miles of the shore, or within a bay which, though in parts more than six miles wide, is less than six miles wide at its mouth.

No. 34.

No. 34.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 18th July, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copies of Despatches from Mr. Thornton respecting the Canadian Fisheries.

The Under Secretary of State,
Colonial Office.

I am, &c.,
E. HAMMOND.

No. 292,
4th July,
1870.

No. 294,
4th July,
1870.

Enclosures
in No. 34.

Enclosures in No. 34.

(No. 292.)

Washington, 4th July, 1870.

SIR,

With reference to my Despatch to the Earl of Clarendon, No. 258, of the 13th ult., in which I enclosed copy of a note which I had addressed to Mr. Fish on the 11th ult., referring to the Canadian Fisheries and Mr. Boutwell's circular thereupon, I have the honour to enclose copy of a note which I have received in reply from Mr. Fish, the tone of which seems to me to be friendly.

Her Majesty's Principal Secretary of State
for Foreign Affairs.

I have, &c.,
(Signed) E. THORNTON.

SIR,

Department of State Washington, 30th June, 1870.

CANADA.

I have the honour to acknowledge the receipt of your note of the 11th inst. in which you confirm my impression that Admiral Wellesley will have modified the directions to the officers under his command engaged in the protection of the Canadian Fisheries so that they shall be in conformity with the views of the Admiralty, and in which you point out, under instructions from the lamented Earl of Clarendon, that the circular of the 16th ult., issued by the Secretary of the Treasury of the United States respectively, the Canadian inshore Fisheries may lead to further misunderstanding, inasmuch as it limits the maritime jurisdiction of the Dominion of Canada to three marine leagues from the shores thereof.

In view of the claims heretofore presented by Her Majesty's Government, and which, as it contends, are supported by the law of nations, and the stipulations of the Treaty of 1818, as to the extent of British Maritime jurisdiction in the waters in which the Fisheries are prosecuted on the Eastern Coasts of North America, the President is pleased to recognise in the tenor of the Despatches and instructions which have been addressed by Her Majesty's Government to the Canadian authorities and to Admiral Wellesley, a generous spirit of amity which is reciprocated by the United States. Animated by that spirit he directs that Her Majesty's Government be informed that the description of the limit of Canadian Maritime jurisdiction contained in the circular in question, and which was adopted before this Government was made acquainted with the nature of the instructions which it was proposed by Her Majesty's Government to issue, was used for the sake of brevity in expressing the interpretation which has been heretofore placed upon the first article of the Treaty of 1818 by this Government, and not with the expectation of renewing a controversial discussion upon the subject, which, under present circumstances, he would sincerely deprecate.

E. Thornton, Esq., C.B.

I have, &c.,
(Signed) HAMILTON FISH.

(No. 294.)

Washington, 4th July, 1870.

SIR,

I have the honour to enclose a printed copy of a resolution which was submitted to the House of Representatives by General Butler, a member from Massachusetts, embodying a request to the President to demand of the British Government under what pretence of right and under whose orders American fishing vessels are arrested and detained in their voyages in the straits of Canso, on their way to the fishing-grounds by armed vessels flying the British flag. The resolution was read, considered, and agreed to.

Annexed to the resolution are a couple of letters from masters of American fishing vessels said to have been "arrested and detained" which purport to have been written from Pirates' Cove in the Gut of Canso. They do not, however, entirely carry out the idea of "arrest and detention;" for the fishing vessels seem, on the contrary, to have been ordered to leave that place and to continue their voyage.

I have as yet received no communication, official or otherwise, from the Secretary of State upon the subject; but I have thought it right to forward a copy of the resolution and accompanying documents to the Governor-General of Canada, in order that His Excellency may, should he deem it expedient, cause inquiries to be made as to what really happened. I inclose copy of the letter which I addressed to Sir John Young.

I should imagine, though it is not so stated, that the armed vessels which took the measures alluded to, whatever they may have been, were some of the Canadian cruisers, and not Her Majesty's vessels of war. I cannot, however, but regret the bad taste, not uncommon in this country, with which members of Congress allow themselves to propose such resolutions as the one enclosed, without first asking that inquiries may be instituted through the regular channel of the Governments against whose officers complaints are brought forward.

I have, &c.,
(Signed) E. THORNTON.Her Majesty's Principal Secretary of State
for Foreign Affairs.

SIR,

Washington, July 2, 1870.

I have the honour to transmit herewith, for Your Excellency's information, copy of a resolution which was yesterday submitted by General Butler, a member from

CANADA.

Massachusetts, to the House of Representatives relative to some action which may possibly have been taken by Canadian or Her Majesty's cruisers with regard to American fishing vessels in the Straits of Canso.

No official communication has as yet been made to me on the subject, but I have thought that Your Excellency may perhaps deem it expedient to cause inquiries to be made into the matter.

His Excellency the
Right Hon. Sir John Young, Bart., G.C.B.

I have, &c.,
(Signed) E. THORNTON.

[Extract.]

Washington Daily Globe, 2nd July, 1870.

ARREST OF AMERICAN FISHING VESSELS.

Mr. BUTLER, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

RESOLVED:—"That the President be requested to demand of the British Government under what pretence of right, and under whose orders, American fishing vessels are arrested and detained in their voyages in the Straits of Canso on their way to the fishing grounds by armed vessels flying the British flag."

Mr. BUTLER, of Massachusetts: "I ask that certain papers in connection with this resolution shall be printed in the *Globe*."

There was no objection; and it was so ordered. The papers are as follows:

Custom-House, Gloucester, 29th June, 1870.

DEAR GENERAL,

Please find enclosed letters just received from masters of our fishing vessels in Straits of Canso. You will observe that they are dated Pirate Cove, a small harbour in the Straits of Canso, through which these vessels were passing on their way to the Bay of St. Lawrence, when they were interfered with as stated. The masters of these vessels are well known here; they are brothers, but masters of two different vessels. Their statements can be relied on. It will be seen that these vessels were simply on their way to the fishing grounds through the usual highway, the Straits of Canso, but had not passed into the bay. These vessels had stopped as usual for wood and water in the Straits. These letters, it is almost needless to say, have created a just alarm here, not to say indignation, because they are thoroughly reliable. I have been requested to forward them to you. I think they speak for themselves.

Respectfully, your obedient servant,

F. J. BABSON,

Hon. B. F. Butler, Washington, D. C.

Collector.

DEAR SIR,

Pirate Cove, 20th June, 1870.

I write you to say times are blue here. There are five cutters in the bay. The commodore came yesterday and sent his boat on board of us, and this morning he sent one of the sailing vessel's boats to order us off. We were under way when he came, but Ben and Henry Hardy were aground and they could not get off. He went on board the *Wildfire* with three boats' crews of about twenty-five men, and demanded 800. Henry Hardy said he should go as soon as she floated; and he came back to the *Wildfire* again and he said we might lie till two o'clock, which was five hours more, and he started for the *S. S. Day* again and commenced taking off her mainsail. Hardy never said a word, but Hartley called the commodore and said it would be a serious affair, and trouble would come out of it. He then stopped his men, but he was very ugly, and said, "Damn them; he would make some of them sweat."

GEORGE BEARSE.

DEAR SIR,

Pirate Cove, June.

It looks blue here. There are three cutters here and they mean work. Sunday the commodore came here and sent a boat on board and ordered us off. We said we

should go as soon as we could get wood and water. Monday morning he sent another boat on board. We lay aground and he came with three boats' crews and demanded \$800, which I told him I should not pay, for yesterday was Sunday, and I could not get work done. He said he did not care.

Henry Hardy lay aground, and he said he had no business to let her get aground, and he commenced taking her sails off till Hartley begged him not to. We shall have to go without crew enough. George started this morning.

The cutters intend taking all the vessels they can get hold of.

I remain, &c.,

BENJAMIN BEARSE.

“ THE TROUBLES AT THE BAY COMMENCED.

“ A letter received in town yesterday from the master of one of our fishing vessels, dated at Pirate Cove, 20th instant, states that there are five cutters in the bay. The commodore came the day before and sent his boat on board of the vessels lying there. The next morning he sent one of the sailing vessel's boats to order us off. We were all under way but the *Willfire* and *S. S. Day*, which were aground and could not start. The commodore then went on board of the *Willfire* with three boats' crews of twenty-five men, and told Captain Bearse he should fine him \$800. He afterward gave him permission to lie until two o'clock. The commodore then started for the *S. S. Day*, and commenced taking off her mainsail, to which Captain Hardy said not a word. Mr. Hartley, of this place, advised the commodore to desist, and he finally took his men off; but he was very ugly, and said he would make some of them sweat.”

No. 35.

Foreign Office to Colonial Office.

No. 35.

SIR,

Foreign Office, July 21st, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copies of a further Despatch from Mr. Thornton, and its enclosure, respecting the Canadian Fisheries.

(Signed)

I am, &c.,

E. HAMMOND.

No. 287,
27th June,
1870.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 35.

(No. 287.)

Washington, June 27th, 1870.

SIR,

With reference to my Despatch to the Earl of Clarendon, No. 258, of the 13th instant, I have the honour to inform you that I called to Mr. Fish's attention the omission in Mr. Boutwell's Circular of the 16th ultimo, relative to the Canadian Fisheries, of any mention of the Canadian Act of May 12th, 1870, to amend that of May 22nd, 1868, and suggested to him the expediency of an additional Circular being issued embodying the contents of this Act.

Mr. Fish replied that the United States' Government had not been aware of the passage of the Act in question when Mr. Boutwell's Circular was issued, and further, that there were certain provisions in that Act which seemed to him objectionable. In the first place, he thought that before adopting my suggestion it would be better to wait until the Canadian Government should decide whether the waters on the coast, from Ance Sablon to Mount Joly, were or not to be considered waters of Canada, for if they were, the recent Act of May 12th, 1870, would exclude American vessels from that coast on which they were entitled to fish by the Treaty of 1818.

Mr. Fish further expressed his opinion that to make the master of a vessel answer questions which might criminate himself, and to fine him 400 dollars if he did not answer them truly, was contrary to the spirit of general law.

He also considered that the power given to capture vessels within three miles of the bays of Canada was not in accordance with the instructions recently given by Her Majesty's Government, and particularly with the contents of the Letter of the 5th ultimo, addressed by the Admiralty to Vice-Admiral Wellesley, a copy of which was inclosed

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in Lord Clarendon's Despatch No. 185, of the 14th ultimo, and in which it is recommended that the officers of the ships selected to protect the fisheries should pay special attention to Lord Granville's observation that no vessel should be seized unless it were evident, and could be clearly proved, that the offence of fishing had been committed, and that the vessel had been captured within three miles of land, no mention being made of bays.

As these questions, however, are still pending with the Canadian Government, who, I hope, will take a liberal view of them, I did not think it expedient to enter with Mr. Fish into any discussion of their merits, and merely replied that I would inform the Governor-General of Canada of the difficulty he found in advising his colleague of the Treasury to issue an additional Circular.

This I did in the letter of which I have the honour to inclose a copy.

I have, &c.,
(Signed) E. THORNTON.

Her Majesty's Principal Secretary of State
for Foreign Affairs.

(No. 30.)

SIR,

Washington, 17th June, 1870.

With reference to my Despatch No. 29, of the 13th instant, I have the honour to inform your Excellency that I took an early opportunity of suggesting to Mr. Fish that an additional Circular to Mr. Boutwell's of the 16th ultimo should be issued, embodying the contents of the Amendment of May 12th, 1870, to the Act of May 22nd, 1868. Mr. Fish, however, seemed disinclined to comply with my suggestion, on the ground that some of the provisions of that Amendment were opposed to the instructions recently given to the Commanders of Her Majesty's vessels of war, that no foreign fishing vessels should be captured unless they were found fishing within the forbidden three miles of the shore.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

No. 36.

No. 36.

Colonial Office to Foreign Office.

SIR,

Downing Street, 25th July, 1870.

I am directed by the Earl of Kimberley to transmit to you, for the consideration of Earl Granville, a copy of a Despatch which he proposes, with Lord Granville's concurrence, to address to the Governor-General of Canada, by the mail of next Thursday, on subjects connected with the Dominion, upon which Lord Kimberley has held interviews with Mr. Campbell, the Postmaster-General of Canada.

The Under Secretary of State,
Foreign Affairs.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 37.

No. 37.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 27th July, 1870.

I am directed by Earl Granville to acquaint you, for the information of the Secretary of State for the Colonies, that his Lordship concurs in the Despatch which Lord Kimberley proposes to address to the Governor-General of Canada, in regard to the objects of Mr. Campbell's mission, a copy of which was inclosed in your letter of the 25th instant.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

No. 38.

CANADA.

No. 38.

Colonial Office to Foreign Office.

SIR, Downing Street, July 27th, 1870.

In returning to you the accompanying Despatch from Her Majesty's Minister at Washington, with its Enclosures, on the subject of the Canadian Fisheries, as requested in your letter of the 30th ultimo.* I am directed by the Earl of Kimberley to request that you will inform Earl Granville that he concurs in the answers returned by Mr. Thornton to Mr. Fish.

* Page 174.

I am to state that Lord Kimberley would be glad to be furnished, when convenient, with copies of the papers which are herewith returned.

I am, &c.,
(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office.

No. 39.

No. 39.

Foreign Office to Colonial Office.

Foreign Office, 28th July, 1870.

SIR, With reference to my letter of the 23rd ultimo,* I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a further Despatch (in original, to be returned,) from Mr. Thornton, enclosing copies of correspondence with Sir John Young, in regard to the term "waters of Canada" objected to by Mr. Fish.

* Page 171.

No. 304.
11 July, 1870.

I am, &c.,
(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

Enclosures in No. 39.

Enclosures
in No. 39.

(No. 304.)

SIR, Washington, 11th July, 1870.

With reference to my Despatch to the Earl of Clarendon, No. 245, of the 6th ultimo, in which I forwarded copy of a note from Mr. Fish, explaining why he objected to the term "waters of Canada" in the Canadian Order in Council, of the 8th of January last, I have now the honour to enclose copy of a Despatch which I have received from the Governor-General of Canada, in answer to one which I addressed to his Excellency, transmitting copy of Mr. Fish's note. I have forwarded a copy of this Despatch to Mr. Fish, and have no doubt that the explanations contained in it will be satisfactory to his Government.

No. 38, 6th
July.

I also enclose copy of my answer to Sir John Young, acknowledging the receipt of his Despatch. 11th July.

I have, &c.,
(Signed) EDWD. THORNTON.

Her Majesty's Principal Secretary of State
for Foreign Affairs.

(No. 38.)

SIR, Niagara, 6th July, 1870.

In reply to your Despatch No. 27, of June 1st, 1870, with reference to Mr. Fish's objection to the Order in Council of the 8th January last, I beg to enclose, for your information, a copy of a Minute of the Privy Council explaining their views on the question.

The special instructions, dated 14th May, which govern Canadian officers engaged in the Fisheries protection service, seem to comply with the latter branch of the alternative

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suggested by Mr. Fish, and to leave no room for doubt that the United States fishermen are secured from interference while in the exercise of the liberty guaranteed to them by the Treaty of 1818 to fish along the coast east of Mount Joly.

I have, &c.,
(Signed)

JOHN YOUNG.

Edward Thornton, Esq., C.B.,
&c. &c. &c.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 1st July, 1870.

On the annexed Memorandum from the Hon. the Minister of Marine and Fisheries, dated 14 June, 1870, on the subject of the Despatch of Mr. Thornton, Her Majesty's Minister at Washington, of the 1st June, respecting the limits of the Canadian Fisheries.

The Committee concur in the Memorandum of the Minister of Marine and Fisheries, and recommend accordingly.

Certified,
(Signed) W. H. LEE, Clerk P.C.,
Canada.

MEMORANDUM ON MR. THORNTON'S DESPATCH OF 1st JUNE, 1870.

The first communication from Mr. Thornton, dated 22nd April, 1870, covering a note of the previous day's date from Mr. Fish, both of which are referred to in the report of the undersigned of the 28th ultimo, relates to the wording of the Order in Council of the 8th of January last, and expresses apprehension of "interference with rights guaranteed to the United States under the first article of the Treaty of 1818, which secures to American fishermen the right of fishing in certain waters understood to be claimed *at present* as belonging to Canada."

Mr. Thornton's Despatch also mentions a verbal communication on the same subject from Mr. Fish. It was supposed to have reference to some "recent" change of boundaries incident to Confederation, or the acquisition of the Hudson Bay Company's rights on the Labrador Coast; the latter of which are expressly reserved in the said Treaty. Assurance was, therefore, conveyed to Mr. Fish, in pursuance of the Minute of Council of 10th ultimo, that no such interference as that apprehended could possibly be contemplated by the Canadian Government.

A further Despatch from Mr. Thornton of 1st instant, enclosing Mr. Fish's correspondence at length, now explains the full meaning of Mr. Fish's objection to the phraseology of the Order in Council of 8th January last, and states the argument on which Mr. Thornton acquiesces in Mr. Fish's request that the said Order should be modified as far as United States fishermen are concerned.

Mr. Fish takes exception to the terms of this Order in Council, because of the words "waters of Canada," which have since 1825 included part of the southern coast of Labrador and islands in the Gulf of St. Lawrence, and which at the time of the Treaty of 1818 were subject to the municipal jurisdiction of Newfoundland.

The Act 6 George IV., by which this ancient change of provincial boundaries was effected, is an Imperial statute, and necessarily reserves, by implication, all existing Treaty arrangements of an unconditional nature between the empire and foreign powers. Such also would be the necessary effect of legislative or executive action, regarding any matter of local jurisdiction.

The territory and waters affected would not cease to be British because of changes of intercolonial boundaries established by the Imperial Parliament.

Mr. Fish seems to desire a modification of this Order in Council chiefly with a view to providing against any misapprehension in respect of the treaty rights of United States citizens on the part of those who may be charged with its execution, and suggests that additional instructions should issue.

The undersigned considers that the subsequent Order in Council of 10th ultimo is sufficiently explicit and ought to be quite satisfactory.

If anything more were really necessary to assure Mr. Thornton, and to remove Mr. Fish's apprehensions, reference might be made to the Canadian statutes relating to fishing by foreign vessels; and to the following extract from the Special Instructions

(dated 14th ultimo) which govern officers engaged in the Fisheries protection service :—

CANADA

“1. United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande, Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and around the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador Coast.

“Wherever any settlement exists within these limits, the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers or with proprietors of the ground.”

The Order in Council of 10th ultimo explains the necessary use of the general descriptive terms “waters of Canada” to which exception is taken, and as there is not the remotest probability of any such interference with the rights of American fishermen as Mr. Fish seems to apprehend, the undersigned cannot perceive any sufficient reason why the Minute of Council of 8 January last should be modified in the way suggested by Mr. Thornton.

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

Department of Marine and Fisheries,
Ottawa, 14 June, 1870.

(No. 33.)

SIR,

Washington, 11th July, 1870.

I have the honour to acknowledge the receipt of, and to thank you for, your Excellency's Despatches Nos. 38 and 39, of the 6th and 7th inst. The former of these I shall communicate forthwith to Mr. Fish, and I have no doubt that its contents will be satisfactory to him.

I have been unwilling yet to send him a copy of the Special Instructions of May 14, 1870, to which your Excellency alludes in your Despatch No. 38, because they still contain orders not to admit American fishing vessels inside of a bay whose mouth is less than ten miles in width; for these orders are not in conformity with the instructions forwarded by the Admiralty to Vice-Admiral Wellesley, a copy of which I was directed by the Earl of Clarendon to communicate to the Government of the United States, and which enjoin that American vessels are not to be captured unless found fishing within three miles of the shore.

Sir John Young, Bt., G.C.B.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

No. 40.

Foreign Office to Colonial Office.

No. 40.

Foreign Office, 28th July, 1870.

SIR,

I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, an extract of a Despatch from Mr. Thornton, enclosing a Report of certain remarks made in the House of Representatives, relative to the recent capture by Canadian revenue cutters of American fishing vessels. 11 June, 1870.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

Enclosure in No. 40.

EXTRACT from a DESPATCH from Mr. THORNTON to HER MAJESTY'S PRINCIPAL SECRETARY of STATE for FOREIGN AFFAIRS, dated Washington, 11th June, 1870.

Enclosure
in No. 40.

“I have the honour to enclose a printed copy of the remarks which were made on the occasion in the House of Representatives. You will perceive that General Butler stated that within the last week six American fishing vessels had been captured, and carried into Canadian ports by Canadian revenue cutters, without

CANADA.

"right and against law. As yet, I have heard but of one capture of a vessel found in the act of fishing at about a mile and a half from the coast near Sydney, in Cape Breton."

No. 41.

No. 41.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 28th July, 1870.

* Page 180.
No. 306.
11 July, 1870.

With reference to my letter of the 18th instant,* I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a further Despatch from Mr. Thornton respecting the Canadian Fisheries.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

Enclosures
in No. 41.

Enclosures in No. 41.

(No. 306.)

SIR,

Washington, 11th July, 1870.

In my Despatch No. 294, of the 4th instant, I had the honour to enclose copy of a Resolution, proposed by General Butler in the House of Representatives, relative to the detention of American fishing vessels in the Gut of Canso. I also forwarded a copy of the Resolution, and the Documents which accompanied it, to his Excellency the Governor-General of Canada, and I now enclose copy of his Excellency's answer, from which it would appear that there is no foundation for General Butler's statements. It is, however, well known that General Butler is sufficiently unscrupulous in his assertions in the House, and is probably more so just now because he hopes by that means to gain votes for his re-election, for which he will be a candidate in October next.

I have also the honour to enclose copy of a Telegram which I received from the Governor-General of Canada on the 8th instant, announcing the capture of an American fishing vessel off Sydney, in Cape Breton.

I have received no communication from Mr. Fish with regard to either of the above-mentioned matters; but, with regard to the latter, as there is a Consular Agent of the United States at Sydney, I presume that Mr. Fish has been informed of what has taken place, and probably sees no reason to object to the proceedings of the Canadian cruisers.

I have, &c.,
(Signed) E. THORNTON.

Her Majesty's Principal Secretary
of State for Foreign Affairs.

(No. 39.)

SIR,

Niagara, 7th July, 1870.

I have the honour to acknowledge the receipt of your Despatch of the 2nd instant, No. 32, transmitting a copy of a Resolution which was submitted by General Butler to the House of Representatives relative to some action which may have been taken by Canadian or Her Majesty's cruisers with regard to American fishing vessels in the Straits of Canso.

I have caused a copy of your letter and enclosure to be forwarded to the Privy Council for consideration and reply.

E. Thornton, Esq., C.B.

I have, &c.,
(Signed) JOHN YOUNG.

P.S. I may add for your information that I received, under date of 4th July, private communication on the subject from the Minister of Marine and Fisheries to the following effect:

"I suppose you were, like myself, at a loss to know upon what Butler's motion, in Congress, the other day, was founded. I telegraphed Capt. Scott,* R.N., and received in reply the following:

* Chief Officer of the Canadian cruisers.

“ ‘No truth in statement that vessels were arrested or detained that I know of.
 “ ‘On the 19th, American fishermen using straits for other purposes than for wood,
 “ ‘water, or stress of weather, ordered to sea in twenty-four hours. None detained.
 (Signed) “ ‘P. A. SCOTT.’

‘This may explain the cause of the motion.’

In past years, I am told, the United States fishermen were used to land at places in the Gut of Canso; had depôts, &c., there, and joined with the inhabitants in infractions both of the Canadian laws, and of the United States tariff.

I purpose remaining here probably until the close of the month.

J. Y.

SIR,

Clifton House, Niagara, 8th July, 1870.

Following Telegram just received from Minister of Marine:—Our cruisers have seized American schooner, “Thomatuck” off Sydney, Cape Breton, one and a half mile from land—fish found alive on decks when seized.

J. Y.

Edward Thornton, Esq., C.B.,
 British Legation.

EXTRACT, Washington “Daily Globe,” 7th July, 1870.

English schooner Sibyl.

Mr. DAWES.—I ask unanimous consent of the House to report back from the Committee on Appropriations the Senate Bills I proposed to report yesterday. If there be any extended debate I will withdraw them. I first report back a Bill (S. No. 88) to carry into effect the decree of the district court of the United States for the southern district of New York, in the case of the English schooner Sibyl and her cargo, with the recommendation that it do pass.

The Bill was read. It directs the Secretary of the Treasury to make the proper payments to carry into effect the decree of the district court of the United States for the southern district of New York, bearing date the 2nd day of March, 1868, in the case of the English schooner Sibyl and her cargo, illegally seized by a cruiser of the United States, such payments to be made to the several persons named in such decree, or their legal representatives, the sums therein awarded to them respectively, with interest from the date of the decree.

The Bill was ordered to a third reading, and it was accordingly read the third time and passed.

Mr. DAWES moved to reconsider the vote by which the Bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

British schooner Flying Scud.

Mr. DAWES also, from the same committee, reported back a Bill (S. No. 86) to carry into effect the decree of the district court of the United States for the district of Louisiana, in the case of the British schooner Flying Scud and her cargo, with the recommendation that it do pass.

The Bill was read. It directs the Secretary of the Treasury to pay to Bernardo Caymari, a subject of Spain, or his legal representatives, the sum of \$42,936 75, and to Jules Aldige, a subject of France, or his legal representatives, the sum of \$12,527 37, with interest in both cases from the date of a decree of the district court of the United States for the district of Louisiana, pronounced on the 3rd day of February, 1869, by which these sums, due on account of the illegal capture of their property by a cruiser of the United States, were respectively awarded to these claimants; provided, however, that out of any money hereby appropriated for said Bernardo Caymari the Secretary of the Treasury shall retain such sums as will satisfy any judgments or other legal claims or demands which the United States may have against said Caymari.

Mr. BUTLER, of Massachusetts.—I desire for one moment, Mr. Speaker, to call the attention of the House to this Bill. It is for losses by capture. Now, Sir, within the last week six fishing-vessels, American fishing vessels, belonging to the United States, have been captured and carried into Canadian ports by Canadian revenue cutters, with-

CANADA.

Mr. CALKIN.—We are passing Bills here appropriating millions of money for the payment of British claims.

Mr. DAWES.—I will state that all the Bills I have sent up involve the amount of \$685,882 92 and some interest, as a portion of the decrees required interest to be paid. I will state that in the greater part of these cases the ships were seized by the marshal of Louisiana, and by order of the court they were sold and the proceeds were placed upon deposit in the First National Bank of Louisiana. The marshal and the bank have failed. The court decided against the United States, but the money had gone, and now the United States is obliged to pay that money out of the Treasury or itself be in default. They are all decrees of the courts, and judgments of the courts rendered in the Supreme Court and ordered to be executed by the district court. Four out of the six were in Louisiana, and two in the city of New York. These are very large sums, and I am sorry to be compelled to ask the House to appropriate for them; but I see no other way but to meet the judgments of the courts like men, and pay them.

Mr. CALKIN.—I have nothing to say against the judgments of the courts, but the judgment of this House and the judgment of the country is that it is a well-known fact that during the war every vessel that hovered about our southern coast flying the English flag was a blockade runner; and I am constrained to believe that most of the vessels for which we are appropriating money to pay damages were engaged in the blockade-running business, and were caught at it, and then appealed to the courts on the ground that they were under the British flag, and receive compensation after having been engaged in an unlawful business.

Mr. DAWES.—That is a fact which was submitted to the courts and found against the gentleman, and the gentleman proposes, notwithstanding it was found by the court that this was a lawful cruise and a lawful voyage of the vessel held by these owners, to offset that judgment, and to settle our claim upon the British Government for the destruction by the Alabama of our vessels by going, as is suggested by a gentleman near me, over the Canada line to steal some of their property, to steal their horses. We have no right to retain this money, and it does not make it any more right because the British Government may be liable and ought to respond for the damages caused by the Alabama. And how can the gentleman hold up his hands and enforce our claims growing out of the operations of the Alabama if he is not willing to meet the just claims upon this Government of British subjects? The only ground upon which, before the judgment of mankind, we can ask the British Government to respond to those damages is because we are ready ourselves at all times and under all circumstances to meet any just demands made by her subjects upon us.

Mr. CALKIN.—So far as magnanimity toward the British Government is concerned, we have always been showing it; but I have not seen anything of the kind exhibited on their part. So far as going across the Canada line is concerned, I am quite willing to go across the line and take the whole of Canada into the Union.

Mr. DAWES.—I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the Bill was passed.

Mr. DAWES moved to reconsider the vote by which the Bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

No. 42.

No. 42.

Colonial Office to Foreign Office.

SIR,

Downing Street, 30th July, 1870.

* Page 180.

I have laid before the Earl of Kimberley your letter of the 18th instant,* enclosing Despatches from Mr. Thornton on the subject of the Canadian Fisheries.

With regard to the Resolution submitted to the House of Representatives by General Butler, which is enclosed in Mr. Thornton's Despatch of 4th July, I am directed to acquaint you, for the information of Earl Granville, that Sir John Young has been requested to state whether any American fishing vessels have been arrested or detained in the Gut of Canso, and if so, in what circumstances.

I am, &c.,

The Under Secretary of State,
Foreign Office.

(Signed)

FREDERIC ROGERS.

CANADA.

No. 43.

No. 43.

Colonial Office to Foreign Office.

SIR, Downing Street, 4th August, 1870.

I have laid before the Earl of Kimberley your letter of the 21st ultimo,* enclosing a Despatch from Mr. Thornton, with one which he had addressed to Sir John Young on the subject of the objections made by Mr. Fish to certain provisions of the Canadian Act of 12th May, 1870.

I am directed by his Lordship to request that you will inform Earl Granville that Sir John Young has been instructed to send home an authenticated copy of this Act, with explanations on the points adverted to by Mr. Fish.

The Under Secretary of State,
Foreign Office.

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

* Page 183.

No. 44.

No. 44.

Colonial Office to Foreign Office.

SIR, Downing Street, 8th August, 1870.

I have laid before the Earl of Kimberley your letter of the 28th ultimo,* enclosing a further Despatch from Mr. Thornton, and copies of his correspondence with Sir John Young respecting the objections raised by Mr. Fish to the wording of the Canadian Order in Council of the 8th January last, on the subject of the Fisheries on the Coast of Labrador.

I am desired to acquaint you, for the information of Earl Granville, that these Papers (with the exception of Mr. Thornton's last letter to Sir John Young) have been received from Canada; and that Lord Kimberley has answered Sir John Young's Despatch to the effect, that as the point contended for by the United States Government seems to be practically admitted, it does not appear necessary to discuss the question any further.

The Under Secretary of State,
Foreign Office.

I am, &c.,
(Signed) H. T. HOLLAND.

* Page 185.

No. 45.

No. 45.

Foreign Office to Colonial Office.

SIR, Foreign Office, 8th August, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copies of Despatches from Mr. Thornton respecting the Canadian Fisheries.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

No. 330,
25th July,
1870.No. 331,
25th July,
1870.No. 333,
25th July,
1870.

Enclosures in No. 45.

Enclosures
in No. 45.

(No. 330.)

MY LORD,

Newburyport, 25th July, 1870.

Before the receipt of your Lordship's Despatch No. 10, of the 9th instant, I had already on different occasions communicated to Mr. Fish the nature of the instructions given to the commanders of Her Majesty's ships, and of the Canadian cruisers employed in the protection of the Fisheries, relative to the exclusion of United States fishermen from the limits of three miles from the Coast of Canada, and of a line drawn across bays where the distance from headland to headland does not exceed six geographical miles.

I therefore at once called upon Mr. Fish, and communicated to him verbally the

CANADA.

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Mr. CALKIN.—I have nothing to say against the judgments of the courts, but the judgment of this House and the judgment of the country is that it is a well-known fact that during the war every vessel that hovered about our southern coast flying the English flag was a blockade runner; and I am constrained to believe that most of the vessels for which we are appropriating money to pay damages were engaged in the blockade-running business, and were caught at it, and then appealed to the courts on the ground that they were under the British flag, and receive compensation after having been engaged in an unlawful business.

Mr. DAWES.—That is a fact which was submitted to the courts and found against the gentleman, and the gentleman proposes, notwithstanding it was found by the court that this was a lawful cruise and a lawful voyage of the vessel held by these owners, to offset that judgment, and to settle our claim upon the British Government for the destruction by the Alabama of our vessels by going, as is suggested by a gentleman near me, over the Canada line to steal some of their property, to steal their horses. We have no right to retain this money, and it does not make it any more right because the British Government may be liable and ought to respond for the damages caused by the Alabama. And how can the gentleman hold up his hands and enforce our claims growing out of the operations of the Alabama if he is not willing to meet the just claims upon this Government of British subjects? The only ground upon which, before the judgment of mankind, we can ask the British Government to respond to those damages is because we are ready ourselves at all times and under all circumstances to meet any just demands made by her subjects upon us.

Mr. CALKIN.—So far as magnanimity toward the British Government is concerned, we have always been showing it; but I have not seen anything of the kind exhibited on their part. So far as going across the Canada line is concerned, I am quite willing to go across the line and take the whole of Canada into the Union.

Mr. DAWES.—I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the Bill was passed.

Mr. DAWES moved to reconsider the vote by which the Bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

No. 42.

No. 42.

Colonial Office to Foreign Office.

SIR,

Downing Street, 30th July, 1870.

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I have laid before the Earl of Kimberley your letter of the 18th instant,* enclosing Despatches from Mr. Thornton on the subject of the Canadian Fisheries.

With regard to the Resolution submitted to the House of Representatives by General Butler, which is enclosed in Mr. Thornton's Despatch of 4th July, I am directed to acquaint you, for the information of Earl Granville, that Sir John Young has been requested to state whether any American fishing vessels have been arrested or detained in the Gut of Canso, and if so, in what circumstances.

The Under Secretary of State,
Foreign Office.

I am, &c.,
(Signed) FREDERIC ROGERS.

CANADA.

No. 43.

No. 43.

Colonial Office to Foreign Office.

SIR,

Downing Street, 4th August, 1870.

I have laid before the Earl of Kimberley your letter of the 21st ultimo,* * Page 183.
 enclosing a Despatch from Mr. Thornton, with one which he had addressed to Sir John Young on the subject of the objections made by Mr. Fish to certain provisions of the Canadian Act of 12th May, 1870.

I am directed by his Lordship to request that you will inform Earl Granville that Sir John Young has been instructed to send home an authenticated copy of this Act, with explanations on the points adverted to by Mr. Fish.

The Under Secretary of State,
 Foreign Office.

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

No. 44.

No. 44.

Colonial Office to Foreign Office.

SIR,

Downing Street, 5th August, 1870.

I have laid before the Earl of Kimberley your letter of the 28th ultimo,* * Page 185.
 enclosing a further Despatch from Mr. Thornton, and copies of his correspondence with Sir John Young respecting the objections raised by Mr. Fish to the wording of the Canadian Order in Council of the 5th January last, on the subject of the Fisheries on the Coast of Labrador.

I am desired to acquaint you, for the information of Earl Granville, that these Papers (with the exception of Mr. Thornton's last letter to Sir John Young) have been received from Canada; and that Lord Kimberley has answered Sir John Young's Despatch to the effect, that as the point contended for by the United States Government seems to be practically admitted, it does not appear necessary to discuss the question any further.

The Under Secretary of State,
 Foreign Office.

I am, &c.,
 (Signed) H. T. HOLLAND.

No. 45.

No. 45.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 5th August, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, the accompanying copies of Despatches from Mr. Thornton respecting the Canadian Fisheries.

The Under Secretary of State,
 Colonial Office.

I am, &c.,
 (Signed) E. HAMMOND.

No. 330,
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Enclosures in No. 45.

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(No. 330.)

MY LORD,

Newburyport, 25th July, 1870.

Before the receipt of your Lordship's Despatch No. 10, of the 9th instant, I had already on different occasions communicated to Mr. Fish the nature of the instructions given to the commanders of Her Majesty's ships, and of the Canadian cruisers employed in the protection of the Fisheries, relative to the exclusion of United States fishermen from the limits of three miles from the Coast of Canada, and of a line drawn across bays where the distance from headland to headland does not exceed six geographical miles.

I therefore at once called upon Mr. Fish, and communicated to him verbally the

CANADA. — substance of your Lordship's Despatch above mentioned, adding that I should take the liberty of addressing him a note on the subject. This I did on the 21st instant, and have now the honour to enclose copy of my note to Mr. Fish.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

SIR,

Washington, 21st July, 1870.

With reference to notes which I have addressed to you, and verbal statements which I have made to you to the effect that instructions have been given to the officers commanding Her Majesty's vessels of war and Canadian Government vessels employed in the protection of the Canadian Fisheries not to capture United States fishing vessels unless found fishing within three miles of the coast from which they are prohibited of a line drawn across bays whose mouths do not exceed six geographical miles in width, I have the honour to inform you that I have received instructions from Earl Granville to explain to you that the instructions respecting the limits within which the prohibition of fishing is to be enforced against United States fishermen are not to be considered as constituting an arrangement between the Governments of the United States and of Great Britain, by which Canadian rights are waived, or the United States fishermen invested with any privilege, but only as a temporary direction given by the British and Canadian Governments to their own officers, in hopes that the question may soon be settled, and in order to prevent any controversy arising on a subordinate point.

Hon. Hamilton Fish,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

(No. 331.)

MY LORD,

Newburyport, 25th July, 1870.

With reference to the Earl of Clarendon's Despatch No. 254, of the 18th ultimo, I have the honour to transmit herewith a printed copy of an amended Circular, dated the 9th ultimo, which was issued by the Secretary of the Treasury, relative to the Canadian Fisheries. In this Circular mention is made of the provisions of the recent Act of the Dominion of 12th May, 1870, which had been previously omitted.

Your Lordship will perceive from my Despatch No. 287, to the Earl of Clarendon, of the 27th ultimo, that when I spoke to Mr. Fish of the omission in Mr. Boutwell's previous Circular of 16th May, and he made objection to the issue of an amended Circular, this had already been issued; but Mr. Fish made no mention of it, and never sent me a copy. Either he did not know of its issue, or he did not wish to appear to yield to the representations of Her Majesty's Government.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

CIRCULAR relating to CANADIAN IN-SHORE FISHERIES.

Treasury Department, Washington,
9th June, 1870.

SIR,

In compliance with the request of the Secretary of State, you are hereby authorized and directed to inform all masters of fishing vessels, at the time of clearance from your port, that the authorities of the Dominion of Canada have terminated the system of granting fishing licences to foreign vessels, under which they have heretofore been permitted to fish within the maritime jurisdiction of the said Dominion, that is to say, within three marine miles of the shores thereof; and that all fishermen of the United States are prohibited from the use of such in-shore fisheries, except so far as stipulated in the first article of the Treaty of 20th October, 1818, between the United States and Great Britain, in virtue of which the fishermen of the United States have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also

on the coasts, bays, harbours, and creeks, from Mount Joly, which was, when the Treaty was signed, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly, indefinitely along the coast, without prejudice, however, to any exclusive rights of the Hudson's Bay Company; and have also liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, above described, and of the coast of Labrador, unless the same, or any portion thereof, be settled, in which case it is not lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground; and also, are admitted to enter any other bays or harbours, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever, subject to such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges reserved to them as above expressed. Fishermen of the United States are bound to respect the British laws and regulations for the regulation and preservation of the fisheries to the same extent to which they are applicable to British or Canadian fishermen.

The Canadian law of the 22nd of May, 1868, 31 Victoria, cap. 61, entitled "An Act respecting Fishing by Foreign Vessels," and the Act assented to on the 12th of May, 1870, entitled "An Act to amend the Act respecting Fishing by Foreign Vessels," among other things, enact, that any commissioned officer of Her Majesty's navy, serving on board of any vessel of Her Majesty's navy, cruising and being in the waters of Canada, for the purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's navy, fishery officer, or stipendiary magistrate, on board of any vessel belonging to or in the service of the Government of Canada, and employed in the service of protecting the fisheries, or any officer of the customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat, within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, and stay on board so long as she may remain within such place or distance; and that any one of such officers or persons as are above mentioned may bring any ship, vessel, or boat, being within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, into port, and search her cargo, and may also examine the master upon oath, touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and, if such ship, vessel, or boat, be foreign, or not navigated according to the laws of the United Kingdom, or of Canada, and has been found fishing or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, not included within the above-mentioned limits, without a licence, or after the expiration of the period named in the last licence granted to such ship, vessel, or boat, under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof, shall be forfeited. And that all goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo, liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act. And every person opposing any officer or person in the execution of his duty under this Act, or aiding, or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.

It will be observed, that the warning formerly given is not required under the amended Act, but that vessels trespassing are liable to seizure without such warning.

On the 8th of January, 1870, the Governor-General of the Dominion of Canada, in Council, ordered that suitable sailing vessels, similar to the "La Canadienne," be chartered and equipped for the service of protecting the Canadian in-shore fisheries against illegal encroachments by foreigners, these vessels to be connected with the police force of Canada, and to form a marine branch of the same. It is understood that, by a change of the boundaries between Canada and Labrador, the Canadian Territory now includes Mount Joly and a portion of the shore to the east thereof; which in the Treaty of 1818 was described as the southern coast of Labrador. This municipal change of boundary does not, however, interfere with the rights of American fishermen, as defined by the Treaty, on that portion of what was the southern coast of Labrador, east of Mount Joly.

Very respectfully,

GEORGE S. BOUTWELL,
Secretary of the Treasury.

CANADA.

(No. 333.)

MY LORD,

Newburyport, 25th July, 1870.

I have the honour to enclose copy of a note which I have received from Mr. Fish, relative to the capture by a Canadian cruiser of two American fishing vessels, for fishing within the prohibited limits, and to certain coercive measures taken with regard to some other vessels of the same class.

Mr. Fish expresses his opinion that these steps were not justified, and remarks upon their being taken by officers not in the Imperial service. He asks for an examination of the cases, and such reparation as they may be entitled to.

In my reply, copy of which is also enclosed, I have forwarded to him copies of the depositions taken in the cases of the "Wompatuck" and "J. H. Nickerson," which, I trust, will satisfy him that those vessels at least were not seized without cause.

I have also addressed a letter to the Governor-General of Canada, copy of which is enclosed, in which I transmit copy of Mr. Fish's note of the 22nd instant, and invite him to send me any details he may possess with regard to the other vessels alluded to by Mr. Fish, in order that I may submit them to the latter.

I have, &c.,

(Signed) E. THORNTON.

The Earl Granville, K.G.,
&c. &c. &c.

Department of State, Washington,
22nd July, 1870.

SIR,

Information has reached this Department from the Consulate of the United States at Halifax, of the seizure in Aspy Bay of the American fishing schooner "Wompatuck," while on her way to the Grand Banks, from the Magdalen Islands. It is stated that she put into Aspy Bay to obtain a supply of water, got becalmed there, and as it was getting late in the afternoon, the master took a boat, and went in search of a convenient place to get a supply of water, leaving orders that if a breeze sprang up the vessel should be worked up the cove, and brought to an anchor. While the master was on shore, the steward, as he afterwards ascertained, contrary to his express orders, caught seven codfish, and before the return of the boat, the commander of the cutter "Ida E.," belonging to the Dominion of Canada, came on board, and seized the schooner for violation of the fishery laws, and afterwards caused her to be taken to the Port of Sydney. It is further stated that there were a hundred and fifty quintals of fish on board the schooner, caught by the crew on the western banks, and that neither the master nor any of the crew had been fishing within the limits from which, by the Treaty of 1818, American fishermen are excluded.

From other sources I learn that the "J. H. Nickerson" was seized by a Canadian cutter "Ingonish," where she went for the purpose of procuring bait and ice; that the "Wildfire," the "S. S. Day," and other vessels in the Straits of Canso, on their way to the fishing grounds, were ordered off;—that the "S. S. Day," having grounded, was fined 800 dollars; that the "Derby Wharples" was seized on her way to the Grand Bank, on account of having put into North Sydney to purchase bait.

The Department has been further informed by the United States Consul at Pictou, that the schooner "Twilight," which had entered Pirate Cove, on her way to the Bay of St. Lawrence for the purpose of getting wood, was ordered by the captain of the Canadian vessel "Sweepstakes" to get his wood and water on board the same evening or the next day, and leave immediately afterwards. The statements thus referred to do not appear to show that these vessels were subject to seizure and detention or molestation, on the ground of any violation of the Treaty of 1818, or of international law; and it would appear from some of these statements, that such interference with the vessels of the United States is not made by officers in the Imperial service.

I respectfully request an examination into these several cases, and such reparation as, upon a full consideration, each case may be entitled to.

In connection with the statement that the interference with the vessels above referred to is alleged to have arisen from vessels not under the command of officers in the Imperial service, I do not desire to raise the question whether the exercise of the very delicate duty of enforcing the provisions of the Conventions and Treaties between the United States and the United Kingdom is capable of delegation to another power; but the Government of the United States thinks that the interests of the two nations are

more prudently guarded when entrusted to officers deriving their instructions and owing their authority and powers exclusively to the Governments whose rights under the Treaties they are instructed to enforce.

I have, &c.,
(Signed) HAMILTON FISH.

E. Thornton, Esq., C.B.,
&c. &c. &c.

SIR,

Newburyport, 25th July, 1870.

I have the honour to acknowledge the receipt of your note of the 22nd instant, relative to the seizure of two United States fishing vessels on the coast of Canada, and to the detention of others, and penalties imposed upon them.

I shall not fail to forward a copy of your note to the Governor-General of Canada, and to Her Majesty's Government. In the meantime, however, I enclose copies of depositions which have been taken with regard to the seizure of the fishing vessels "Wompatuck" and "J. H. Nickerson," and which I cannot doubt will convince you of the complete legality of those captures.

Indeed, I cannot but think that in the collection of laws relative to the fisheries which I have already forwarded to you you will find well-founded reasons for all the measures which have been taken with regard to the different vessels alluded to by you in your note of the 22nd instant.

These laws have been passed by the Parliament of the Dominion of Canada, and have received the approval of the Queen.

It is therefore, as I presume, the right as well as the duty of the Canadian authorities to enforce the observance of those laws. Indeed, there are certain points in which the officers commanding Her Majesty's ships of war do not interfere, as for instance, in the enforcement of the Revenue Laws, with which duties the Canadian authorities are alone entrusted.

But I have already had the pleasure of communicating to you the nature of the instructions which have been given both to Her Majesty's naval officers, and to the commanders of the Canadian cruisers, and of informing you that both the one and the other have been directed to use their powers with the greatest moderation and discretion.

I have, &c.,
(Signed) E. THORNTON.

Hon. Hamilton Fish,
&c. &c. &c.

(No. 38.)

SIR,

Newburyport, 25th July, 1870.

I have the honour to enclose, for your Excellency's information, copy of a note which I have received from Mr. Fish, relative to the seizure by the commander of the Canadian cruiser "Ida E." of the United States fishing vessels "Wompatuck" and "J. H. Nickerson," and to coercive measures taken with regard to some other American fishing vessels. I also enclose copy of my reply to Mr. Fish, in which your Excellency will perceive that I have transmitted him copies of the depositions taken with regard to the first-named two vessels with which you were good enough to furnish me.

Should your Excellency deem it expedient to forward me any further details of the proceedings of the Canadian authorities, with regard to the other vessels named in Mr. Fish's note, or to make any observations upon the contents of that note which it might be advisable to convey to Mr. Fish, I shall have much pleasure in furthering your views as far as may be in my power.

I have, &c.,
(Signed) E. THORNTON.

Sir John Young, Bart., G.C.B.,
&c. &c. &c.

CANADA.

No. 46.

No. 46.

Colonial Office to Foreign Office.

SIR,

Downing Street, 13th August, 1870.

* Page 193.

I have laid before the Earl of Kimberley your letter of the 8th instant,* enclosing further Despatches from Mr. Thornton respecting the Canadian Fisheries.

I am to request that you will inform Earl Granville that Sir John Young has promised to furnish by the next mail the depositions relating to the capture of two American fishing vessels, and of certain proceedings in the Gut of Canso, and that when this information is received, Lord Kimberley proposes to refer the papers to the Law Officers of the Crown for their report.

I am desired to add that Lord Kimberley entirely approves of the answers given by Mr. Thornton to the United States' Minister.

I am, &c.,
(Signed) H. T. HOLLAND.

The Under Secretary of State,
Foreign Office.

No. 47.

No. 47.

Colonial Office to Foreign Office.

SIR,

Downing Street, 16th August, 1870.

* Page 184.

† Page 184.

With reference to the letter from this Office of the 25th ultimo,* and to the answer from the Foreign Office of the 27th,† on the subject of the interviews which took place between the Earl of Kimberley and Mr. Campbell, the Postmaster-General of Canada, on matters connected with the Dominion, I am directed by his Lordship to request that you will state to Earl Granville that Mr. Campbell expressed an opinion that it is desirable that the proposed Commission on Fisheries should sit in America, and that Lord Kimberley entirely concurs in that view.

I am, &c.,
(Signed) H. T. HOLLAND.

The Under Secretary of State,
Foreign Office.

No. 48.

No. 48.

Colonial Office to Foreign Office.

SIR,

Downing Street, 23rd August, 1870.

* Page 160.

Governor,
No. 173,
26th July,
1870, p. 52.

Secretary of
State, No. 149,
9th June,
1870, p. 83.

Admiralty,
12th August,
1870, p. 140.

With reference to your letter of the 9th of May last,* and to subsequent correspondence respecting the complaint made by Mr. Dodge, a citizen of the United States, of insufficient protection to his fishing-boats and nets on the Labrador coast, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, the enclosed copy of a Despatch from the Governor-General of Canada, together with a copy of the Despatch from the Secretary of State, to which it is a reply.

I am also desired to enclose a copy of a letter recently received from the Admiralty on the same subject.

I am, &c.,
(Signed) H. T. HOLLAND.

The Under Secretary of State,
Foreign Office.

No. 49.

No. 49.

Foreign Office to Colonial Office.

Foreign Office, 23rd August, 1870.

SIR,

In reply to your letter of the 16th instant, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship concurs

in the opinion expressed by Lord Kimberley, that it is desirable that the proposed Commission on Fisheries should sit in America.

CANADA.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

No. 50.

No. 50.

Colonial Office to Foreign Office.

SIR,

Downing Street, 29th August, 1870.

I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, a copy of a Despatch from the Governor-General of Canada, enclosing Documents respecting the seizure, by a Canadian cruiser, of the United States fishing vessels "J. H. Nickerson" and "Wompatuck," and other matters connected with the Canadian Fisheries. Lord Kimberley desires me to state that, with the concurrence of Earl Granville, he proposes to answer the Governor-General in the terms of the Despatch of which a draft is enclosed. A copy is also enclosed of Lord Kimberley's Despatch of the 11th of August, to which reference is made in the concluding paragraph of the draft.

Governor,
No. 177,
2nd August,
1870, p. 53.

Sec. of State
to Gov.
No. 244,
7th Sept.
1870, p. 91.

It is requested that the Enclosures to Sir John Young's Despatch, which are forwarded in original, may be returned to this Department.

Sec. of State.
No. 221, of
11th August,
1870, page 87.

I am, &c.,
(Signed) H. T. HOLLAND.

The Right Hon. E. Hammond.

No. 51.

No. 51.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 30th August, 1870.

With reference to my letter of the 5th instant, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a further Despatch from Mr. Thornton, enclosing copies of a further correspondence relative to the seizure of fishing vessels by the Canadian authorities.

Page 193.

No. 357,
15th August,
1870.

I am &c.,
(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

(No. 357.)

Enclosures in No. 51.

Enclosures
in No. 51.

MR LORD,

Washington, 15th August, 1870.

With reference to my Despatch, No. 333, of the 25th ult., I have the honour to enclose copy of a further note which I have received from Mr. Bancroft Davis, Acting Secretary of State, transmitting copy of a deposition made by the master, and a part of the crew, of the "J. H. Nickerson," relative to the seizure of that vessel by the Canadian authorities. I have forwarded a copy of this note, and of its enclosure to the Governor-General of Canada, and in my answer to Mr. Davis, copy of which is also enclosed, I have expressed my hope that the master will feel it incumbent upon him to be present at the judicial inquiry, which was about to take place, so as to be able to furnish such evidence as he might think fit in the interest of the owners of the "J. H. Nickerson."

I likewise enclose copy of a Despatch from Sir John Young, in which his Excellency transmits a letter from the Minister of Marine and Fisheries, containing observations in reply to the contents of Mr. Fish's note of the 22nd ult., copy of which I had the honour to forward in my Despatch above mentioned.

I have also transmitted to Mr. Bancroft Davis a copy of the letter from the Canadian Minister of Marine and Fisheries.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

CANADA.

SIR,

Department of State,
Washington, 12th August, 1870.

Referring to my note of the 22nd ult., and to your reply of the 25th, in relation to the seizure of certain fishing vessels by Canadian authorities, I have now the honour to enclose, in corroboration of the statements made concerning the case of the "J. H. Nickerson," a copy of a deposition made by the master, and a part of the crew of that vessel, respecting the circumstances under which she was seized, which paper was communicated to this Department by the Honourable Benjamin F. Butler, of the House of Representatives.

Sir E. Thornton, K.C.B.

I have, &c.,
(Signed) J. C. B. DAVIS,
Acting Secretary.

District of Salem and Beverley,
Collector's Office, Salem, Mass., 21st July, 1870.

STATEMENT OF MICHAEL McDONALD, Master, respecting the seizure of the schooner "J. H. NICKERSON," of Salem, by the cutter "IDA E.," belonging to the DOMINION OF CANADA.

[This Statement will be found printed as an Enclosure to Sir John Young's Despatch, No. 203, of the 8th September, 1870, page 69.]

SIR,

Washington, 15th August, 1870.

I have the honour to acknowledge the receipt of your note of the 12th instant, enclosing copy of a deposition made by the master and a part of the crew of the "J. H. Nickerson," respecting the circumstances under which she was seized; and I shall not fail to forward a copy of this document to the Governor-General of Canada.

I avail myself, at the same time, of the opportunity of forwarding to you copy of a letter addressed by the Canadian Minister of Marine and Fisheries to Sir John Young, containing observations in reply to the note dated the 22nd ultimo, which I had the honour to receive from the Secretary of State, and of which I transmitted a copy to Sir J. Young.

As it would seem from this letter that a judicial inquiry was to have been made with regard to the case of the "J. H. Nickerson," I am not without hopes that the master of that vessel will feel it incumbent upon him to be present at the trial, and to give such evidence as he may possess in the interest of the owners.

Hon. J. C. Bancroft Davis,
&c. &c. &c.

I have, &c.,
(Signed) E. THORNTON.

(No. 53.)

SIR,

Niagara, 6th August, 1870.

I have the honour to enclose a Report furnished to me by the Hon. the Minister of Marine and Fisheries, in answer to your communication of July 25th.

Observations in reply to the Despatch of the Secretary of State of the United States, of 22nd ultimo.

The Report of Captain Scott, R.N., referred to in the letter of Mr. Mitchell, was forwarded to you in my Despatch of July 27th, No. 38.

E. Thornton, Esq., C.B.,
&c. &c. &c.

I have, &c.
(Signed) JOHN YOUNG.

Minister of Marine and Fisheries to Sir John Young, Bart., G.C.B.

CANADA

Marine and Fisheries, Canada,
Ottawa, 3rd August, 1870.

[This Letter will be found printed as an Enclosure to Sir John Young's Despatch,
No. 183, of 23rd August, 1870, page 65.]

No. 52.

No. 52.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 1st September, 1870.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 29th ultimo,* and I am to state to you, for the information of the Earl of Kimberley, that Lord Granville concurs in the terms of the answer which his Lordship proposes to address to Sir John Young in regard to the seizure of the United States fishing vessels "J. H. Nickerson" and "Wompatuck," and to other matters connected with the Canadian Fisheries.

* Page 199.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ARTHUR OTWAY.

No. 53.

No. 53.

Colonial Office to Foreign Office.

SIR,

Downing Street, 29th September, 1870.

With reference to your letter of the 30th of August* relative to the seizure of the American fishing vessel "J. H. Nickerson" by the Canadian authorities, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch received on this subject from the Governor-General of Canada.

* Page 199.

The Enclosures to Sir John Young's Despatch, with the exception of the first, are not forwarded, as copies have already been communicated to the Foreign Office by Sir Edward Thornton, in his Despatch to Earl Granville, No. 357, of the 15th of August.

Governor,
No. 203,
8th Sept.,
1870, p. 68.

A list of them is enclosed in order that they may be identified.

The Right Hon. E. Hammond.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 54.

No. 54.

Foreign Office to Colonial Office.

(Confidential.)

SIR,

Foreign Office, 29th September, 1870.

With reference to previous correspondence, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, copies of a Despatch and of its Enclosures from Her Majesty's Minister at Washington, respecting the question of Canadian Fisheries.

No. 374.
Confidential.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) ARTHUR OTWAY.

Enclosures in No. 54.

Enclosures
in No. 54.

(No. 374. Confidential.)

MY LORD,

Washington, 12th September, 1870.

A good deal of excitement has recently been created amongst the American fishermen who follow their calling in the waters adjacent to Canada by an announcement lately made by Her Majesty's naval officers that American fishing-vessels will not be allowed to trade or effect any commercial operations in Canadian ports where they have before now, at least during the existence of the Reciprocity Treaty, been in the

CANADA

habit of procuring provisions, salt, ice, fishing-tackle, of selling their fish, of transshipping it, and of enjoying many other facilities.

The grievance now complained of was brought to my notice by Mr. Bancroft Davis, Acting Secretary of State, on the 29th ult., just as I was about to start on a visit to Sir J. Young.

I availed myself of the occasion to endeavour to dissuade those of the Canadian Ministers with whom his Excellency was kind enough to put me in contact from insisting upon the strict observance of this interpretation of the letter of the Treaty of 1818. I fear, however, that I had but little success, whether from the soreness which the Canadian Government feel just now with regard to the United States, or from their determination to protect the fisheries at all risks and to render the pursuit as unprofitable as possible to American fishermen.

I have, however, thought it expedient to address a letter upon the subject to Sir J. Young, copy of which I have the honour to enclose. In it I have given the arguments made use of by Mr. Fish, which in his opinion prove that the Treaty of 1818 was not intended by its negotiators to prevent American fishing-vessels from trading in Canadian ports. Many American fishing-vessels have recently been captured for encroachments on the three mile limit; but, provided it be clearly proved that a real violation of the Treaty has been committed, the seizures seem to cause little irritation except to the owners and persons immediately interested. The restriction, however, which is now complained of, that of preventing vessels from entering the ports for the purpose of trading, landing, and transshipping fish, &c., is most severely felt; for it affects every American fisherman, and considerably diminishes his gains, inasmuch as it obliges him to return to his own ports to procure all the necessaries he may require, and to carry home his fish, instead of transshipping it into steamers which ply between the United States and Canadian ports, and enable him to return at once to obtain a fresh cargo.

Mr. Fish is probably well aware of the losses which will accrue to his countrymen if the restrictions now announced be rigorously enforced, and it is perhaps for this reason that he is earnest in denouncing it as a false interpretation of the Treaty, and as a very unfriendly act. He yesterday put to me the hypothetical case of a vessel fishing for turtles on the coast of Florida, and proceeding to a Canadian port to sell them, and the asked whether the vessel would be refused admittance; for, he added, American vessels have as full a right to fish outside the three miles from the Canadian coast as on the coast of Florida.

The Earl Granville; K.G.,
&c. &c. &c.

I have, &c.,
(Signed) EDWARD THORNTON

Sir E. Thornton to Sir John Young.

(No. 45. Confidential.)

Washington, 12th September, 1870.

[This Letter will be found printed as an Enclosure to Sir John Young's Confidential Despatch, of 23rd September, 1870, page 73.]

No. 55.

No. 55.

Colonial Office to Foreign Office.

SIR,

Downing Street, 1st October, 1870:

I am directed by the Earl of Kimberley to request that you will submit, for the consideration of Earl Granville, the enclosed Memorandum respecting the Canadian Fishery Question. The Memorandum explains itself, and I am to suggest that it should be placed in the hands of Sir Edward Thornton with instructions to communicate with Sir John Young—to whom a copy will also be confidentially transmitted—before bringing the matter under the consideration of the United States Government.

I enclose a Draft of the Despatch which, with Lord Granville's concurrence, Lord Kimberley proposes to address to Sir J. Young.

The Right Hon. E. Hammond,
&c. &c. &c.

I am, &c.,
(Signed) FREDERIC ROGERS.

Secretary of
State.
Confidential,
1st October,
1870, page 51.

Enclosure in No. 55.

MEMORANDUM FOR FOREIGN OFFICE respecting a Commission to settle limits of the right of exclusive FISHERY on the Coasts of BRITISH NORTH AMERICA.

A Convention made between Great Britain and the United States on the 20th of October, 1818, after securing to American fishermen certain rights to be exercised on part of the coasts of Newfoundland and Labrador, proceeded as follows:—

“And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty’s Dominions in America not included within the above limits.”

The right of Great Britain to exclude American fishermen from waters within three miles of the coast is unambiguous, and it is believed uncontested. But there appears to be some doubt what are the waters described as within three miles of “bays, creeks, and harbours.” When a bay is less than six miles broad, its waters are within the three mile limit, and therefore clearly within the meaning of the Treaty, but when it is more than that breadth, the question arises whether it is a bay of Her Britannic Majesty’s dominions.

This is a question which has to be considered in each particular case with regard to international law and usage.

When such a bay, &c., is not a bay “of Her Majesty’s Dominions,” the American fishermen will be entitled to fish in it except within three miles of the “coast.”

When it is a bay “of Her Majesty’s Dominions,” they will not be entitled to fish within three miles of it—that is to say (it is presumed) within three miles of a line drawn from headland to headland.

It is desirable that the British and American Governments should come to a clear understanding, in the case of each bay, creek, or harbour, what are the precise limits of the exclusive rights of Great Britain; and should define those limits in such a way as would be incapable of dispute, either by reference to the bearings of certain headlands or other objects on shore, or by laying the lines down on a map or chart.

With this object it is proposed that a Commission should be appointed to be composed of representatives of Great Britain, the United States, and Canada, to hold its sittings in America, and to report to the British and American Governments their opinion either as to the exact geographical limits to which the renunciation above quoted applies; or if this is found impracticable, to suggest some line of delimitation along the whole coast, which, though not in exact conformity with the words of the Convention, may appear to them consistent in substance with the just rights of the two nations, and calculated to remove occasion for future controversy.

It is not intended that the results of the Commission should necessarily be embodied in a new Convention between the two countries, but if an agreement can be arrived at, it may be sufficient that it should be in the form of an understanding between the two Governments as to the practical interpretation which shall be given to the Convention of 1818.

No. 56.

No. 56.

Colonial Office to Foreign Office.

SIR,

Downing Street, 3rd October, 1870.

I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Governor-General of Canada respecting the seizure, by the Canadian schooner “La Canadienne,” of the American fishing schooner “Lizzie A. Tarr.

Governor,
No. 202,
8th Sept.,
370, p. 66.I am, &c.,
(Signed) FREDERIC ROGERS.

The Right Hon. E. Hammond.

CANADA.

No. 57.

No. 57.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 8th October, 1870.

* Page 202.

In reply to your letter of the 1st instant,* I am directed by Earl Granville to request that you will state to the Earl of Kimberley that he concurs in the proposed instruction to Sir John Young in regard to the Canadian Fishery Question.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

No. 58.

No. 58.

Colonial Office to Foreign Office.

SIR,

Downing Street, 10th October, 1870.

* Page 201.

Vide S. of S.
Despatch, No.
265, of 12th
October, 1870,
p. 92.

Admiralty
letter, 6th
September,
1870, (P. E. I.)
page 233.

Gov. (P. E. I.)
No. 58, of 7th
Sept., p. 223.
Sir John
Young, No.
210, of 13th
Sept., p. 71.

† Page 180.

No. 59.

With reference to your letter of the 29th of September,* I am directed by the Earl of Kimberley to forward you the draft of a Despatch which, with Lord Granville's concurrence, the Earl of Kimberley proposes to address to Sir John Young by the mail of Thursday next, respecting the Canadian Fisheries.

I annex copies of the papers mentioned in the margin to which this Despatch has reference.

It will be observed that Sir John Young's Despatch No. 210, of 13th of September, is in answer to one founded on your letter of the 18th of July.†

The Right Hon. E. Hammond.

I have, &c.,
(Signed) FREDERIC ROGERS.

No. 59.

Foreign Office to Colonial Office.

SIR,

Foreign Office, 11th October, 1870.

In reply to your letter of the 10th instant, I am directed by Earl Granville to acquaint you, for the information of the Earl of Kimberley, that his Lordship concurs in the instruction which it is proposed to address to the Governor-General of Canada respecting the Fisheries question, of which a Draft was enclosed in your letter.

The Under Secretary of State,
Colonial Office.

I am, &c.,
(Signed) E. HAMMOND.

No. 60.

No. 60.

Colonial Office to Foreign Office.

SIR,

Downing Street, 18th October, 1870.

With reference to my letter of 10th inst., enclosing the copy of a Despatch addressed to the Governor-General of Canada respecting the Canadian Fisheries, I am directed by the Earl of Kimberley to suggest that in forwarding a copy of that Despatch confidentially to Sir E. Thornton, Lord Granville should caution him against admitting Mr. Fish's interpretation of the Treaty of 1818 as regards the exclusion of United States vessels from Canadian ports.

The Right Hon. E. Hammond.

I am, &c.,
(Signed) FREDERIC ROGERS.

No. 61.

Colonial Office to Foreign Office.

CANADA.

No. 61.

SIR,

Downing Street, 19th October, 1870.

Governor,
No. 221,
26th Sept.,
1870, p. 74.

I am directed by the Earl of Kimberley to transmit to you, to be laid before Lord Granville, a copy of a Despatch from the Governor-General of Canada, enclosing copies of Affidavits relating to the seizure of the United States fishing vessel "A. H. Wanson."

I am, &c.,

The Right Hon. E. Hammond,
&c. &c. &c.

(Signed) FREDERIC ROGERS.

The Canadian Delegates to the Colonial Office.

The Canadian Delegates to the Colonial Office.

Westminster Palace Hotel,
23rd March, 1869.

SIR,

Adverting to the question of "licences" authorized to be granted by the Governor-General of Canada to "foreign vessels," for fishing in British waters, within three marine miles of any of the coasts, bays, creeks, or harbours whatever of Canada, which was lately brought before you, in a personal conference, we beg to refer you, for the information of the Right Hon. Earl Granville, Secretary of State for the Colonies, to the Act respecting Fishing by Foreign Vessels, 31 Vic. cap. 61,* of the first Session of the Parliament of Canada.

* Vide Appendix, page 324.

You will observe that the first section of that Act provides for the granting by the Governor of licences to foreign vessels to fish in British waters, within the three marine miles above alluded to, and the subsequent sections prescribe the penalties, forfeitures, seizures, and proceedings necessary to enforce the execution of the Act against foreign vessels fishing without licence, in order to give protection to Her Majesty's subjects employed in the Fisheries.

We take this opportunity to state to you that last year licences were authorized to be granted by the Governor-General to foreign vessels for fishing within the limits above mentioned at a rate sanctioned by the Imperial Government, and that last year a number of foreign vessels forced themselves into British waters, for the purpose of fishing, without having the required licence and authority so to do; that these foreign fishing vessels have caused great loss, and have been the source of great annoyance to Her Majesty's subjects engaged in these Fisheries, and that the experience of last year has proved that the licence system cannot be properly enforced unless the vessels in the service of the Government of Canada, employed in the service of protecting the Fisheries, are aided and assisted by Her Majesty's Navy.

We beg, therefore, that the Right Hon. the Secretary of State for the Colonies may be induced to bring before the First Lord of the Admiralty, for his consideration, the important question of "the protection of the Fisheries," and may also be induced to move his Lordship for the giving of such instructions to the Commander of the North American and West Indian Naval Station as may be deemed necessary, in order that Her Majesty's Navy should aid and assist during this year the vessels in the service of the Government of Canada in the protection of the Fisheries, and in the enforcement of the provisions of the Act above referred to.

The Under Secretary of State,
Colonial Office.

We have, &c.;
(Signed) GEO. E. CARTIER.
WM. McDOUGALL.

Sir John Rose to the Colonial Office.

(Private.)

Sir John Rose to the Colonial Office.

MY DEAR SIR FREDERIC,

London, 25th May, 1870.

I think it very evident that the instructions as regards overhauling vessels in bays less than ten miles wide have been taken up wholly in consequence of the Circular of 1866. They have followed the wording quite too literally, speaking, you will see, in the name of *Her Majesty's Government*. *Vide* places I have marked X.

I feel pretty sure that the present instructions have not undergone revision in Macdonald's office, but that they emanate from the Fisheries Department, and that, in the hurry of the Session closing, the Council have not examined them very carefully.

Macdonald, in a letter to me of March 11th, says:—

“Our officers will be instructed *in no case* to seize a vessel which is not clearly within three marine miles from our shores, and after a few condemnations we will have little or no trouble. I may say that it is the present intention of the Canadian Government simply to exclude foreign vessels coming within the three mile rule. We shall not attempt to enforce our view of the headland question, leaving that to be a matter of negotiation and treaty. But even with respect to this, should the question come up, you must press on Her Majesty's Government that no negotiation should be entered upon or treaty concluded without reference to the Canadian Government. I have no doubt that the rule as laid down by Her Majesty's Government on this branch of the question is the correct one, and must ultimately be maintained; but for the sake of peace, and to prevent the possibility of complications, we will allow it to stand in abeyance for the present.”

The difficulty, it is true, can only arise as regards bays which are *more than six* and less than ten miles wide outside the range of coast conceded to the United States by the Convention of 1818; but on looking to the chart, there seem to be a good many small bays which I should judge might answer that description. It would be a pity if difficulty arose out of the attempted assertion of rights within this debatable region, and I should think that the Canadian Government would, under all circumstances, willingly act on any wish Lord Granville might express, that the sinuosities of the coast should be followed in all cases.

Has your attention been drawn to that part of the instructions beginning at line 7, page 7, which recommends the removal of a part of the American crew and the substitution of a new flag?

I have, &c.,
(Signed) JOHN ROSE.

The Under Secretary of State,
Colonial office.

NEWFOUNDLAND.

Despatches from the Secretary of State.

No. 1.

No. 1.

Lord Granville to Governor Hill, C.B.

(No. 26.)

SIR,

Downing Street, 8th June, 1870.

I have the honour to transmit to you, for your information and guidance, the enclosed copy of a correspondence between the Foreign Office and this Department, relating to a complaint made by a Mr. Dodge, a citizen of the United States of insufficient protection to his fishing-boats and nets on the Labrador coast, and to the question of American fishery rights in the waters of Labrador.

In the event of the complaint of the United States Government in the case of Mr. Dodge being brought to your notice, you will be guided by the advice of the Governor-General of Canada. I have further to inform you that it is the desire of Her Majesty's Government that in future all communications of a diplomatic character between the United States and the British North American Provinces should pass through the hands of the Governor-General.

I have, &c.,
(Signed) GRANVILLE.

Governor Hill, C.B.,
&c. &c. &c.

Foreign
Office, 9th
May, 1870.
Page 160.
Colonial
Office, 14th
May, 1870.
Page 161.
Foreign
Office, 19th
May, 1870.
Page 164.

No. 2.

No. 2.

Lord Granville to Governor Hill, C.B.

(No. 47.)

SIR,

Downing Street, 22nd August, 1870.

With reference to my Despatch No. 26,* of the 8th June, relating to the complaint of Mr. Dodge, a citizen of the United States, of insufficient protection to his fishing-boats and nets on the Labrador coast, I have the honour to transmit to you, for your information, a copy of a Despatch from the Governor-General of Canada, and also of a letter from the Board of Admiralty relating to this subject.

I have, &c.,
(Signed) KIMBERLEY.

Governor Hill, C.B.,
&c. &c. &c.

* Above.
Governor,
No. 173,
26th July,
1870. Page
52.
Adm 12th
Aug. 1870.
Page 140.

Despatch from the Governor.

Governor Hill to Lord Granville.

(No. 46.)

Government House, Newfoundland,
4th July, 1870.

(Received 25th July, 1870.)

MY LORD,

• Page 207.

I have the honour to acknowledge the receipt of your Lordship's Despatch, "Newfoundland No. 26,* of the 8th June, 1870," enclosing copy of a correspondence between "the Foreign Office and this Department, relating to a complaint made by a "Mr. Dodge a citizen of the United States, of insufficient protection to his fishing-boats "and nets on the Labrador Coast."

The complaint of the United States Government, in the case of Mr. Dodge, has not been brought to my notice.

I shall in future, in accordance with the desire of Her Majesty's Government, refer all communications of a diplomatic character between this Colony and the United States to the Governor-General of Canada.

The Earl Granville, K.G.,
&c. &c. &c.

I have, &c.,
(Signed) STEPHEN J. HILL.

Correspondence between Foreign Office and Colonial Office.

No. 1.

No. 1.

Colonial Office to Foreign Office.

SIR, Downing Street, 29th November, 1869.

I am directed by Earl Granville to transmit to you, to be laid before Lord Clarendon, a copy of a letter from the Board of Admiralty, forwarding copy of a letter from Vice-Admiral Wellesley, and of a report from Commander Pasley, of Her Majesty's Ship "Niobe," relative to the state of the Fisheries on the coasts of Newfoundland and Labrador, between the months of June and September last inclusive.

Admiralty.
1st Nov. 1869.
Page 212.

Lord Granville proposes, with Lord Clarendon's concurrence, in acknowledging the Admiralty letter, to state that his Lordship would be glad if naval officers hereafter visiting the French shore of Newfoundland would try to ascertain whether any definition of the limits of French Fishery in the rivers could be framed, which might be agreed on by the English and French Governments, without provoking any reasonable complaint on the part of the fishermen of either country.

I have, &c.,
(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office

No. 2.

No. 2.

Foreign Office to Colonial Office.

SIR, Foreign Office, 29th March, 1870.

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before the Secretary of State for the Colonies, a copy of a Despatch from Her Majesty's Ambassador at Paris, enclosing copy of a Report by Mr. West on the Fisheries of Newfoundland and Iceland.

I have, &c.,
(Signed) CHARLES SPRING RICE.

The Under Secretary of State,
Colonial Office

Enclosure in No. 2.

Enclosure in
No. 2.*Lord Lyons to the Earl of Clarendon.*

MY LORD,

Paris, 17th March, 1870.

I have the honour to forward to your Lordship a copy of a Despatch addressed to me by Mr. West, enclosing the accompanying Report relating to the Fisheries of Newfoundland and Iceland, and the Herring Fisheries of Scotland, gathered from French official sources.

I have, &c.,
(Signed) LYONS.

Mr. West to Lord Lyons.

MY LORD,

Paris, 16th March, 1870.

I have the honour to submit to your Lordship, for the information of Her Majesty's Government, the substance of the Reports of the officers commanding the French cruisers

NEWFOUND-
LAND.

for the Protection of the Fisheries on the coasts of Newfoundland and Iceland for the year 1869, as well as some statistical information respecting the French Herring Fisheries on the coast of Scotland.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

REPORTS of Officers Commanding French Cruisers for the Protection of the Fisheries on the Coasts of Newfoundland and Iceland.

NEWFOUNDLAND.

The principal fishing grounds in Newfoundland frequented by French vessels are the Great Bank, the Banquereau, and the St. Pierre Bank. The Banquereau, near the Island of Sable, is also a favourite place, and has of late years been much resorted to. The codfish is chiefly sought after. Deep sea lines are employed in this fishing, which is, it appears, attended with great danger owing to the incessant fogs and cyclones which blow during certain periods of the fishing season. The Bank Fisheries have, however, fallen off; while, on the other hand, the Fisheries in the Gulf have improved. The quantity caught here was so considerable that many vessels had not sufficient space to stow it. The catch on the East coast was also not so large as in the Gulf. It is remarked that, while the quantity of fish seems to have increased on the French coasts, it has greatly diminished on the coast of Labrador and the bays of the Blancs Sablons, Porteau, and other localities. The Jersey vessels, which usually resort to these places, did not take altogether 100 quintals (112 lbs. to the quintal) during the whole season. The Labrador cod, it is stated, is inferior to the Newfoundland fish, and sells at St. John's for 8s. the quintal less than the latter, which fetches 25s. the quintal, a fact which greatly depreciates the English cod Fisheries, and has caused attention to be turned to the herring fishery, which is carried on with great success. The reports recommend French vessels to follow this example when the supply of cod fails. There seems, however, to be some question raised by the English and American interests as to the right of French vessels to engage in the herring fisheries. On the coasts of Newfoundland the herring makes its appearance in May and September, but the species in May is only fit for baiting the cod lines. The fish caught in September are of a superior quality, and considerable profit might be made, especially as the Newfoundland herrings are free of duty in French ports. The cod fishery, however, is more lucrative, and the herring fishery is consequently neglected for it. It is on the West coast, in St. George's Bay and the mouth of the Humber River, that the English carry on the herring fishery on a large scale. The latter locality, where the fishing is carried on through the whole winter by means of holes cut in the ice, furnishes 50,000 barrels.

It appears that the "loup marin" (lamia or white shark), which formerly was caught in large quantities in the Newfoundland waters, has of late years become very scarce. A steamer well fitted out for this fishery could not very long ago take in six weeks fish to the value of 40,000*l*.

The salmon fisheries are falling off every year. The wholesale destruction of the fish at the mouths of the rivers is gradually leading to its extinction. The officers commanding the vessels stationed by the Government for the protection of the Fisheries, have paid great attention to the currents on the coasts, and their reports state that their direction greatly depends upon prevailing winds. On the West coast, however, the current runs generally to the N.E. at the rate of one mile an hour, while on the Labrador coast an opposing one is met with. They are of opinion that no general rule can be laid down.

ICELAND.

The report of the officer commanding the station states, that the year 1869 was an exceptional one as regards the quantity of ice on the North coast, and the frequency of icebergs.

The fishery fleet was composed of 289 vessels, measuring 27,515 tons, and carrying 4,975 men. These figures show a very considerable increase over previous years. The year, however, was a disastrous one. Many vessels were damaged and some lost, while the catch of fish was inconsiderable.

HERRING FISHERY ON THE COASTS OF SCOTLAND.

NEWFOUND-
LAND.

Five of the Channel ports sent boats to the Scotch coast during the year 1869. Boulogne furnished 112, measuring 6,454 tons, and carrying 2,079 men. Saint Valéry-en-Caux, 12, measuring 919 tons, and carrying 315 men. Fécamp, 36, measuring 2,509 tons, and carrying 897 men. Dieppe, 10, measuring 683 tons, and carrying 223 men. Saint Valéry-Sur-Somme, 1, measuring 45 tons, and carrying 15 men. Courseulles, Calais, Gravelines, and Dunkerque, which used to furnish vessels, appear to have abandoned this fishery. The number of vessels from Fécamp and Boulogne, however, increases every year. The report states that many new vessels have been fitted out in these ports. They are heavily constructed and bad sailers. The boats from Boulogne commenced operations between Aberdeen and Peterhead, 30 miles from the coast, and made good catches. It appears that these boats were formerly in the habit of going to Wick and Thurso, and there purchasing their cargo instead of fishing, but the report says that the boats are at present fitted out in such a manner as to render such fraudulent practices not only unnecessary but unprofitable, and that great improvement in this respect was observed during the season of 1869. The following Table shows the results of the Fisheries for 1869 as compared with the previous year:—

Ports.	1869.				1868.			
	Number of Boats.	Tonnage.	Number of Crews.	Value.	Number of Boats.	Tonnage.	Number of Crews.	Value.
				£				£
Boulogne	112	5,454	2,079	33,267	95	4,604	1,723	26,812
St. Valéry-en-Caux	12	919	315	2,214	12	919	316	3,176
Fécamp	36	2,509	897	11,739	32	2,262	814	8,749
Dieppe	10	683	223	2,748	10	679	230	2,602
St. Valéry-Somme	1	45	10	295
Total	171	9,610	3,524	50,263	149	8,464	3,083	41,339

From this Table it appears that the French Fisheries on the Scotch coast are gaining ground. The report attributes this to the fact that the French boats fish in deeper water and at a greater distance from the coast than the English boats, which never go out more than 10 or 12 miles. They thus come first across the shoals coming from the deep waters of the North Sea into the shallows.

There does not appear to have been any infraction of the Fishery Conventions on the part of the French boats during the whole season of 1869

No. 3.

No. 3.

Colonial Office to Foreign Office.

SIR,

Downing Street, 2nd August, 1870.

With reference to the correspondence noted in the margin respecting a complaint made by Mr. Dodge, a citizen of the United States, of insufficient protection to his fishing-boats and nets on the Labrador coast, I am directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch from the Governor of Newfoundland, stating that the complaint of the United States Government had not been brought to his notice, and that he would in future refer all communications of a diplomatic character between the Colony and the United States Government to the Governor-General of Canada.

Foreign Office, 9th May, 1870. Page 160. (Canada.)
Colonial Office, 14th May, 1870. Page 164. (Canada.)
For. Off., 19th May, 1870. Page 164. (Canada.)
Governor, No. 46, 4th July, 1870. Page 208.

I have, &c.,
(Signed) FREDERIC ROGERS.

The Under Secretary of State,
Foreign Office.

NEWFOUND-
LAND.Correspondence between the Colonial Office and the
Admiralty.

No. 1.

No. 1.

Admiralty to Colonial Office.

SIR,

Admiralty, 4th October, 1869.

I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Secretary of State for Colonial Affairs, that Vice-Admiral George Wellesley, in a letter dated the 24th ultimo, states that on the 15th of that month he transferred his flag to the "Barracouta," and proceeded in her to Cape Breton, Prince Edward Island, and the Magdalen Islands, on a tour of the Fishery Districts, and returned to Halifax on the evening of the 23rd ultimo.

I am, &c.

(Signed) JOHN HENRY BRIGGS.

The Under Secretary of State,
Colonial Office.

No. 2.

No. 2.

Admiralty to Colonial Office.

SIR,

Admiralty, 1st November, 1869.

I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of Earl Granville, copy of a letter from Vice-Admiral Wellesley, dated the 19th ultimo, No. 70, transmitting a Report from Commander Pasley, of Her Majesty's ship "Niobe," relative to the state of the Fisheries on the coasts of Newfoundland and Labrador, between the months of June and September last inclusive.

A copy of a letter from the Governor of Newfoundland, approving of the manner in which Commander Pasley conducted an investigation into disputes between English and French fishermen at Quirpon, is also transmitted herewith.

I am, &c.,

(Signed) VERNON LUSHINGTON.

The Under Secretary of State,
Colonial Office.Enclosure
in No. 2.

Enclosure in No. 2.

NEWFOUNDLAND FISHERIES, 1869.

(No. 70.)

SIR,

"Royal Alfred," at Halifax, 19th October, 1869.

You will be pleased to lay before the Lords Commissioners of the Admiralty the accompanying Report from Commander Russell S. Pasley, of the "Niobe," which ship has been employed in the protection of the Fisheries on the coasts of Newfoundland and Labrador, between the months of June and September inclusive.

2. It appears that there have been only two or three quarrels between the French and English fishermen during the past season, and the only serious one was that which took place at St. Anthony's, which was reported to their Lordships by my predecessor; in his letter, No. 245, of the 26th August last. In Commander Pasley's letter of the 17th August, which was enclosed therein, addressed to the Governor of Newfoundland, a reference is made to the claim on the part of the French to the right of fishing up the rivers; and I observe, on looking over former correspondence on the subject of these Fisheries, that this has been invariably made a subject of complaint by the settlers on

what is called the French shore, whenever our cruisers touch at the places where the French fish the rivers; but I cannot find that any instructions have yet been given by their Lordships as to whether this right is admitted.

3. I have much satisfaction in bringing to their Lordships' notice the judgment and ability displayed by Commander Pasley in the execution of the duties he was called upon to perform; and I enclose, for their Lordship's information, a copy of a letter addressed to that officer by his Excellency the Governor of Newfoundland, expressing approval of the mode in which he conducted an investigation into the circumstances connected with alleged depredations by English fishermen on the French establishment at Quirpon.

NEWFOUND-
LAND.30th Sept.
1869.

I have, &c.,
(Signed) GEORGE G. WELLESLEY,
Vice-Admiral.

The Secretary of the Admiralty.

GENERAL FISHERY REPORT ON THE NEWFOUNDLAND AND LABRADOR COASTS.

Her Majesty's Ship "Niobe," at St. John's,
24th September, 1869.

SIR,

I beg to forward, for your information, the following particulars of the places visited by me during the summer cruise on the coasts of Newfoundland and Labrador, between the months of June and September, 1869 (inclusive).

Trepassey.—Population in summer 1,200, in winter about 750. 22 large boats, 17 small. Catch of cod good.

Plucentia.—Population 800. 23 large boats; 17 small. Catch of cod good.

Burin.—Population 2,000. 50 large boats; 250 small. Catch fair. Fish larger than usual, but not so plentiful. A general complaint against the use of the Boultow by the French on the St. Pierre banks, as a great number of spawning fish are taken, and a large number destroyed by the Boultows preventing other fish from coming into the coast, thereby compelling the Burin fishermen to use the Boultow or starve. Place thriving.

Little St. Lawrence.—Population 30; small boats 7, catch fair, place very poor.

Harbour Briton. Population 330; small boats 6, catch very good, place flourishing.

Old Man's Bay.—Population 6; small boats 6, catch of cod and salmon very good.

Little River.—Population 50; small boats 9, catch of cod and salmon fair.

Rameau Islands.—Population 35 families; 60 small boats, catch bad and small. Some years a number of schooners from Nova Scotia visit these Islands for herrings, which damages the fishing for the inhabitants, who cannot afford to buy such large seines as are used by these vessels. Place tidy.

Little Harbour La Poile.—Population 157; no boats. Fishing establishment of Messrs. Deboucher, Rinouf, Clement, & Co.; catch of cod good, salmon fair, seal poor. With the exception of the establishment the place is very wretched, houses looking ready to fall. Several widows made inquiries about poor relief, which has been stopped by Government. It does a great deal of harm, as it encourages extravagance in the summer and idleness in the winter.

A lighthouse wanted; light dues last year amounting to 11,000 dollars.

St. George's.—Population 1,200; large boats 8, small 160. Catch good; herrings, which are only caught in May, also good. Place thriving.

Humber River.—Population 2,000, much scattered; 300 boats. Catch of cod very good, salmon fair. Place looks new; a number of new clearance and log-houses.

Bonne Bay.—Population 200; boats 12; catch bad; place very poor; inhabitants had been suffering from measles and low fever; gave them a small quantity of port wine and some preserved meats.

A complaint was made by Solomon Wilton, George Reens, George Major, and William Barnes, against the masters of 4 schooners, who, about the middle of last November, came to Bonne Bay, and fished for herrings with seines in spite of being warned off; and moreover threatened to return this November in spite of the close of the season. The names of the men are, Captain Wine, Bay of Islands; William Petit Paul, schooner "Annie"; C. Brown, Bay of Islands, garrison schooner "Louisa," Nova Scotia; and Smith, Prince Edward Island, name of schooner unknown. This proceeding, besides

NEWFOUND-
LAND.

being illegal, damages the prospects and fishing of the inhabitants at Bonne Bay very much.

Sydney.—To coal.

Little Natashquan, Canada.—Population 200; boats 50. Catch of cod good. This port comes under the Canadian Government, whose fishing schooner, the "Canadienne," visited the place shortly before I arrived. The rivers are leased to different parties by Government.

Hawkes Harbour, Newfoundland. French Shore.—Population 40. Boats 10. Catch of cod fair. One French fishing establishment on Keppel's Island.

St. Margaret's Bay.—One man (Jesse Humber), last year; could not find him this.

Current Island.—Population 29. Boats 2. Fishing fair. Place very poor.

Anchor Point.—Population 40. Boats 10. Catch small. Place flourishing. A complaint was made by a Mr. Grange that the French had prevented him from fishing the River of Ponds, netting the same themselves. Mr. Grange also told me that the French fished the River of Castons.

The complaint about the River of Ponds was made by Mr. Grange's father to Captain Lock in 1848, but it remains the same.

Forteau, Labrador.—Population 35. Boats 20. Catch small. Place clean and tidy.

Wood Island.—Population 130. Boats 36. Catch middling. Place clean.

Blanc Sablon.—Population 120. Boats 31. Catch bad. Seal-fishing fair.

Bradore.—Population 8. Seal fishing fair.

Sedges Island. Population 6, one family. Fish seal; with family at Sedges Island.

Belles-amours, Canada.—Population 1 family. 3 boats. Catch of cod, fair.

L'Anse-à-Loup. Population 6. Catch bad. 13 small boats. Appearance poor.

Loup Bay.—Population 30. Catch bad. Appearance poor.

Little Nodiste Island.—Population 50. Boats 9, small. Catch bad. Appearance poor.

Black Bay.—Population 40. Boats 4. Catch bad. Appearance very poor.

Penivare Brook.—Population 1 family, Mr. Elworthy. Catch of salmon fair. Mr. Elworthy complained that another man placed his nets in Penivare Brook; Mr. Elworthy claims the brook as his property, having paid £150 to Messrs. Stabb, Rowe, & Co., St. John's, for it. On inquiry at St. John's, ascertained that as the Newfoundland Government had not sold the brook, it was equally free to any one.

Red Bay.—Population 100. Boats 20. Catch poor. Appearance poor.

St. Anthony's, Newfoundland.—Population 20, English. Boats 10. Salmon catch fair. Fishermen complained about French seining captain cutting their nets. On inquiry it seems the English placed their nets in the way of the seines, and refused to take them up, considering they had an equal right to fish with the French. A report of this disturbance was forwarded by me separately from St. John's (No. 8 Fishing Report, *vide* Enclosures).

Croc Harbour.—The French head-quarters during the summer; they have generally one man-of-war, and a store ship there. The place is neat, with nice gardens. The graves of 3 English midshipmen are kept neat.

St. John's, Newfoundland.—To coal, &c.

Shoe Cove.—Population 250. Boats 65. Catch very bad. Place neat. Complaint made against 2 French seining captains, Garey and Pouliguan, of La Scie Harbour, for having in July cut and robbed the English nets outside Shoe Cove, after sheltering in the cove on account of a gale of wind. Reported the case by letter to Mr. Basset, Commander of His Imperial Majesty's Ship "La Fouche Tréville," at Croc, who promised to inquire into it.

Croc and St. Anthony.—As before stated.

Quirpon.—Only one English resident, Frederic Pine, who takes charge of the French fishing establishments during the winter. In compliance with two letters received, one from his Excellency the Governor of Newfoundland; and one from Capitaine Mer, of His Imperial Majesty's Ship "Roland," I proceeded to inquire into a charge brought against four men for destroying the French houses. As only one of the men, William Crabbe, was at Quirpon, I could not take any steps against the others. On trying to get evidence on oath, it seemed that complainant's wife, Mrs. Pine, was the only one who

had seen Crabbe take any wood; she refused to be sworn, but said she saw him through a telescope, a distance of nearly one mile. Of course I could not act upon that evidence. Pine then accused Crabbe of stealing some of his rape; Crabbe immediately brought a counter charge against Pine for causing his dog to be shot and killed. It was in fact a case of mutual recrimination, so I dismissed the whole, leaving, however, a warning in writing with Mr. Pine, the custodian of the French property, to the effect that British subjects must not interfere with, destroy, or appropriate any of the French houses or stores left on the island on their return to France.

Indian Tickle, Labrador.—Population 500. Boats 150. Catch good; Mr. Henerbury's party having taken 12,000 quintals. Herrings plentiful. Place thriving.

Cartwright Harbour, Sandwich Bay.—Population variable. Messrs. A. B. Hunt & Co., fishing establishment. Catch 400 tierces of salmon, and 40,000 lbs. potted in tins. Salmon all over by 20th July.

Gready Island.—Population 1,000 in summer. Boats 250. Catch fair; 120 quintals to a boat, 2 men, very clean and in good order. Fishing commences 20th July, ends 1st October.

Occasional Harbour.—Population 150. Boats 50. Catch fair. A complaint was made by Charles Russell against another fisherman for stealing his fish. I referred him to the Judge, this case being beyond my jurisdiction, after taking Russells's statements on oath, which I left at Battle Harbour to be delivered to the Judge on his arrival.

Deer Harbour.—No inhabitants.

Size Harbour.—Population 1 family. One boat. Catch fair, 25 quintals. Herring struck in on the 25th August.

Charles Harbour.—Population 220. Boats 120. Catch good, 85 quintals a boat. Herring struck in on the 1st September.

Battle Harbour.—Population 250. Boats 120. Catch good, 8,000 to 9,000 quintals. Herring struck in on the 1st September. There had been no interference by the American fishing schooner this year.

Regarding the disturbance at St. Anthony's, as stated in my letter No. 8, of the 18th ultimo, I communicated with Monsieur Basset, of His Imperial Majesty's ship "Latouche Tréville," at Croc, and also called in at St. Anthony's, and warned the British fishermen not to interfere in any way with the French.

With respect to the "river salmon fishery," Capitaine Basset agreed with me in saying that the French had no right to the freshwater fishing. But in the case of the rivers of Ponds and Castors, he imagined the French originally fished these rivers by mutual agreement with the English.

This does not appear to be the same with the river in Hare Bay; and I also heard lately that the French fish a river in Pistolet Bay.

Having a few cases of fever amongst the ship's company, I deemed it necessary to return to St. John's to send the men to hospital, so was unable to remain on the Labrador coast as long as I originally intended. I anticipate no disturbances, however, that could be prevented by the presence of a ship of war.

I am unable to give you any information relative to the working of the licence system, not having met with any vessels encroaching on our fishing grounds during the cruise.

In conclusion, I consider that on the Newfoundland coast the fishing this year has been about the average; but on the Labrador coast, though fish have been plentiful, the weather, during the summer, has been so bad as to render "drying fish" nearly impossible; as a specimen, at Indian Tickle, out of 12,000 quintals caught between 20th July and 10th September, not more than 200 quintals had been shipped up to the latter date.

I have, &c.,
(Signed) RUSSELL J. PASLEY,
Commander.

Vice-Admiral G. Wellesley, C.B.,
&c. &c. &c.

NEWFOUND-
LAND.

Abstract of places visited by Her Majesty's Ship "Niobe," during the summer cruise on the Coasts of Newfoundland and Labrador, between the months of June and September, 1869.

Date of		Name of Place.	Population.	General appearance of place.	Number of Boats.		Catch of Cod up to date.	GENERAL REMARKS.
Arrival.	Departure.				Large.	Small.		
1869.								
23rd June	26th June	Tropassay	720 in winter 1220 in summer	Clean	22	17	Good	Fish plentiful, but small.
26 "	27 "	Placentia	800	Buildings in a very dilapidated condition	23	7	Good	Season promises well.
27 "	28 "	Burin	2000	Houses very clean, and in good condition	50	250	Fair	Cod very large, though scarce.
28 "	30 "	Little St. Lawrence	30	Very poor indeed		7	Fair.	
30 "	4th July	Harbour Briton	330	In good order, houses good		6	Very good	Herring commencing, Caplin going out.
4th July	4 "	Old Man's Bay	6	Neat		6	Good	Salmon plentiful.
4 "	6 "	Little River	50	Neat		9	Fair	Fair catch of salmon; numbers of seals up the river.
6 "	6 "	Ramea Islands, Little Harbour	Families 35	Very neat and clean		60	Bad and small	Herring late, and Caplin scarce.
6 "	11 "	La Poile	157	Clean, and in good order		8	Good	Catch of seal poor, salmon good.
12 "	14 "	St. George's	1200	Most thriving		160	Good	Herring good, only caught in May.
14 "	19 "	Humber River	2000	Houses very clean, and in good condition		300	Very good	Salmon very large and plentiful.
19 "	20 "	Bonne Bay	200	Very poor		12	Very bad	People suffering from menses, and low fever.
21 "	26 "	Sydney C. B.						To coal, &c.
27 "	30 "	Little Natashquan	200	Clean and tidy				This place is protected by the Queen's Government.
31 "	4th Aug.	Hawke's Harbour	40	Clean		10	Fair	One firm, Monsieur Lorraine, &c.
4th Aug.	5 "	St. Margaret's Bay	29	Poor		2	Fair.	
5 "	5 "	Curiant Island	40	Clean		10	Poor	
5 "	7 "	Anchor Point	35	Clean		20	Fair.	
6 "	6 "	Forlean	130	Clean		36	Middling	
6 "	6 "	Wood Island	120	Miserable		31	Poor	
7 "	7 "	Blanc Sablon	8	Poor				Caught 120 seal
7 "	7 "	Bradore	6	Poor				Seal fishing middling; caught 25.
7 "	7 "	Ledges Island	One family	Very clean				Seal fishing with the above.
7 "	9 "	Belles Amours	6	Poor		3	Good.	
9 "	9 "	L'Anso à Loup	30	Poor		13	Poor.	
9 "	9 "	Loup Bay	50	Poor		9	Bad.	
10 "	10 "	Little Modiste Island	40	Very poor		4	Bad.	
10 "	10 "	Black Bay	One family	Very poor		10	Poor	Catch of salmon fair.
10 "	10 "	Pouwauro Brook	100	Miserable and poor		20	Poor	Catch of salmon good.
10 "	10 "	Red Bay	20 English	Poor		10	Fair	Catch of salmon fair.
11 "	12 "	St. Anthony						

ABSTRACT of places visited by Her Majesty's Ship "Niobe," during the summer cruise on the Coasts of Newfoundland and Labrador, between the months of June and September, 1869—*continued.*

Date of		Name of Place.	Population.	General appearance of place.	Number of Boats.		Catch of Cod up to date.	GENERAL REMARKS.
Arrival.	Departure.				Large.	Small.		
1869.								
12 Aug.	13 Aug.	Croo		Very neat				French head quarters.
14 "	1st Sept.	{ St. John's, Newfoundland- land						To coal and provision ship, &c.
2nd Sept.	3 "	Shoo Cove.	250	Neat		65	Very bad	Complaint against French fishermen.
3 "	4 "	Tilt Cove						Union Copper mine.
5 "	6 "	Croo						
6 "	6 "	St. Anthony.						
6 "	8 "	Quirpon.						
9 "	10 "	Indian Tickle	500	Thriving		150	Good	French fishing establishment. Mr. Hemmerby's party having taken 12,000 quintals. Herring plentiful this season.
10 "	11 "	{ Cartwright Harbour, Sandwich Bay	Variable	Very clean, and in good order				{ Messrs A. B. Hunt and Co. have taken 400 tierce of salmon, and 4000 tins of potted salmon.
11 "	13 "	Greedy Island	1000 in summer	In good order		250	Fair	120 quintals to a boat containing two men.
13 "	15 "	Occasional Harbour.	150	Poor		50	Fair.	
15 "	20 "	Deer Harbour	Nil.					
Between the 15th and 20th of September.		{ Size Harbour	8	Poor		1	Fair	Herring struck in August 25th.
		Charles Harbour	220	In good condition			Good	Herring struck in September 1st.
		Battle Harbour	250	In good condition				{ Sealing steamer "Wolf," with fever to Battle Harbour.
22 Sept.	22 Sept.	{ St. John's, Newfound- land						

NEWFOUND-
LAND.(No. 114.)
SIR,Government House, Newfoundland,
30th September, 1869.

I have had the honour to receive your letter of the 24th instant, relative to your inquiry into the circumstances connected with depredations said to have been committed by English fishermen on the French establishment at Quirpon on this coast, and a copy of a warning to all British subjects.

I am much pleased with the manner with which you have conducted your investigation, and consider that you have not only acted with promptitude and judgment, but that you have, by your judicious display of good tact, more closely bound the friendly feelings which unite the French and English naval commanders on this station.

I have, &c.,
(Signed) STEPHEN J. HILL.

No. 3.

No. 3

Colonial Office to Admiralty.

SIR,

Downing Street, 13th Dec., 1869.

* Page 212.

I am directed by Earl Granville to acknowledge the receipt of your letter of the 1st of November,* forwarding copy of a letter from Vice-Admiral Wellesley, and of a report from Commander Pasley, of Her Majesty's ship "Niobe," relative to the state of the Fisheries on the coasts of Newfoundland and Labrador, between the months of June and September last.

Lord Granville desires me to request that you will state to the Lords Commissioners of the Admiralty that his Lordship would be glad if naval officers hereafter visiting the French shore of Newfoundland, would endeavour to ascertain whether any definition of the limits of French fishery in the rivers could be framed, which might be agreed on by the Governments of England and France, without provoking any reasonable complaint on the part of the fishermen of either country.

It must of course be understood that the officers would merely collect information and opinions as occasion offered, and would not enter into any negotiations or understanding with the French officers, or even indicate to them any terms as likely to be approved by Her Majesty's Government.

I am, &c.,
(Signed) FREDERIC ROGERS.

The Secretary to the Admiralty.

PRINCE EDWARD ISLAND.

Despatches from the Governor.

No. 1.

No. 1.

The Officer Administering the Government to Lord Granville.

(No. 43.)

Prince Edward Island, Government House,

10th May, 1869.

(Received 3rd June, 1869.)

MY LORD,

I have the honour to report that, on the 7th instant, I received the following telegram from the Governor-General:—"Will the Government of Prince Edward Island agree, as they did last year, to the interchangeability of the fishery licence?" and that by the advice and consent of the Executive Council, I this day transmitted the following reply to his Excellency:—"The Government of this island will agree, as they did last year, to the interchangeability of the fishery licence."

I have, &c.,

(Signed) R. HODGSON,
Administrator.

The Earl Granville, K.G.,

&c. &c. &c.

No. 2.

No. 2.

The Officer Administering the Government to Lord Granville.

(No. 51.)

Prince Edward Island, Government House,

29th May, 1869.

(Received 15th June, 1869.)

(Answered, No. 28, 22nd June, 1869, page 228.)

MY LORD,

I have the honour to report, that on the requisition of the Governor-General, I have transmitted to him two Commissions under the Island Act of the 6th Victoria, cap. 14, intituled "An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the coasts and harbours thereof." One of these Commissions is directed to Captain P. A. Scott, R.N., in command of the "Druid;" the other to Napoleon Lavoie, Esquire, commanding "La Canadienne."

2. I have also further to report, that on a like requisition from Vice-Admiral Sir Rodney Mundy, commanding on the British North American Station, six similar Commissions have been transmitted to him; in these no names were inserted, leaving them to be filled up at Sir Rodney's own discretion. I forward herewith, for your Lordship's information, a copy of the Commission alluded to.

I have, &c.,

(Signed) R. HODGSON,
Administrator.

The Earl Granville, K.G.,

&c. &c. &c.

Enclosure in No. 2.

Enclosure in
No. 2.

PRINCE EDWARD ISLAND.

By his Honour SIR ROBERT HODGSON, Knight,

Administrator and Commander-in-Chief in and over Her Majesty's Island Prince Edward, and the Territories thereunto belonging, Chancellor, Vice-Admiral, and Ordinary of the same, &c., &c., &c.

To of
Greeting:

By virtue of the power and authority vested in me, in and by an Act of the General Assembly of the said Island, passed in the sixth year of the reign of Her most

PRINCE
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gracious Majesty Queen Victoria, intituled "An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the coasts and harbours thereof," as well as in virtue of all other power vested in me by her said Majesty, I hereby authorize and empower you the said
to go on board any ship, vessel or boat, within any port, bay, creek or harbour, in the said island; and also to go on board any ship, vessel or boat hovering within three marine miles of any of the coasts, bays, creeks, or harbours thereof, and in either case freely to stay on board such ship, vessel, or boat so long as she shall remain within such port or distance; and if any such ship, vessel, or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, you are hereby authorized to bring such ship, vessel, or boat into port, and to search and examine her cargo; and to examine the master upon oath—which oath you are hereby authorized to administer—touching the cargo and voyage; and if the said ship, vessel, or boat shall be foreign, and not navigated according to the law of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing within such distance as aforesaid, of such coasts, bays, creeks, or harbours of this Island, and thereby such ship, vessel, or boat, or the cargo thereof, shall have become forfeited, then you are hereby empowered to seize and secure the same, and to dispose thereof in manner directed by the said Act, or by any other Act or law in force in the said island. And you are hereby authorized and empowered in all other respects to carry into effect the provisions of the said recited Act; and also of the statute made and passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of His late Majesty King George the Third, mentioned and referred to in the said recited Act, in so far as the same is applicable to the Fisheries or to any illicit trade on the said coast, and within the said bays, creeks, or harbours of, this island, and to call to your assistance and aid all such person or persons as shall be deemed requisite and necessary for all or any of the purposes aforesaid.

Given under my hand and the Great Seal of this island, at Charlotte-town, in the said island, this _____ day of _____ in the year of our Lord one thousand eight hundred and _____ and in the _____ year of Her Majesty's reign.

By Command,

No. 3.

No. 3.

The Officer Administering the Government to Lord Granville.

(No. 89.)

Prince Edward Island; Government House,
24th September, 1869;
(Received 18th October, 1869.)

MY LORD,

I have the honour to report that Vice-Admiral Wellesley, O.B., Commander-in-Chief on the North American and West India station, arrived here on the 21st instant, in Her Majesty's ship the "Barracouta," Commander Bevan.

2. The Vice-Admiral had previously visited the fishing grounds on the south side of this island, touching at the Magdalen Islands, Port Hood in the Island of Cape Breton, and the Port of George Town in this Colony, and he left Charlotte Town on the 23rd instant for the fishing grounds on the north side of Prince Edward Island.

3. Vice-Admiral Wellesley's zeal in desiring to acquire a personal knowledge of his duties in connection with the Fishery question, evinced by this visit, so immediately after the assumption of his command, cannot be too highly commended.

I have, &c.,

(Signed) R. HODGSON,
Administrator.

The Earl Granville, K.G.,
&c. &c. &c.

No. 4.

The Officer Administering the Government to Lord Granville.

(No. 31.)

Prince Edward Island, Government House,
11th May, 1870
(Received 2nd June, 1870.)

MY LORD,

I have the honour to report the arrival here on the 5th instant of the United States iron steam gun-boat "The Frolic," Commander Henry Wilson.

2. The American Consul for this Colony informs me, not officially, that Commander Wilson has been sent here by his Government to superintend, and preserve order amongst the fishermen subjects of the United States engaged in the Fishery in the Gulf of St. Lawrence, and that with this view he purposes making Charlotte Town Harbour his rendezvous for the summer, or during the fishing season.

3. The occurrence is altogether one of so novel a nature, that I have deemed it my duty to apprise Vice-Admiral Wellesley of it.

I have, &c.,
(Signed)R. HODGSON,
Administrator.The Earl Granville, K.G.,
&c., &c., &c.

No. 5.

No. 5.

The Officer Administering the Government to Lord Granville.

(No. 33.)

Prince Edward Island, Government House,
1st June, 1870.
(Received 14th June, 1870.)

MY LORD,

I have the honour to acknowledge the receipt of your Despatch, No. 14,* of the 25th of April last, enclosing an extract from the 'Montreal Herald,' taken from the 'Canadian News' of the 14th of April, in which it is alleged that the Fisheries of Prince Edward Island have been thrown open to foreign fishermen, and desiring me to inform you "whether this statement is correct, and whether any steps have been taken towards opening these Fisheries."

* Page 228.

2. The statement is untrue; the Fisheries of this Colony have not been thrown open to foreign fishermen, and no steps have been taken to open them.

3. On the contrary, the local Government is acting in unison with the Dominion Government, and do not intend to grant any fishery licences this season, thus adopting the policy of the Dominion Government on the Fishery question.

4. I have referred the statement of the 'Herald' to my Council, and have required them to answer it by Minute, but as no meeting of the Council, since the receipt of your Lordship's Despatch, occurred until to-day, the desired Minute could not be prepared in time to forward with this communication, but it shall be transmitted by the next mail.

I have, &c.,
(Signed)R. HODGSON,
Administrator.The Earl Granville, K.G.
&c. &c. &c.

No. 6.

No. 6.

The Officer Administering the Government to Lord Granville.

(No. 36.)

Prince Edward Island, Government House,
14th June, 1870.
(Received 28th June, 1870.)

MY LORD,

With reference to my Despatch No. 33, of the 1st instant, I have now the honour of transmitting a Minute of the Executive Council made on the statement taken from the 'Canadian News,' forwarded to me in your Despatch, No. 14,* of the 25th of April last, received on the 20th ultimo, on the subject of the Fisheries of this Island.

Minute of
Executive
Council, on
statement in
'Canadian
News' on the
subject of
Fisheries.

2. I think it necessary to call your Lordship's attention to the fact, that the traffic

* Page 228.

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alluded to in the Minute of Council is not of recent origin, but appears to have commenced some years previous to my administration of the Government.

3. Since the date of my Despatch before referred to, at the request of the Governor-General, I have transmitted to him commissions issued under the Island statute, 6th Victoria, cap. 14,* for the officers in command of the seven vessels to be employed by the Dominion Government in the protection of the Fisheries, and at the like request of Vice-Admiral Wellesley, have furnished him with four similar commissions, in addition to those previously possessed by officers in his command.

I have, &c.,
(Signed) R. HODGSON,
Administrator.

The Earl Granville, K.G.,
&c. &c. &c.

* Vol. Appendix, p. 336.

Enclosure
in No. 6.

Enclosure in No. 6:

EXTRACT FROM MINUTES OF THE EXECUTIVE COUNCIL.

Council Chamber, 1st June, 1870.

At a Meeting of Council.

Present—His Honour the Administrator of the Government, &c., &c., in Council.

The Board having had under consideration a Despatch, No. 14, from Earl Granville to the officer administering the Government of Prince Edward Island, dated Downing Street, 25th April, 1870, enclosing an extract from the 'Canadian News' of the 14th of April, 1870, wherein it is alleged that the Fisheries of Prince Edward Island have been thrown open to foreign fishermen, and wherein his Lordship wishes to be informed whether this statement is correct, and also whether any steps have been taken towards opening these Fisheries—the following Minute was agreed to:—

The Fisheries of Prince Edward Island have always been protected, during the fishing season, by two or three of Her Majesty's ships, which have been sent annually by the Admiral on this station to protect the Fisheries, and the Government of Prince Edward Island has not thrown those Fisheries open to foreigners. The right of using these Fisheries could only be acquired by a foreigner by taking out a fishing licence. Licences could be obtained from the proper officers in this Island, or in certain ports of the Dominion. Those issued by the Government of this Island were recognised by the Dominion, and were construed to allow the holder the privilege of fishing in Dominion waters, while those issued by the Dominion were in like manner recognised here and construed to admit the holder to the privilege of using the Island fishing grounds.

The fee charged for the licence was alike in both cases, the Government of this Island having always acted in accordance with the Government of the Dominion on this subject, and it may be here observed that this Government has very recently applied to the Dominion Government to know what course they intend to pursue this season on this question, so that this Government may act in concert with them in the coming season, as it has always done in the past.

It would have added largely to the revenues of this Island to have issued licences giving the use of the Island Fisheries to foreigners, and fixing the charge for the licence at a fair and reasonable rate. If this had been done, hundreds of foreign vessels would have availed themselves of the licence, but the rate fixed by the Dominion for the past year was so high that foreigners preferred running the risk of seizure, or fishing outside the three-mile line, to taking a licence. It may be asked—Why did we not fix such a rate as we considered best for ourselves? But it can be answered that this Government was desirous to follow out a uniform course of action with the Dominion on this point, and therefore adopted the same rate of tax.

It is stated in the extract that American fishermen dared not land a sail to get dried in the Dominion ports last year, and that they were driven off if seen going into the harbours. The Council was not aware that this was the case, as American fishermen have always called at ports in the Straits of Canso, either for the purpose of getting supplies, or to have their fares freighted home from thence.

It is true that large fishing stores have been opened in this Island, but not as the result of Americans visiting our ports. They were opened for the purpose of fitting out our own fishing vessels, and in the year 1864 a weekly line of steamers having been placed on the route between Charlotte Town, in this Island, and Boston, Massachusetts, the American fishermen soon found that they could, by availing themselves of these

boats, have their fares delivered in their own market from this Island much more speedily than they themselves could carry them there from the fishing grounds. This led them to call into Island ports for the purpose of shipping their fares home, and finding outfitting stores established here at which they could get their supplies even cheaper than they could at home, they were induced to refit their vessels here. The situation of this Island, in the centre of the best fishing grounds, also helps to induce them to use its ports in preference to those of the Dominion, although they are here subject to a light and anchorage duty of sixpence per ton on their vessels, and have no similar tax to pay in Dominion ports.

It is also stated in the extract that American and Colonial boats fish side by side, that the islander sells his fish to the American, who takes it into his own market free of duty, and that the duty is then divided between them. It is true that the boats or vessels of the foreigner and the colonist often fish side by side outside of the three-mile line, and sometimes inside of it, either with or without a licence, but it is not believed that our people sell their fish to the Americans in the way stated in the extract. That they do not do so to any extent is abundantly proved by the fact that 10,871 barrels of Island caught mackerel were last year exported to the United States market, by islanders who there paid the duty of two dollars per barrel on them, while they also exported large quantities of herrings, alewives, and codfish, besides what was used for home consumption, and when we consider the limited number of the population of the Island, who here live by fishing, it becomes evident that they could not have sold many fish to Americans, for the purpose of having them smuggled into American ports.

The American and Colonial fishermen do, however, often fish side by side, but they do so on board the same vessel; indeed it is generally admitted that fully one half of those who fish in American vessels are colonists; they are usually the best fishermen, and as all fish on shares they prefer going in an American vessel to a Colonial one. In the American vessel their fish goes into the best market free of the duty to which it would be subject if taken on board a British vessel. It will thus be seen that the duty of two dollars per barrel, imposed by the American Government, not only adds to their revenue, but also serves as a bounty to induce the colonist to fish in the American vessel in preference to the British one, while on the other hand it deprives the colonists who have embarked their capital in the Fishery of those men who best understand the business and would be most likely to make it remunerative. A very large number of the young men of the maritime colonies are thus annually induced to leave our shores, and they soon take up their permanent residence in the fishing towns of the United States and add to their wealth and population.

The local Government has always found force enough to keep order and cause the law to be respected when large bodies of fishermen were on shore in the ports of this Island, and believes that the police or constabulary, and the volunteer militia will be found sufficient to repress any disturbance they may attempt.

The Council does not consider that any other points in the extract call for a reply, as they refer more particularly to the Dominion itself—it will be sufficient to say, in conclusion, that foreigners enjoy no greater rights in Prince Edward Island than they do in the Dominion, while they have here to pay light and anchorage duty to which they are not there subject.

(Certified) WILLIAM DES BRISAY,
Assistant Clerk Executive Council.

No. 7.

No. 7.

The Officer Administering the Government to Lord Granville.

(No. 58.)

Government House, Prince Edward Island,
7th September, 1870.

(Received 21st September, 1870.)

(Answered, No. 32, 20th October, 1870, page 230.)

MY LORD,

I have the honour to report that a Minute, (a copy of which is enclosed) was submitted by me to my Council, on the subject of a system which has prevailed for many years last past at the Ports of this Colony, in admitting American fishing vessels to entry, and permitting their cargoes of fish to be landed and transhipped to the United States.

2. I was induced to move in this matter, which I considered clearly illegal, partly because I had good reason to believe that the Commanders of Her Majesty's ships

Adminis-
trator's
Minute for
Council of 3rd
August, 1870.

PRINCE
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Island
Statute, 6 Vic.
c. 14. Vide
Appendix,
page 336.

Adminis-
trator's
Despatch,
No. 33, of 1st
June, 1870.
Page 221.

Resolutions
of Executive
Council of
2nd Sept.
1870.

* Page 221.
Council
Minute of 1st
June, 1870.

Adminis-
trator's
Despatch,
No. 36, of 14th
June, 1870.
Page 221.

employed on the coasts of this Island for the protection of the Fisheries, and who hold Commissions under the Island Statute 6th Vict. cap. 14, would not respect any entry by such vessels at the Customs, but would seize them and their cargoes, and prosecute them to condemnation, which I afterwards stated verbally in Council, and partly because the Dominion Government, having interdicted and prevented such practice, not only in the Strait of Canso, where more especially it had been extensively carried on, as also in all their other Ports, I conceived that the Government of this Colony was bound in terms of my Despatch No. 33, of the 1st of June last, wherein I stated it was acting in unison with the Dominion Government to pursue the same course.

3. After some demur and hesitation on the part of the Council, being convinced that the practice was illegal by the opinion of their own Crown Officers, to whom the point was referred, they adopted the suggestion in my Minute, and a Circular was accordingly addressed to the Collectors of the several Ports of this Colony, forbidding it for the future, and requiring them to notify the Commanders of all American fishing vessels arriving at their respective Ports, that they would be held strictly to conform to the provisions of the Treaty of 1818, between the Imperial Government and that of the United States of America, and the Consul of the United States for this Island was also notified to the same effect.

4. The Council, however, thought fit to adopt a series of resolutions on the subject (a copy of which I enclose), partaking of the nature of a protest and remonstrance to Her Majesty's Government, on the pecuniary loss that they conceive will ensue to persons in this Colony engaged in the trade with the American fishermen, by the interdiction of the practice, censuring the Dominion Government, and questioning the policy of the Imperial Government in permitting it.

5. In the first of these Resolutions, to which I beg leave to call your Lordship's attention, they assert that having acknowledged in their Minute of the 1st June last, transmitted in my Despatch No. 36,* of the 14th June, that the practice now interdicted then prevailed, and no positive inhibition of it having emanated from the Colonial Office, they were warranted in assuming that no change affecting this Island would be carried into effect, and although I brought to their notice the fact that by the wording of my Despatch No. 33, of the 1st June last, which was submitted to them and read in Council before transmission, your Lordship's predecessor was well warranted in believing that the future practice in this Island, in relation to the Fishery question, would be shaped in accordance with that of the Dominion Government, with which it was also fair to presume the Imperial Government was content, this, therefore, was a sufficient reason why no special intimation or direction was given on the point. They have chosen to assume otherwise, and to word their Resolution accordingly.

6. Since the prohibition of the practice, I have ascertained beyond doubt from Captain Hardinge, of Her Majesty's ship "Valorous," one of the Fishery Protection vessels, which has visited the Port of Charlotte Town several times during this season, and is now here, that no entry at the Customs by American fishing vessels would have precluded him under his instructions from seizing them, if engaged in landing or transshipping their fish, and in such event the unseemly spectacle would have been exhibited of the Commander of one of Her Majesty's ships, in Her own ports, setting at nought the action of Her Customs, for the good and valid reason that they had exceeded their authority, and acted contrary to law.

7. I have been induced, by a strong sense of what I deemed an imperative duty, to adopt the course I have pursued in this matter, and I trust that my conduct will obtain your Lordship's approval, however distasteful it may be, not only to my Council, but to other parties more deeply and personally interested.

I have, &c.,
(Signed)

R. HODGSON,
Administrator.

The Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 7.

MINUTE for the EXECUTIVE COUNCIL.

The Administrator of the Government deems it to be his duty to bring to the notice of the Executive Council a practice which prevails in the Port of Charlotte Town, of admitting vessels owned and registered in the United States of America, and engaged in the Fishery in the Gulf of St. Lawrence, to entry at the Customs, and permitting their cargoes of fish to be landed and transshipped to Ports in the United States.

The Administrator of the Government entertaining grave doubts as to the legality of this practice, under the provisions of the Treaty of 1818, between the Imperial Government and that of the United States of America, relating to the Fisheries, submits the matter to the consideration of the Executive Council, in order that if the Administrator's doubts be well founded, prompt action may be taken on the part of the Government to put a stop to the practice; and the Consul of the United States of America notified that in future it will not be permitted at the Port of Charlotte Town, or at any of the other Ports of this Island.

R. HODGSON,
Administrator, 3rd August, 1870

EXTRACT FROM MINUTES OF THE EXECUTIVE COUNCIL.

Council Chamber, 2nd September, 1870.

At a Meeting of Council,

Present—His Honour the Administrator of the Government, &c. &c. &c.

The following Minute in answer to the Memorandum of his Honour the Administrator of the Government, which was laid before the Board on the fourth day of August, relative to the practice prevailing in the Port of Charlotte Town, of allowing American fishing vessels to entry at the Customs, and also permitting their cargoes of fish to be transhipped to Foreign Ports was agreed to, and the same was read, and is as follows:—

To His Honour SIR ROBERT HODGSON, Knight, Administrator of the Government of PRINCE EDWARD ISLAND, &c., &c., in Council.

SIR,
The Council have had under consideration your Honour's Minute of the third ultimo, calling their attention to "a practice which has prevailed of admitting the fishing vessels of the United States to entry at the Custom House, and permitting their cargoes of fish to be landed for the purpose of transshipment to United States Ports," also intimating that your Honour entertains doubts as to the legality of the practice, under the provisions of the Treaty of 1818.

In reply the Council ask permission to state,

1st. That the existence of the practice referred to by your Honour was mentioned in the Council's Minute of June 1st in the present year, addressed to your Honour in reply to a Despatch of Earl Granville's, wherein his Lordship desires to be informed whether certain statements concerning the Fisheries in Prince Edward Island are correct. As a copy of that Minute was forwarded to the Colonial Office, and its receipt has been acknowledged but no comment made on its contents, or any intimation given to this Government that a change of system with regard to Foreign fishing vessels was contemplated, the Council had assumed that the explanations offered by them were satisfactory, and that no change affecting this Island would be carried into effect at present.

2nd. Lest it should be supposed that the people of this Island alone of all the Maritime Provinces of British North America have, deliberately, and with the connivance of their Local Government, carried on an illegal but lucrative business, the Council remind your Honour, for the information of the Secretary of State, that the practice referred to in your Honour's Minute has, until a recent period, been permitted in the Strait of Canso, that the New Brunswick Railway has transported large quantities of fish of Foreign take, and that Her Majesty's Representatives could not fail to be cognizant of the practice of transshipping cargoes and supplying Foreign fishing vessels. Moreover, no attempt at concealment thereof was made in the summer of 1869, during the visits of two Vice-Admirals and several Commanders of Her Majesty's ships to Charlotte Town Harbour. Consequently it is not surprising that merchants and traders in this Colony should regard the practice referred to without suspicion of its illegality.

3rd. Neither can it truly be said that the Government of this Colony have sought to obstruct, or have even declined to promote the Imperial policy on the Fishery question. In proof of this the Council remind your Honour that in previous years when the

system of licensing Foreign fishing vessels prevailed, it had been usual to fix the amount of tonnage duty by preconcerted arrangement between the Colonies concerned; and in the month of June last, when the time for issuing licences was at hand, and no intimation of the intentions either of Her Majesty's or the Dominion Government had been received, your Honour was advised to send a Telegram to Sir John Young, requesting to be informed "what action his Government intended to take with reference to the Fisheries," and expressing "the desire of this Government to act in unison with the Dominion." The reply to that message was received here on the 13th of June, and covered various documents named in the margin from the Department of the Minister of Marine at Ottawa. Several of these, if the co-operation of this Colony was desired, might have been communicated at a much earlier date, in which case the subject might have been brought to the notice of the Legislature, or timely warning might have been given both to Colonists and Foreigners not to engage in a traffic which is now held to be illegal. The neglect of this ordinary act of Intercolonial courtesy will cause serious loss to Her Majesty's subjects of all classes, as well as to Foreigners engaged in the fishing business, some of whom have carried on extensive transactions in this Island, with mutual advantage to themselves and the Colonists.

4th. Such was the position of the Fishery question when your Honour addressed the Minute of August 3rd to this Board. The Crown Law Officers of the Colony were in consequence called on to report their opinions thereupon, which they did to the effect that "the United States fishing vessels have no legal right to enter any of the harbours of this Island, for the purpose of entering at the Customs and landing and transshipping cargoes of fish."

The illegality of the practice concerning which the Minute of August 3rd informs the Board that your Honour "entertains doubts" being thus established, the duty of the Council was obvious; and your Honour is aware that such instructions have been sent to the Collectors of Customs throughout the Colony, as will prevent Foreign fishermen from entering the harbours of the Island, except for the purposes permitted by the Convention of 1818. One United States vessel, however, entered at Charlotte Town while the subject was still under the Council's consideration, and transhipped her cargo of mackerel, and this case has been made the subject of a communication by Admiral Wellesley to the Admiralty.

5th. Having thus acquitted themselves of their duty and caused the law to be carried into effect—though at a sacrifice to their fellow Colonists which will be little understood or appreciated elsewhere—the Council feel bound to protest against the policy now readopted. That policy may have been well suited to the circumstances of the Colonies fifty-two years ago, but the Council ventures to think is inapplicable at the present day, when free-trade principles (which a British statesman has declared to be the principles of common sense) form the basis of the British commercial code. Fairly stated, the old policy revived demands from the people of Prince Edward Island the exclusion from their harbours of their best customers; customers who have employed the Colonial marine in importing salt for their use—the Colonial mechanics in manufacturing their barrels; customers who have purchased their clothing, their provisions, and their sea-stores in the Island markets. These men are to be expelled until the forty million citizens of the United States succumb to the pressure put upon them by four million Colonists, and consent to concede reciprocity in exchange for free access to the fishing grounds and harbours of the Colonies. The Council submit that this was not the principle on which the Cobden Treaty was based. It was not held by its authors that because France declined to reciprocate with England as fully as the latter desired, therefore England should tax or exclude the wines of France, until she consented to remove the protective duties from iron and cutlery!

6th. If little can be said in favour of the revived policy of 1818 in an economical point of view, still less can be said in its favour politically. It is essentially a policy of exclusion enforced by the armed ships of Her Majesty's fleet, and therefore tends seriously to estrange a friendly but proud and sensitive nation, whose citizens freely admit the right of Great Britain to prevent them from fishing within the three mile limit, but who assert that their cargoes of fish taken without that limit are not contraband, and that to refuse the right of entry to such at Colonial Custom Houses is unfriendly, and, they affirm, illegal. And this view of the case has been taken by an eminent Queen's Counsel of the Prince Edward Island Bar, the Hon. Edward Palmer, who agrees with the Attorney and Solicitor-General in their view, supposing the cargoes of fish for which entry was sought to have been taken *within* the three mile limit, but asserts that for cargoes taken beyond that limit the right of entry cannot be refused.

7th. The Council would also urge upon the notice of the Secretary of State the

impolicy of pressing an odious system upon an unwilling people. They assure Lord Kimberley that their fellow Colonists are enthusiastically loyal in their attachment to Her Majesty's person and family, and are notorious for their adherence to British institutions. Their trade connections with United States citizens have not undermined their loyalty, nor persuaded them that better political institutions than their own exist elsewhere, and the Council submit that the policy of exclusion will lack one of the chief elements of success if it does not obtain the moral support of the people for whose supposed benefit it is undertaken.

8th. The Council would ask permission to call the Secretary of State's attention to the Addresses of the Legislative bodies of this Island in the years 1849 and 1852; also to the correspondence between Earl Grey, Sir John Pakington, and Lieutenant-Governor Bannerman, in the years 1852 and 1853. The latter far-seeing gentleman predicts the establishment of the carrying trade of fish on the New Brunswick Railway, to which allusion has been made in the second paragraph of this Minute, and describes a state of things which in many respects has a very exact parallel at the present time.

9th. In conclusion, the Council desire to press upon your Honour's notice, for the guidance of the Secretary of State, the importance of cultivating friendly relations with the neighbouring Republic, and the danger of persevering in the present system, which is certain to produce discontent amongst the Colonists, and bad feeling, if nothing worse, in the United States.

A renewal of the Reciprocity Treaty would be a most welcome boon to the people of this Colony, and, failing that, a reduction of the United States tariff upon the produce and manufactures of the Colonies, but the Council do not believe that the United States can be coerced into compliance by the pressure now applied, and they apprehend that all such attempts, discrediting as they do the soundness of the principles of free trade, will only increase the difficulty of gaining the desired concession by negotiation.

All which is respectfully submitted by the undersigned.

ROBERT P. HAYTHORNE,
(President),

BENJAMIN DAVIES,
H. J. CALLBECK,
PETER SINCLAIR,
GEORGE W. HOWLAN,
A. A. MACDONALD,
W. W. LORD.

(Certified.)

CHARLES DES BRISAY, A.C.C.

PRINCE
EDWARD
ISLAND.

Despatches from the Secretary of State.

No. 1.

No. 1.

Lord Granville to the Officer Administering the Government.

(No. 28.)

SIR,

Downing Street, 22nd June, 1869.

I have the honour to acknowledge the receipt of your Despatch No. 51,* of the 29th of May, forwarding a copy of a form of commission issued by you to officers employed in the protection of the Fisheries under the Act of the Prince Edward Island Legislature entitled "An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the coasts and harbours thereof."

I observe that this commission empowers the holder to carry into effect the provisions of an Imperial Act of 9th Geo. III., in so far as the same is applicable not only to the Fisheries but also to "any illicit trade on the said coast."

I have, however, to point out to you that it is no part of the duty of the officers of Her Majesty's Navy to exercise any interference for the suppression of illicit trade.

I have, &c.,

(Signed)

GRANVILLE.

The Officer Administering the Government
of Prince Edward Island.

* Page 219.

No. 2.

No. 2.

Lord Granville to the Officer Administering the Government.

(No. 14.)

SIR,

Downing Street, 25th April, 1870.

I enclose an extract from the 'Montreal Herald,' taken from the 'Canadian News' of the 14th of April, in which it is alleged that the Fisheries of Prince Edward Island have been thrown open to foreign fishermen. I have to request you to inform me, at your earliest convenience, whether this statement is correct, and whether any steps have been taken towards opening these Fisheries.

I have, &c.,

(Signed)

GRANVILLE.

The Officer Administering the Government
of Prince Edward Island.

Enclosure
in No. 2.

Enclosure in No. 2.

Extract from the "Canadian News," of the 14th April, 1870.

The Fisheries Question.

The 'Montreal Herald,' the leading Opposition paper of Montreal, in discussing this question, says through its Ottawa correspondent that this is how the matter stands:—

"While the Reciprocity Treaty existed the American vessels made Nova Scotian ports their places of purchasing supplies, barrels, salt, spare sails, and stores of all kinds. They could buy there more moderately than they could at home, and besides that they ran over and bought the fish from Nova Scotian fishermen, who had thus a market for a large portion of their catch at their own door. But last year the American fishermen dared not land a sail to get dried, but were driven off if seen going into the harbours, and the consequence was that they made for Prince Edward Island, where more liberal views prevailed. What would appear to confirm the truth of this statement is the action of the people of Prince Edward Island, who have thrown their Fisheries open to foreign, which in their case means American fishermen. The result is that large fishing stores, where all sorts of supplies can be purchased, have been established and the people on the island are making money fast. Nay, more, the island and American boats fish side by side; the latter buy from the former; they divide the duty levied by the American Government; both make money out of the transaction, and both are

“satisfied. What inducement will there be for Prince Edward Island to come in, and what support is given to the friends of union there if they are to be deprived of a lucrative business which they at least do not regard as a hardship? This might be a question worthy of consideration by those who indulge in such extravagant talk as we have lately heard in the House on this and kindred subjects. As to the disturbances in the Bay of Chaleurs, these evidently form the subject of police regulations. That there have been serious annoyances caused and not unfrequently depredations committed by American fishermen landing on the coast, there can be no doubt. That the inhabitants are very much irritated about them is natural and only what might be expected, and the proper course was certainly to bring their complaints before the Legislature. Sir John A. Macdonald’s answer to a question on that head was most extraordinary, and opens up a curious field for speculation if the principle he laid down were carried out to its legitimate conclusion. He said that there was a plain difference between preserving order on sea and on land. In the case of disturbances among the foreign fishermen afloat, it would be the duty of the Dominion Government to interfere and put a stop to them; but if fishermen landed, it was then the duty of the local authorities to act; the magistrates could call out the *posse comitatus* and punish the offenders. The *posse comitatus* might not impossibly consist of an old decrepit policeman, whose principal duties might be to impound stray cows and pigs, and who could scarcely be expected to deal with a mob of between 1000 and 2000 excited fishermen, loosed from the usual restraints of authority. If the principle laid down be correct, then a hostile force might proceed in fishing boats, land and create a disturbance, establish themselves and levy war, beyond the reach of any authority higher than a village *posse comitatus*. That is a fair deduction. What happens in the fishing season in Scotland happens here. Crowds of fishermen gather along the coast, the villages are taken possession of by them, and riots and disturbances have been of no unfrequent occurrence. But their repression was not left to the local magistracy. Hardy, well-armed cruisers were sent to the coast to take measures for preserving order among the fishermen either on sea or land. Under reciprocity or a licensing system the same disturbances would be sure to take place, and, as matters of fact, did take place, so that the question of admitting or excluding foreign fishermen and that of preserving order are separate. Of course the cruisers employed to watch the fishermen to see that licences were taken out should be charged with the duty of enforcing order and protecting property either afloat or ashore, but as police vessels they would be required under any circumstances.

“Great stress has been laid on the fact that our own fishermen were driven out of the trade and compelled to seek employment in the States, owing to the Americans being allowed to fish in our waters. The real state of the case in this particular is said to be this, which however refers more particularly to Cape Breton and the eastern part of Nova Scotia:—While the Reciprocity Treaty existed, and the reasons are stronger now for continuing the same thing, the American vessels ran down to the fishing grounds with only a sufficient crew to navigate the vessel. They began in spring and fished all the season. As soon as the vessel’s cargo was completed, she ran for her port, Gloucester, or some other New England port, the Nova Scotia fishermen remaining at home. They prefer this mode of working, as they are saved all outlay for vessels, nets, supplies, &c., and receive their wages readily. They are, in fact, much less from home than they would be if owning vessels themselves, and make as good seamen, one great plea for protecting our Fisheries being that it is a nursery for the navy. In the western part of Nova Scotia the system is different, the Nova Scotians themselves owning the vessels. The people of Cape Breton, who largely supplied the fishing vessels, are complaining now bitterly that the trade has passed them and gone to Prince Edward Island, to their great loss.”

No. 3.

No. 3.

Lord Granville to the Officer Administering the Government.

(No. 16.)

SIR,

Downing Street, 8th June, 1870.

I have the honour to inform you that it is the wish of Her Majesty’s Government that in future all communications of a diplomatic character, between the United States Government and the British North American Provinces, should pass through the hands of the Governor-General of Canada.

PRINCE
EDWARD
ISLAND.

Instructions to this effect have been transmitted to the Governor-General of Canada and to the Governor of Newfoundland.

I have, &c.,
(Signed) GRANVILLE.

The Officer Administering the Government.
Of Prince Edward Island.

No. 4.

No. 4.

Lord Granville to the Officer Administering the Government.

(No. 20.)

SIR,

Downing Street, 30th June, 1870.

* Page 221.

I have the honour to acknowledge the receipt of your Despatches Nos. 33* and 36 † of the 1st and 14th of June, relating to the Prince Edward Island Fisheries.

† Page 221.

I learn with pleasure that it is not the intention of your Government to adopt a different system with regard to the Island Fisheries to that adopted by the Government of Canada.

I have, &c.,
(Signed) GRANVILLE.

The Officer Administering the Government
Of Prince Edward Island.

No. 5.

No. 5.

Lord Granville to the Officer Administering the Government.

(No. 32.)

SIR,

Downing Street, 20th Oct., 1870.

* Page 223.

I have received your Despatch, No. 58,* of 7th September, respecting the practice in Prince Edward Island of admitting American fishing vessels to entry in the ports of the colony, and permitting the landing and transshipment of fish from them. You enclose a Minute of the Executive Council, drawn up, I am bound to observe, with much ability and moderation, in which they deprecate any alteration of the existing practice.

† Vide Ap-
pendix,
page 310.

I do not understand that the proceedings now in question are prohibited specifically by any imperial or local law, but that they are considered to be illegal in virtue of the 3rd and 4th clauses of the Imperial Act, 59 Geo. III., c. 38, † which is founded on the following clause of the Convention of 1818.

“ Provided, however, that the American fishermen shall be admitted to enter such bays and harbours, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever.”

But in Mr. Cardwell's letter to the Lords of the Admiralty, of 12th April, 1866, this prohibition was noticed as follows:

“ Her Majesty's Government do not desire that the prohibition to enter British bays should be generally insisted on, except when there is reason to apprehend some substantial invasion of British rights.”

This instruction has never been revoked, and I have accordingly requested the Lords of the Admiralty to call Admiral Fanshawe's attention to it, and to inform him that the transshipment of fish and obtaining supplies by American fishing vessels cannot be regarded as a “ substantial invasion of British rights,” such as is contemplated by those instructions, and that unless there is some further ground of interference than the Convention of 1818, and the consequent enactments of 59 Geo. III., c. 38, (imperial) and 6 Vic. c. 14 (P. E. I.), † he is not to prevent United States fishermen from entering British bays for such purposes.

† Vide Ap-
pendix,
page 330.

If the Admiral should be of opinion that this admission of United States vessels renders it difficult practically to enforce the law against fishing in British waters he will be instructed to report that opinion, and the grounds on which he has formed it, and Her Majesty's Government will then consider whether it is necessary that any further steps should be taken for the more effectual prevention of encroachment on the Colonial Fisheries by foreign vessels.

I have, &c.,
(Signed) KIMBERLEY.

To the Officer Administering the Government
Of Prince Edward Island.

PRINCE
EDWARD
ISLAND.

Colonial Office to Foreign Office.

No. 1.

No. 1.

Colonial Office to Foreign Office.

SIR,

Downing Street, 11th June, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Earl of Clarendon, a copy of a Despatch from the Governor of Prince Edward Island, reporting the arrival at Charlotte Town of the United States iron steam gun-boat, the "Frolic," which is reported to have been despatched by the United States Government to superintend and preserve order amongst the fishermen of the United States engaged in the Fishery in the Gulf of St. Lawrence.

No 31, 11th
May, 1870.
Page 221.

The Under Secretary of State,
&c. &c. &c.

I am, &c.,
(Signed) H. T. HOLLAND.

No. 2.

No. 2.

Colonial Office to Foreign Office.

SIR,

Downing Street, 19th October, 1870.

I am directed by the Earl of Kimberley to transmit to you, to be laid before Lord Granville, the enclosed copy of a Letter from the Board of Admiralty respecting the seizure of the Fishing schooner "S. G. Marshall," by Captain Edward Hardinge, of Her Majesty's ship "Valorous," for acts done in contravention of the Merchant Shipping Act.

Adm. Gth
October, 1870.
Page 234.
Gov. No.
225, 29th Sep-
tember, 1870.
Page 75.

I am also desired to enclose a copy of a Despatch received on the same subject from the Governor General of Canada.

The Under Secretary of State,
&c. &c. &c.

I am, &c.,
(Signed) FREDERIC ROGERS.

PRINCE
EDWARD
ISLAND.

Correspondence between the Colonial Office and the Admiralty.

No. 1.

No. 1.

Colonial Office to Admiralty.

SIR,

Downing Street, 23rd June, 1869.

No. 51, 29th
May, 1869.
Page 219.

I am directed by Earl Granville to transmit to you a copy of a Despatch from the officer administering the Government of Prince Edward Island, enclosing a form of commission issued to officers employed in the protection of the Fisheries, under an Act of the local Legislature, entitled "An Act relating to the Fisheries, and for the prevention of illicit trade in Prince Edward Island, and the Coasts and Harbours thereof."

No. 28, 22nd
June, 1869.
Page 228.

I am also desired to enclose a copy of the answer which, with their Lordships' communication, Lord Granville purposes to return to this Despatch.

I am, &c.,

(Signed)

FREDERIC ROGERS.

The Secretary to the Admiralty.

No. 2.

No. 2.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 25th June, 1869.

With reference to your Letter of the 23rd inst., enclosing copy of a Despatch from the officer administering the Government of Prince Edward Island, relative to the form of commission issued to officers employed in the protection of the Fisheries, together with copy of an answer which it is proposed to return to the Despatch in question, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, that they concur with Earl Granville in the propriety of pointing out that it is no part of the duty of officers in Her Majesty's Navy to exercise any interference for the suppression of illegal trade, which holders of the commission would be empowered to carry into effect, and instructions will be issued to Admiral Sir R. Mundy accordingly.

I am, &c.,

(Signed)

W. G. ROMAINE.

The Under Secretary of State for the Colonies.

No. 3.

No. 3.

Colonial Office to Admiralty.

SIR,

Downing Street, 11th June, 1870.

No. 31, 11th
May, 1870.
Page 221.

I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a Despatch from the Governor of Prince Edward Island, reporting the arrival at Charlottetown of the United States iron steam gun-boat the "Frolic," which is reported to have been despatched by the United States Government to superintend and preserve order amongst the fishermen of the United States engaged in the Fishery in the Gulf of St. Lawrence.

I am, &c.,

(Signed)

H. T. HOLLAND.

The Secretary to the Admiralty.

No. 4.

Sir F. Rogers to the Secretary to the Admiralty.

PRINCE
EDWARD
ISLAND.

No. 4.

Gov. Canada
No. 105, 25th
May.

Page 19.

Gov. Canada
No. 112, 27th
May.

Page 21.

S. S. to Lt.-
Gov. P. E. I.,
No. 14, 25th
April.

Page 228.

Lt.-Gov. P.
E. I., No. 33,
1st June.

Page 221.

Lt.-Gov. P.
E. I., No. 36,
14th June.

Page 221.

S. S. to Lt.-
Gov. P. E. I.
No. 20, 30th
June, 1870.

Page 230.

No. 5.

SIR,

Downing Street, 5th July, 1870.

I am directed by Earl Granville to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a Correspondence between the Governor General of Canada, the Lieutenant-Governor of Prince Edward Island, and the Secretary of State, relating to the Prince Edward Island Fisheries.

I am desired to request that their Lordships will communicate with the Admiral commanding on the station, apprizing him of the substance of this Correspondence, and forwarding to him the Minute of the Canadian Privy Council enclosed in Sir John Young's Despatch, No. 105, of the 25th of May. But Lord Granville does not think that it would be desirable that Admiral Wellesley should be fettered by any specific instructions on the subject.

The Secretary to the Admiralty.

I have, &c.,
(Signed) **FREDERIC ROGERS.**

No. 5.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 7th July, 1870.

With reference to your Letter of the 5th instant,* I am commanded by my Lords Commissioners of the Admiralty to request you will state to the Secretary of State for the Colonies, that copies of the Correspondence in regard to the alleged fact of the Fisheries at Prince Edward Island having been thrown open to foreign fishermen, have been forwarded to Vice-Admiral Wellesley for his information and guidance.

* Above.

The Under Secretary of State for the Colonies.

I am, &c.,
(Signed) **VERNON LUSHINGTON.**

No. 6.

The Admiralty to the Colonial Office.

No. 6.

SIR,

Admiralty, 6th September, 1870.

I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Secretary of State for the Colonies, the enclosed copy of a Despatch, No. 328 of the 20th ultimo., from the naval commander-in-chief in the West Indies, in regard to illegal proceedings on the part of the American schooner "Clara B. Chapman" in transshipping fish at Charlottetown Harbour.

No. 328.
20th August,
1870.

The Under Secretary of State for the Colonies.

I am, &c.,
(Signed) **THOMAS WOLLEY.**

Enclosures in No. 6.

Enclosures
in No. 6.

(No. 238.)

SIR,

"Dart" at Halifax, 20th August, 1870.

I have the honour to forward for the information of the Lords Commissioners of the Admiralty an extract from a Letter from Captain Edward Hardinge, of Her Majesty's ship "Valorous," dated 17th instant., from which their Lordships will perceive that the American schooner, "Clara B. Chapman," has, in contravention of the Imperial Act 59 George 3, cap. 38, and of the Prince Edward Island Act, 6 Vic. cap. 14, transshipped fish in Charlottetown Harbour to the Boston steamer "Alhambra," and received from the steamer stores and provisions, with the connivance of the Collector of Customs.

2. I have forwarded a copy of the report to the Administrator of Prince Edward Island, and have called his attention to the case.

The Secretary to the Admiralty.

I have, &c.,
(Signed) **GEORGE G. WELLESLEY,**
Vice-Admiral.

2 H

PRINCE
EDWARD
ISLAND.

EXTRACT from a LETTER from Captain HARDINGE, of Her Majesty's ship "Valorous," dated at CHARLOTTETOWN, PRINCE EDWARD ISLAND, 17th August, 1870, addressed to Vice-Admiral G. WELLESLEY, Commander-in-Chief.

On entering the port I passed the American schooner "Clara B. Chapman," of Gloucester, going out, and on arrival was informed that she had landed one hundred barrels of fish, shipped it on board the American steamer "Alhambra," of Boston, and received from her stores and provisions which had been sent here for the schooner.

2. When the schooner commenced landing her cargo the marshal remonstrated, and pointed out that it was illegal. A permit was then obtained by the schooner's agent or master, from the Collector of Customs.

3. On remonstrance then being made to the Collector, he tried to stop the proceedings he had previously allowed, but the crew of the American schooner, as was to be expected, would not notice him, with the permit in their hands.

No. 7.

No. 7.

The Admiralty to the Colonial Office.

SIR,

Admiralty, 6th October, 1870.

I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Earl of Kimberley, that the Commander-in-Chief on the North American station, in a Letter dated at Halifax, 20th September, 1870, No. 377, reports the seizure of the Fishery schooner "S. G. Marshall," of Rustico, Prince Edward Island, by Captain Edward Hardinge, of Her Majesty's ship "Valorous," for acts in contravention of the Merchant Shipping Act. He further reports that she was prosecuted in the Vice-Admiralty Court at Charlottetown, Prince Edward Island, and on the 5th instant condemned for "navigating under a Register illegally issued, and flying the British flag, and falsely assuming the British national character."

I am, &c.,

(Signed) THOMAS WOLLEY.

The Under Secretary of State for the Colonies.

APPENDICES.

[These Appendices are enclosed in Sir J. Young's Despatch (Confidential) of 11th January, 1870, printed at page 8.]

APPENDIX I.

Enclosures 1 and 2 to Sir John Young's Confidential Despatch of the 11th January, 1870, printed at page 8.

Enclosure 1.

COPY of a REPORT of a Committee of the Hon. the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL on the 5th day of January, 1870.

The Committee having had under consideration the Reports of the Minister of Marine and Fisheries, dated respectively the 15th and 20th ultimo, in connection with certain Despatches from Lord Granville on the subject of protecting the Fisheries of Canada, beg to recommend—

That the system of granting Fishing Licences to Foreign Vessels, under the Act 31 Vict. cap. 61, be discontinued, and that henceforth Foreign fishermen be not permitted to fish in the waters of Canada.

Also, that six suitable sailing vessels, similar to "La Canadienne," in addition to the two vessels at present employed, be chartered and equipped for the service of protecting the Canadian inshore Fisheries against illegal encroachments; these vessels to be connected with the Police Force of Canada, and to form a Marine branch of the same.

They further recommend that Her Majesty's Government be requested to maintain on the fishing stations of Canada a sufficient Naval force to prevent riotous combinations among foreign fishermen, and to protect the Officers of the Police in the execution of their duties.

With reference to Lord Granville's proposal to support the Local force by the presence of only one vessel of war, the Committee consider this measure of support would be inadequate, and hope that Her Majesty's Government may be induced to increase it.

(Certified.)

WM. H. LEE,
Clerk P.C.

(Strictly Confidential.)

Department of Marine and Fisheries,
Ottawa, 15th December, 1869.

The Minister of Marine and Fisheries respectfully offers the following observations on a Memorandum submitted in July last by the late Minister of Finance, in conference at Washington with the British Minister and the American Secretary of State, as the basis of proposed negotiations on the part of Great Britain and the United States, relative to Fisheries and Navigation, in connection with existing trade relations between the United States and Canada.

ART. 1 proposes (in substance) to grant to United States citizens the same fishing privileges which were secured to them by the Treaty of 1854, with the important addition of similar freedom of our inland fishings, and whatever extension of the privileges accorded by the former compact the altered circumstances of the time may render necessary.

The ostensible equivalent for such extensive concessions is, from reference to Article 5, an interchange of the natural productions of both countries,—the same as are enumerated in the free schedule adopted under the Reciprocity Treaty of 1854,—on reciprocal terms, subject to certain Customs duties, the measure of which impost to be the scale of internal revenue taxation in the United States.

This proposal is objectionable chiefly with respect to the fishing privileges it would concede to Americans, and the omission of corresponding privileges in favour of Canadians.

The Treaty of Washington admitted American fishermen, in common, to all the privileges of "sea-fishery,"—taking and curing fish, landing, drying nets, &c., &c.,—which are reserved exclusively to British subjects by the Convention of 1818; but it made special reservations as regards the inshore and river fisheries,—the salmon, shad and shell-fish fishery being excepted in express terms. Also, it defended the prior occupancy of British fishermen, and all private or proprietary rights, both actual and prospective.

Reciprocal privileges of a precisely similar nature were by the same instrument extended to Her Majesty's subjects along the eastern sea-coasts of the Union from Maine to North Carolina.

The present proposal would superadd to the advantages of unrestricted access to our coast and river fisheries, freedom of fishing throughout the inland waters of the Dominion; whilst no reciprocal stipulation is made for concurrent privileges in either the tidal or fresh waters of the United States.

Practically, therefore, such a condition would at once add immeasurably to the already ample equivalent for free trade afforded by the concessions made in 1854, while at the same time relinquishing all of the corresponding privileges which were allowed to British subjects, besides abandoning the important exemptions then made.

The effects of such an arrangement would prove most obnoxious to both our interior and seaboard populations, and in the highest degree injurious to that large class of persons and the very lucrative business dependent, more or less, on the abundant fisheries of our tidal estuaries, lakes and rivers.

The undersigned is well aware that the reciprocal privileges of fishing in certain United States waters, as described in the Reciprocity Treaty, amounted to a mere formal concession, of no practical use to colonial fishermen, and of no material benefit to Great Britain. The omission to provide anew for its continuance is not here remarked upon as involving any curtailment of the reciprocity in fishing which was stipulated for in the former treaty, but rather to mark the absence of reciprocal provisions in this proposal. If it is likely to be regarded as a substantial part of the reciprocity we propose to secure, its omission may be thus explained; but it should nevertheless appear as a nominal concession among the provisions of any treaty that may hereafter be agreed upon.

The proposed extension of American fishing privileges to our inland waters, and the implied waiver of reservations which were contained in the Treaty of 1854, demand serious notice. Such a proposal, even with the most unequivocal compensatory benefits, is liable to many objections; and presented as it is without like concessions from the other of the high contracting parties, is perfectly inadmissible on any grounds of reciprocity or justice.

The specific fishings which were mutually reserved by the first article of the Reciprocity Treaty, were the salmon, shad and shell-fish fisheries, and generally all fisheries in rivers and the mouths of rivers. These important privileges are peculiar in their nature, value and situation. In British waters they are prolific, convenient, and rapidly improving under the system of protection and management applied to them through our fishery laws and regulations. Those in American waters are (comparatively speaking) barren, inaccessible to us, and fast deteriorating. We have a regularly organised system of protection: the United States authorities have none. They have refused and persistently neglected to legislate for the protection of fish in the waters which border on our own, and where the property in them may be said to be common to both. Where our salmon and shad fishings are carried on large establishments have been formed, and considerable private capital is now invested. The rivers are in numerous instances under lease for several years at annual rentals. Their productive capacity has been enlarged by improvements both at public and individual expense; and their natural produce yearly increases through the economical fishing imposed by law, and the efficient protection applied to them. Besides the acquired rights of persons holding titles from the Crown, there exist other vested rights associated with grants of the soil and of fishery, and also the preferences of riparian settlers, none of which could now be disturbed without giving rise to claims for compensation. The idea, therefore, of admitting foreigners to the possible enjoyment of any of the fruits of such private enterprise and public outlay, either inside of the rivers, in the estuaries, or along the coast outside of the mouths of rivers, cannot with just regard to ourselves and the industry of our people be favourably entertained.

Then, as affects the lake fisheries, there could in reality be no "reciprocity," since the fishing grounds on the United States shores are so much inferior to our own, and are now so densely preoccupied and overfished as to render it improbable that Canadian fishermen could obtain any vacant places, even if it was worth their while to forsake the superior limits which they now enjoy on the northern coasts of the great lakes. The numerous rivers and streams emptying into these lakes along their northern shores, being peculiarly adapted to the breeding and feeding of the various kinds of fish which frequent the lake region, give to the Canadian fresh-water fishings a value and permanency which are not possessed by those of the southern coasts. Mutual freedom of resort would be, on this account alone, so unequal as to operate altogether to the detriment of Canada, and inure to the advantage of foreigners. And besides injuring such of our people as are engaged in fishing pursuits, the admission of Americans, whose catch would largely be exported fresh to United States ports, would, by diminishing our catch, cause a scarcity of fish in Canadian

markets and thus increase their cost to consumers. The competition and rivalry which would ensue between native and foreign fishermen must necessarily expose our inland waters to the dangers of excessive fishing, and would devolve on the public greatly increased expense for regulating and protecting them. In the case of the Magdalen Islands, for instance, the presence of a fleet of United States vessels and boats resorting there every spring for the mackerel and herring fisheries, compels our Government to send there an armed vessel to preserve order and protect the inhabitants from injury and outrage. Sometimes it becomes necessary to employ a boat's crew there throughout the spring, summer, and autumn fishery. During these seasons the bays and harbours are crowded with American vessels and fishermen, who, combining together, and having superior numbers and better means, crowd out the resident fishers. These foreigners occupy the shores and seining places without regarding the prior rights and just privileges of the natives. They ignore also the effect of actual settlement on the coasts of these islands, which precludes them under the Convention of 1818 from continuing to fish and land there without the previous consent of the settlers. It is not at all advisable to reproduce this state of things on the coasts of the great lakes.

At present, owing to the improved condition of our lake and river fisheries, since they have been properly protected by fishery officers and subjected to judicious restrictions imposed by the fishery laws, their occupation has become more than ever desirable to our own people. There is every reason to consider this improvement progressive in its character. And the signal success attending our endeavours to augment the natural supplies of fish-food, by means of artificial propagation, place it almost beyond a doubt that the inland fishings of the Dominion will soon become a source of great wealth to the country. The definition of exclusive holdings, and the placing of them under leases or licences to native fishermen, is calculated to insure greater regularity in the prosecution of this branch of industry, and to create more confidence in the pursuit. Americans have already offered considerable rents for leases of exclusive fishery limits in our inland waters. Were these waters to be now opened to United States citizens, under whatsoever reservations as to prior occupancy, they would at once cut off the run of fish to and fro between the deep water and the inshore fishing places now laid out and rented as stations. Take, for an example, the case of Lake Erie and the Detroit River. The islands and reefs situated off the peninsular section of the Province of Ontario are chief resorts of fish which breed in the western part of Lake Erie; and the channels to the north-west of these, along the Canada side of the boundary line, are the routes by which fish enter the Detroit and St. Clair rivers and pass upwards to the north. Were United States fishermen to be allowed to place their nets in these localities, the river and island fishings would be stopped, and gradually the fishery at both would become extinct. There are many other places in the various lakes where the greatest possible injury might be thus done by Americans without any actual trespass on the inshore limits of our fishermen.

Furthermore, we are now about entering into possession of the North-western Territories, extending from Lake Superior to the Rocky Mountains, in which are comprised immense bodies of fresh water teeming with fish of the most valuable kinds. The resources of these waters will be of moment in the current settlement of that extensive tract, and must in due course open up a new field for domestic production. They occupy everywhere the valley region, and are so situated in relation to the neighbouring countries as to afford those ready and permanent supplies of fish-food so necessary to the vigorous and hardy settlers of North-west America. Their exclusive control should be jealously preserved as well on our own behalf as for the sake of the Indian population. The forest hunting-grounds of the Indian tribes cannot coexist with agricultural and lumbering enterprises, and the game of the plains will here, as it has done everywhere else, disappear as the country becomes settled. But the waters may be fished without sensibly diminishing their supplies so long as kept under our own control, and the Indians can always rely on them for fish-food when the chase shall no longer afford them the means of subsistence to which they are accustomed.

It is remarked that Mr. Thornton says, in reply to an inquiry by Mr. Secretary Fish, as to the conditions on which Canada expects to export fish to the United States, that, if Americans are allowed free fishing in British waters, provincial caught fish should be admitted equally free into United States markets. This is a suggestion which, while it undervalues the right of fishery, is inconsistent with our previous policy and declarations. It was advanced by Mr. Seward, in 1866,—it was suggested also by Mr. Morrill before the Colonial Delegation at Washington,—and again adverted to in 1868. On each occasion it was met by most emphatic disapproval on the part of the Canadian Government. (Reference is requested to the Minute of Council, dated 18th June, 1866;—also a report from this Department of 27th February, 1868, afterwards approved by the Privy Council).

APPENDIX.

CANADA.

It is submitted that the terms of the Treaty of 1854, in so far as they relate to the Fisheries are sufficiently favourable to the United States without any such extensions as would probably be demanded under Art. 1 of Mr. Rose's memorandum. The very liberal and conciliatory spirit in which those terms were conceived was further supplemented by the decisions of the Joint Commission named by the British and American Governments to define the limits of reserved privileges. The awards of that Commission, of which the present Secretary of State for the Provinces (Hon. Jos. Howe) was a distinguished member, are conspicuous for their liberality, and have greatly enhanced the value of the original concessions made in the treaty to United States citizens.

The undersigned is, for the several reasons above stated, clearly of opinion that no new or additional concessions affecting the Canadian Fisheries should be offered or sanctioned in any proposals for another commercial treaty.

Art. 2 enlarges the right of navigating the inland waters of Canada, as it existed under the former treaty, without, however, making such extension mutual, but leaves the other reciprocal rights named in the fourth article of the said Treaty the same. It adds a conditional obligation to undertake certain canal improvements adapted to the better accommodation of American vessels. Such an undertaking would doubtless occasion a heavy expenditure, which should not be lost sight of in computing the rates of duty intended to equalize the internal taxation of the United States.

In this connection, also, it is of some consequence to bear in mind that there are other projects of internal navigation more directly beneficial to the country at large, and of much greater urgency as relates to the necessary interior communications which our north-western extension will necessitate. It is very probable, indeed, that the general desire of the country to improve the great natural opportunities which the valley of the Upper Ottawa presents, at the earliest possible moment when the public exchequer admits of such an outlay, may defer, for the time being, any frontier improvements designed for the immediate benefit of foreign commerce.

The limited extent to which Canadian craft avail themselves of this feature in the proposed reciprocity, compared with the facilities it affords to the American carrying trade, renders the concession an important one, entirely favourable to the United States, and such as should ensure some adequate equivalent. Our experience of the reciprocal use of American canals with which Canadian tonnage has been heretofore favoured, is not calculated to inspire hopes of any equivalent in kind. The almost entire exclusion from the various State canals of all merchandise carried in British bottoms, even during the existence of the Reciprocity Treaty, in which the Federal Government engaged to urge upon the State authorities to secure to us their use on terms of equality with American inhabitants, but which they failed to accomplish, forbids us to expect anything from engagements of an indirect nature.

Art. 3 proposes to deal, *Firstly*, with the laws regulating the coasting trade. The policy of the United States on this subject is of the most restrictive and unfriendly character. It is not merely a defensive one on their part, conceived in the spirit of protection, but is levelled and enforced against Canadian shipping with extreme rigour,—notwithstanding that both Imperial and Colonial legislation affecting the foreign mercantile marine have been, meanwhile, of the most liberal tendency. The invidious operation of this policy is explained in another part of the present report; and some remedial changes should be insisted upon in any future disposal of the subject. No new treaty of commerce would, in the opinion of the undersigned, prove acceptable to the Dominion in which the required alterations are not provided for, or after which Canadian vessels shall be excluded from registration in the United States. The terms on which this reciprocal privilege may be secured might be agreed upon on the basis of a Customs tax proportioned to the internal revenue taxation, as in other cases:

Secondly, to revise the Patent and Copyright Laws. There are strong objections to abandoning the vantage ground we at present occupy as regards foreign inventions. And unless in relaxing our patent laws for the advantage of American inventors, as part of a general scheme of reciprocity, it ensures some general privileges to British publishers, we should retain the advantages at our command:

Thirdly, to extend the principle of extradition. The moral considerations in support of such provisions as shall reach other offences than those for which fugitives from justice may now be extradited apply equally to both countries, but the larger extent and population of the United States, and necessarily the greater frequency of divers grades of crime which it is the commercial no less than the social interest of the American Government and people to be enabled to suppress, make this proposal rather favourable towards them.

Art. 4 provides for the continuance of transit through American and Canadian

Territories respectively. This system as at present existing is, so far as Canada is concerned, quite as free from restrictions as it is possible to make it; but the charges and hindrances to which goods in transitu through United States territory are subject for protective reasons, make the arrangement burdensome only to our trade. In order to be mutually beneficial these facilities should be as nearly as may be reduced to a uniform system, having some guarantee of permanence.

ART. 5 being the chief of these propositions as relating to an exchange of the natural products of both countries, agrees in the main with the principle of reciprocity and mutual advantage on which the negotiations profess to be based.

There is an omission in the schedule referred to as adopted under the former treaty of the article of "hay," which occasion should be taken to supply. It is one of the staple agricultural productions in certain portions of the Maritime Provinces, and was probably overlooked in the preparation of the free list. The omission ought to be supplied in any future arrangements.

If the duties to be placed on the articles enumerated are to be measured by the internal revenue taxes of the United States, as suggested in this clause, it will be necessary to distinguish between the existing and exceptional state of taxation there, and the altered condition of things which it is reasonable to anticipate as a near result of the vast resources and the great energy and industry of the American people.

ART. 6 promises to assimilate the Excise duty on certain articles of luxury, and to devise means to assist United States officials in the prevention of smuggling. This also involves a small amount of taxation on our people which may not be at all necessary for our own revenue purposes. It might be difficult to compute the value of such assistance as could be afforded through the co-operation of our Customs and Excise Officers; but as the local burden of thus rendering aid rests on us, while it relieves our neighbours from extra exertions and may save them from revenue losses, this offer amounts to something more than a proof of friendly disposition towards them.

The foregoing proposals by the late Finance Minister, taken as a whole, seem to present in the most advantageous form those concessions which it may be found advisable to make in order to bring about renewed commercial intercourse between the United States and Canada. They appear, however, to be in some respects too indefinite, and are not quite consistent with the principle of reciprocity on which it is desirable to adjust the trade relations of these adjacent countries. The arrangement of details would of course determine whether or not such discrepancies may be reconciled with tolerable satisfaction to both parties. But it should be recollected that we contend the reciprocal trade which subsisted for eleven years under the old treaty was as profitable to the United States as it was to Canada. This being the case, it should be sufficient on reciprocal principles to reckon the additional concessions made by us as equivalents for the extraordinary burdens created by subsequent events.

There is a striking similarity between these proposals and those which were discussed in the abortive conferences on the same subject held in 1866, the utter rejection of which, and the views then indicated, give small promise of their present adoption. The vague purport of the resolution of Congress, in pursuance of which negotiations were commenced last summer, taken in conjunction with the decided expression of an adverse policy made by the American Cabinet, through the recent Message of President Grant, against any Treaty of Reciprocity between the United States and Great Britain, and affirmed, as it has since been, by the endorsement of the House of Representatives—these utterances being an official pre-judgment on the whole question—suffice, in the opinion of the undersigned, to dispel whatever hope might have been entertained of bringing resumed negotiations to a satisfactory conclusion.* Instead, therefore, of resuming conferences the futility of which

* If anything further was needed to show the delusive nature of this ambiguous resolution, enough will be found in the statement of its proposer, Mr. Schenck, as reported in the Congressional "Globe" of 3rd March, 1869. Mr. Schenck was Chairman of the Committee of Ways and Means, a position analogous to that occupied by Mr. Morrill in the Conferences of 1866. In reply to a question put by Mr. Pike, when the resolution was reported to the House of Representatives, Mr. Schenck said: "I do not believe we ought to enter into any relations of reciprocity with the British Provinces, either through negotiating with the Imperial Government of Great Britain or by direct treaty with the Provinces themselves, if that were possible. I believe the people of the British Provinces should be treated like all other foreigners, and made to pay the same duties on articles they export into our country that other foreigners are required to pay on similar articles." He added—"I am not authorized to speak for the rest of the members of the committee, but I am not aware of any difference of opinion between any of them and myself on that subject." But Mr. Schenck expressed himself in favour of commercial treaties "in regard to the fisheries on the coasts of these Provinces, and in relation to the free navigation of the St. Lawrence river from its source to the sea." In the course of this debate not a single member expressed himself in favour of reciprocity.

Thus upon the *pro forma* submission of a resolution passed by Congress denying the right of the executive Government of the United States to make treaties or conventions with foreign Governments touching "import duties," the House assents to confining the scope of the resolution, although professing to renew negotiation "regarding commercial intercourse," to securing to Americans "the rights claimed by them to the fisheries," and

already appears obvious, it is respectfully submitted that it would better consist with our own dignity and interest to review at once the whole subject of our Commerce with the United States, the Fisheries and Navigation, with the view of adapting them to our relative position and necessities. If it shall be found expedient to adopt retaliatory measures, contingent on some modification of commercial policy on the part of the American Government, let us make up our minds that such is the only practical "reciprocity" our neighbours are likely to appreciate. Canadians may profit further by the lesson in self-reliance, and will bear with patriotic spirit and loyal patience whatever temporary disadvantages can attend the trial.

The invitation of the American Secretary of State to the British Minister at Washington, in June last, to open negotiations touching the Fisheries and Navigation, had reference to the resolution then recently passed by Congress. That resolution proposes securing to United States citizens "the rights claimed by them in the Fisheries of the British Provinces in America."

The undersigned perceives in this expression the chief obstacle to arranging any terms of reciprocal trade into which the concession of fishing privileges enters as an equivalent. Americans do not realize either the extent or value of the common privileges of fishery thus acquired in our waters. They have been taught, and now firmly believe, that their rights on our shores are nearly as extensive and almost as valuable as our own. Their fishermen have carried out in practice this cherished belief. The habitual fact of their free and easy admission everywhere among our inshore fishing grounds, is regarded by them as a tacit acknowledgment of the claims always set up in their behalf and maintained at critical junctures by their Government. They are educated to assert a construction of the Convention of 1818 favourable to United States citizens, and subversive of the claims of British subjects. In their official reports sanctioned by authority—in their state papers—in the speeches of their representatives—in their public press,—the American people advance claims affecting our inshore fisheries which are extravagant in fact, and which the highest legal authorities of Great Britain have declared to be untenable in law. United States fishermen, not having for some fourteen years past been brought face to face with anything more than a mere formal denial of such extreme pretensions; whilst studiously informed of only the popular version of them, amplified in many instances beyond the bounds of reason,—they have really no practical idea of the wide difference between what is maintainable at public law as the exclusive property of Her Majesty's subjects, and what they, as foreigners, can establish under treaty stipulations which they are bound to respect. And just so long as they shall continue to cherish this undefined and exaggerated conviction, there can be no real appreciation on their part of any concessions, however extensive and valuable, that are made by Canada. Feeling no pressure from the narrowness of their national liberty of fishing, and not being compelled to join issue on the whole Fishery Question, they will assuredly continue to enjoy what they call their privileges, without any equivalent in despite of licence systems or warnings which experience teaches and circumstances enable them easily to evade.

The prevalence of this convenient misapprehension is fraught with danger to the peace of both nations. Long continuance of a temporizing policy, transparent to every one as conceived in fear of bringing to speedy settlement a troublesome international dispute, and executed, also, with such tender formalities as to defeat itself, can have no other influence than to confirm unjust pretensions and embolden aggression. Nor can we, in the light of human experience, anticipate any other result as the legitimate sequel to our weak demands than that, ultimately, we shall be confronted by some sudden individual enforcement of a firm belief in the national claim. The danger of a crisis of this kind is strikingly illustrated by the public intimation brought under the notice of our Government by Mr. Thornton's Despatch of 20th October last, enclosing a copy of an article from the New York 'Tribune' of that date, in which the Gloucester fishermen are represented as arming themselves to enforce their "right" to cruise in Canadian waters without licences,

"in relation to the free navigation of the St. Lawrence." With a Committee through whose hands our propositions must be sifted, already committed to a circumscribed form of "commercial intercourse" and avowedly hostile to any relations of reciprocity,—with a House of Representatives which (although supposed to contain some few members at least favourable to mutual trade relations somewhat less restrictive than they are) silently and safely "recommends to the President" to negotiate for securing certain "rights" claimed by United States citizens,—and with an Executive which proclaims beforehand hostility to any reciprocal engagements,—what concessions can we hope to obtain as equivalents for the privileges we have to offer? Even these privileges of fishing and navigation which we might concede—in return for what?—must be first reduced, from an American point of view, to the extent of the "rights" asserted in this resolution. With such enunciations before us, and the proceedings of the delegation at Washington, in 1866, still fresh in our memory, it is difficult to discover any ground for hoping that new trade arrangements can be secured on equitable terms, in pursuance of the resolution of Congress.

and to resist British cruisers molesting them. The language of this article is just such as would impel United States fishermen to act in the manner indicated, and it suggests what may be at any moment the grievous effect of those undisputed convictions on this subject which American fishermen have come to regard as irresistible from any British point of view. Allusion is made to the persistent and annoying interference of British cruisers, "in their legitimate pursuit" of cruising and taking fish in our fishing grounds. The determination is expressed no longer to submit "to expulsion from waters in which they believe themselves entitled to cruise" and fish; they are satisfied "that their just privileges have been invaded," and they will not hesitate to fire on any naval or fishery officers who shall molest them.

In the true interests of peace, therefore, no less than in justice to the present wants and future prospects of this country, it is desirable to put an end to such an awkward misbelief, and to insist on rights of exclusion which the laws of civilized nations declare to be ours.

The material worth and national importance to Canada of the coast and inshore fisheries in British American waters can scarcely be over-estimated. Their produce and control are of especial value to Nova Scotia, and that Province might reasonably expect from the union of Colonial interests some accession to the vigour and authority with which our claim to exclusive fishery rights within treaty limits have been already maintained by the Maritime Provinces. These rights are based on public law, and are limited only by treaty stipulations. The extent to which they are so limited by the Convention of London, dated 20th October, 1818, between Great Britain and the United States, is still in controversy. Great Britain contends that the prescribed limits of three marine miles, as the line of exclusion, should be measured from headland to headland; while the United States Government contends that it should be measured from the interior of the bays and sinuosities of the coast. In support of the British view reference is made as well to the exact terms of the Convention as to the law and practice of nations regarding their sovereign rights and territorial jurisdiction. The legal authorities on these points are cited at length in a special report herewith, by an officer of this Department, marked *A*, to which reference is respectfully requested. The American Government, on the other hand, claims that an exceptional definition of the limit of a marine league running everywhere parallel to the coast line, describing the course of indentation, &c., instead of defining the mouths of bays and other indentations by lines drawn across from one headland to another, is founded in the peculiar circumstances of the case. That, as United States citizens had formerly used these inshore fisheries under a favourable construction of certain "liberties" of fishing accorded to them by the Treaty of Peace with Great Britain in 1783, and as the subsequent Convention of 1818, was an amicable adjustment of differences growing out of such user, the renunciation of their claim to concurrent privileges in the inshore fisheries, made in the latter Convention, should not be rigidly construed to their entire exclusion.

Such is substantially the "Fishery Question" as it stood at the time of entering into the Reciprocity Treaty of 1854, and as it was revived on the abrogation of that treaty by the United States.

This brief *résumé* of the Fishery dispute between Great Britain and the United States, and a passing reference to the considerate measures subsequently adopted, will serve to explain the attitude which it is at present recommended that Canada should assume.

The various departmental Reports and Minutes of Council, forming part of the printed return herewith marked *B*, relate to the continuance of the system of issuing season licences to American fishing vessels on merely nominal terms; and also prove, by referring to Imperial Despatches, that Her Majesty's Government and the Canadian Executive distinctly provided at the outset that such system should be of temporary duration and contingent on the mutual adoption, at an early date, of a Treaty of Commerce between Great Britain and the United States. This provisional system has now continued for four years, its renewal each successive year having been assented to by Canada as a temporary expedient, the termination of which was looked forward to before the recurrence of another season. The expectation that such temperate and moderate measures—if Americans really desired to renew the commercial intercourse which had subsisted in former times between themselves and these Colonies—would lead to at least a tolerably satisfactory arrangement of some kind sufficient to obviate any immediate revival of those irritating differences so amicably compromised by the reciprocal concessions acceded to in 1854, has not been realized.

The undersigned further begs to call the attention of Council to the position of our Maritime Interests, and the questions raised by the United States with reference to navigating the River St. Lawrence and the Gut of Canso. In a Report prepared by direction of Council and submitted on the 2nd April, 1868, a copy of which is hereto annexed marked *C*, occasion was taken to point out the disabilities under which the Colonial merchant

marine labours, and to contrast the relative treatment in respect of tonnage and other dues of British and American vessels in the ports of the respective countries. It was shown that the duties on British tonnage, and other Customs charges imposed on British vessels entering United States ports, are unjust and burdensome; and that they are further aggravated by various other advantages conferred on American craft to such an extent as virtually to prohibit competition in British bottoms in the carrying trade of the lakes and seaboard. These advantages induce parties to invest in American tonnage to the detriment of Canadian shipowners.

It will be perceived, on referring to the above-mentioned Report, that British vessels are prohibited from carrying passengers or freight between United States ports, and from State to State, while down to last season American vessels could carry goods and passengers between any or all of the Provinces of the Empire. Since 1849 the liberal policy of the Imperial Government has permitted the ships of foreign nations to trade freely between the different Colonies, and also between each Colony and the Mother Country. The statutes giving such important privileges to foreigners provided, moreover, that any Colony could, if it so desired, by an address to the Crown, throw open the local coasting trade. The Act 32 Vict. cap. 2, cited as "The Merchant Shipping (Colonial) Act, 1869," alters the position of this Colony as respects this trade. It provides that unless within two years from the date of its proclamation (which in Canada took place on the 23rd of October, 1869), any Colony or Colonies shall by positive enactment legislate to the contrary, their coasting trade shall remain open to all foreign nations. Thus, without the legislative action above prescribed, Americans will, in addition to the privileges they already enjoy, be freely admitted to participate in our coasting trade, while they jealously exclude us from all participation in theirs.

The same Report also shows that, although we permit all foreign-built vessels to be registered in Canada, American laws and regulations deny to British-built vessels the privilege of registration in United States ports; and that, while no dues are charged upon American ships in Canada, other than those chargeable to our own vessels, and there are no Government charges of any kind for United States vessels frequenting our lake ports—except in cases where they may use the canals, paying only the same tolls as our own vessels—yet British craft entering their ports on the lakes are subject to a special tax of 30 cents (in gold) per ton. Their own vessels are exempted from this charge, if holding licences to trade between different districts within the Union, and nearly all of them hold such licences—or when engaged in the fisheries, or plying between Mexican, North American, and West Indian ports, and pay tonnage duty annually. But as foreign vessels cannot procure licences, this special tax is levied on each entry into United States ports during every season. The lake traffic consequently becomes absorbed by American tonnage, and the development of our shipping interests sustains a serious check. This constructive method of exclusion by a licensing system available only to Americans, approximates very closely to a differential duty against our ships and in favour of their own. Canada would have been authorized under the 173rd section of the Imperial Statute 16 and 17 Vict. cap. 107, and justified by the circumstances, to impose on United States vessels countervailing charges; but has refrained from doing so, in accordance with the conciliatory forbearance which has in other respects prompted our policy towards the Americans.

A practice also prevails in United States ports of exacting an arbitrary fee of \$5, payable to Customs Officers, together with some minor charges, for each entry and clearance of Canadian vessels, although no such fees are collected in our ports. This tax bears so heavily in the case of steamers as practically to prohibit the employment of Colonial tonnage in that kind of business; especially since such drawback on our trade is supplemented by exemptions applied to American steam-craft, discriminatory in their effect as against Canadians.

Also, in connection with Pilotage, there is a studied disfavour evinced towards Canada. American vessels are exempted from compulsory pilotage in voyaging between certain United States ports on the Atlantic frontier, but are compelled, as are all vessels of certain dimensions, to engage pilots when going to, or returning from British waters, and clearing to and from Colonial ports.

Then, again, in the matter of light-dues which, anterior to the union of these Provinces, were in certain ports chargeable on all shipping, but have been removed by the Dominion Government, there was no exception made against American vessels. The law imposing a tax of ten cents per ton on vessels navigating the Gut of Canso, has also been allowed to expire. As the American fishing fleet reach the fishing grounds through this passage, and have been permitted so to use it for years past, these free terms certainly enhance a concession which might be at any time withheld, it being the opinion of Her Majesty's Government (referred to elsewhere) that foreigners have no right whatever to navigate the same.

Americans have enjoyed the use of our canals on the same footing with Canadians, and still deny our tonnage the use of theirs on reciprocal conditions. They depreciate this boon. In the course of discussion among the Delegates at Washington, in 1864, the Chairman of the Committee of Ways and Means affirmed that the use of our canals by United States vessels was rather an advantage to us than a favour to them. Even in the carrying trade through these canals, as for example, from Chicago or Detroit to Oswego, a distinction is made against Colonial tonnage, on the ground of its being a coasting voyage, although it is impossible for any vessel to make it without passing through British territory. We are thus completely excluded from the benefits of this considerable trade.

The same want of appreciation exhibited in respect of our fisheries and canals is observable with reference to the navigation of the St. Lawrence, to which Americans lay claim of national right, as the natural outlet of partially conterminous territories. In the same resolution of Congress, quoted above, the claim is reasserted to freely navigate the River St. Lawrence "from its sources to the sea." The Council is aware that this claim has already formed the subject of diplomatic discussion, and that the weight of authority derived from the Law of Nations, is adverse to American views. The controversy was put in suspense by the Reciprocity Treaty. Now, whether the United States might or might not use the St. Lawrence River as a thoroughfare from the Great Lakes to the Atlantic Ocean as a matter of state right, and not merely as a conventional one—which it is—there could be no question about the right of user being applicable to the river if at all only in its natural state, and not as its navigability has been rendered feasible by artificial improvements located within the jurisdiction and forming the property of a foreign power. A formal decision on the dispute still in abeyance on this point might bring about a realization of the value of such a concession.

Recent legislation by the Americans regarding the import of lumber into their ports from the St. John River, New Brunswick, also works very detrimentally to the interests of British subjects. Under the Ashburton Treaty, so called, our richest timbered lands on the upper St. John were ceded to the United States by Great Britain. The lumber off these lands requires to be floated down the St. John River, whereon it is afterwards manufactured. If owned by an American citizen it enters duty free on being exported to the United States. This offers a premium to mill-owners in the vicinity of St. John to release themselves from British allegiance and take the oath of citizenship in the United States. It has been done in several instances by prominent citizens as a measure of necessity; and because it was otherwise impossible to compete with American manufacturers. A still harder case exists, which absolutely closes that peculiar branch of trade against British subjects. The American citizen, entering his lumber at Boston, or elsewhere, values it on entry, say at \$40 per thousand superficial feet, which price he claims it to be worth to him at St. John, the place of shipment—thus taking the market value in Boston, \$45, less freight and charges of \$5, as the nominal value at the place of export—and enters it accordingly. The British shipper, adopting the same rule of taking the value at Boston,

Say	\$45
Less freight and charges	\$5
Also less duty, 20 per cent., which though <i>he</i> has to pay, the American exporter escapes from, say . . .	\$9—\$14
	\$31

leaves \$31 as the value at St. John. Such valuation, manifestly fair, the United States authorities refuse to recognize, but exact duty on just one-fifth more than the actual worth or cost at the place of shipment. This exaction is felt to be a great injustice to Canadians, and tends to force persons engaged in manufacturing lumber to either abandon the business or protect themselves by becoming naturalized as American citizens in order to carry on their operations without loss.

The undersigned has endeavoured to show, by reference to existing facts and instances of hardship, that the policy of concession and conciliation has failed in obtaining from the American Government the removal of restraints on international trade and navigation, and how effectually the legislation and executive action of the United States have been directed towards monopolizing trade between the two countries, and to what extent such restrictions and discrimination have succeeded in excluding Canadian tonnage from all participation in the carrying trade. The continuance of such a one-sided state of things is not only detrimental to our trade and shipping interests, but it is calculated to sap the loyalty of our intelligent populations living along the great lakes, or who are interested in our tonnage and commerce, and weakening their confidence in our too complacent system of government. These people cannot fail to draw unfavourable comparisons between the treatment which their interests receive on the other side of the boundary line and that

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which is enjoyed by Americans trading in Canada. There are, as respects the articles of coal and salt, strong reasons why we should consider them specially with reference to the United States tariff; but as the Ministers of Finance and Customs will doubtless embrace the subject in matters coming within their province, it is unnecessary to enlarge upon it.

It is, in conclusion, respectfully recommended that all privileges of a concessory nature, affecting our inshore fisheries and the navigation of the Gut of Canso, be withdrawn; and that the same tonnage duties and other charges as are now imposed by American legislation on British tonnage be reciprocally applied to American tonnage, as provided for by the Imperial Act, 32 Vic., Cap. 11, Sec. 173; and that, if it be deemed inexpedient to prohibit altogether the use of the Gut of Canso, its passage being intimately connected with fishing pursuits in or near our own waters, a special tonnage tax be levied on foreign vessels navigating the same. Also, that during the ensuing session of Parliament the necessary legislation shall be proposed to foreclose foreign nations from the freedom of our coasting trade, as prescribed by the Colonial Merchant Shipping Act of 1869.

The undersigned wishes to be clearly understood that, in making the above recommendations, he has no leaning whatever to a policy of imposing restrictions on commerce. On the contrary, his views are entirely favourable to the fullest freedom of commercial intercourse between all nations, on fair and reciprocal terms. But in the present case it would be idle to conceal from ourselves the entire absence, on the part of the United States, of that equitable spirit which should govern the commercial relations of contiguous countries at peace with each other, and rivals only in the energetic pursuit of national development conducive to their mutual prosperity. The course now recommended is one of expediency, based on the only principle of reciprocity which seems to find favour in the estimation of American statesmen, namely, protecting ourselves by equalizing the burdens which circumstances impose on our natural products and domestic industries, and on our privileges of fishery and navigation.

The whole respectfully submitted.

P. MITCHELL,
Minister of Marine and Fisheries.

(Strictly confidential.)

REPORT ON FISHERY POLICY, IN CONNECTION WITH EARL GRAVILLE'S DESPATCHES.

Department of Marine and Fisheries,
Ottawa, 20th December, 1869.

The Minister of Marine and Fisheries has the honour to refer to Earl Granville's despatch of the 21st of June last, adverted to in a further communication of the 24th ultimo, relating to the Protection of the Fisheries, and suggesting that, as Her Majesty's Government consider this service to be a purely local one the Canadian Government should furnish at their own cost the vessels necessary to effect it; and that having regard to its bearing on the relations between Great Britain and a Foreign Power, and thus affecting Imperial interests, Her Majesty's Government deem it advisable to support the fishery regulations in force by the presence of one vessel of war,—the whole service to be placed under control of the Imperial officers in command.

As this suggestion seems to imply the continued admission of foreign fishermen to the inshore fisheries of Canada, the undersigned begs leave to advert to the report from this Department of the 15th instant, in which the subject of the fisheries is *inter alia* discussed at length, and a certain line of policy thereon is submitted for the consideration of the Council such as (if adopted) would supersede any renewal of the system of granting licences to American fishing vessels which has existed since 1865. The possibility, however, that the decisive policy so recommended may not be carried out immediately, and the urgency of His Lordship's reference to this important suggestion, make it necessary to consider the whole matter as it is presented in the present proposal.

It may as well be frankly stated here, that Canada certainly does not desire either to evade the responsibility of asserting the rights and privileges derivable from the parent state, or to cast wholly or in part on the mother country any burdens connected with protecting the local interests of this Colony. While thus ready and willing to acquiesce in whatever suggestions it pleases Her Majesty's Government to offer regarding the assumption and control of a service described as a purely local one, it is due to ourselves to point out the very peculiar position of the Fishery Question, and the obligations necessarily arising out of such an unsettled and contradictory state of affairs as still exists.

Earl Granville mentions the fact of arrangements for protecting the fisheries having a bearing on the foreign relations of Great Britain, and thus affecting Imperial interests, as the ground of the proposed assistance, and also as a reason for exercising the command suggested in this correspondence.

The Lords Commissioners of the Admiralty are pleased to represent the inexpediency of employing Her Majesty's naval force at the cost of Great Britain for (what are described by them as) revenue and police purposes in colonial waters, and they strongly urge the propriety of calling on the Government of Canada to put into operation the Colonial Naval Defence Act, and to organize a local Marine Force sufficient to protect their revenue and enforce their fishery laws without any material aid from the Imperial Government; and that, meanwhile, if Her Majesty's ships are to be employed on the above service the cost of such employment should be recovered from the Dominion. Their Lordships add, that, in accordance with the wish expressed by the Secretary of State for the Colonies, the Admiralty will not press for payment for the naval assistance rendered to Canada this year, but hope that such measures of defence will be taken as shall dispense altogether for next year with the presence of Her Majesty's ships.

In dissenting from so much of their Lordships' views as relates to an immediate withdrawal of naval aid, and to demanding payment from the Dominion for the past season's services, the Colonial Secretary refers to the possibility of the whole question of protecting the fisheries being disposed of before next season by a treaty or understanding with the United States. The partial adoption of the opinion of the Lords Commissioners of the Admiralty, coupled with the doubt expressed by Lord Granville as to placing the service next year under the control of a Colonial officer, and also the remoteness and improbability of such a contingency as His Lordship anticipates from any mutual arrangement in the form of a treaty of reciprocity between the American and Canadian Governments, require that the Government of Canada should once more bring this momentous question under the notice of the Imperial authorities with a view to its final settlement.

The undersigned feels that, having reference to the views expressed by the Admiralty, the facts connected with this unsettled state of the fishery question and the consequent employment of Her Majesty's ships, are such as to render that service essentially different from the ordinary character of an organization to protect Colonial revenues and enforce Municipal laws.

It will be recollected that the notice given by the United States Government of their intention to terminate the Reciprocity Treaty of 1854, was given twelve months before its actual repeal in 1866, during which interval a series of conferences were held at Washington between certain Colonial Delegates representing the several provinces, since confederated, and the Committee of Ways and Means of the House of Representatives. The object of their endeavours being to effect a renewal of the terminating treaty on revised conditions. The record of these conferences proves, that although the provincial delegation fully recognized the altered circumstances which made it necessary for the United States Government to revise the provisions of the former treaty, and made ample allowances for the same, there was really no desire evinced to renew commercial intercourse with the provinces on any basis at all resembling the principles of reciprocal free trade. Their efforts proved fruitless, and the delegates returned to Ottawa about the middle of February, 1866. On the 20th of that month a Royal Proclamation was issued by the Governor General of Canada, notifying American fishermen and United States citizens of the termination, on the 17th day of the ensuing month, of the fishing privileges which they had enjoyed under the said treaty, and warning them of the legal penalties which they would incur by trespassing upon the inshore fisheries of British America belonging exclusively to Her Majesty's subjects.

In the meantime Her Majesty's Government, in despatches of the 3rd and 10th of March, 1866, urged upon these Colonies that it was desirable from an Imperial point of view to forbear from asserting the rights which revived to them in consequence of the deliberate and persistent action of the United States, and to avoid every possibility of differences between the British and American Governments from any attempts to prevent encroachments by foreign fishermen. Her Majesty's Government felt disposed to allow the freedom of fishing that had prevailed since 1854 to continue for the season of 1866, on the distinct understanding that, unless some satisfactory arrangement between the two countries should be made in the course of the year, such privileges would cease, and all concessions made in the treaty just about to expire be liable to withdrawal. Mr. Secretary Cardwell, in a despatch bearing date the 17th of March, 1866, refers to the near probability of some concessions on the subject of the tariff being made through a Bill then under the consideration of Congress; the prospect of a satisfactory arrangement appearing to the Colonial office an additional reason for deferring the matter to another season.

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The Colonial authorities, whilst assuring Her Majesty's Government of their earnest wish to abstain from any act which could possibly embarrass the Empire, and although actuated by a sincere desire to deal with the actual situation in a spirit of conciliation and liberality towards their neighbours—irrespective of whatever inconveniences and injuries might attend deferment of the just and valued rights of Colonial subjects—experienced much difficulty in accepting the conclusion to which their assent was invited. A Minute of Council was adopted by the Canadian Executive, on the 23rd of March, 1866, setting forth the grounds upon which they believed that the proposed policy could neither be carried out so as to avoid serious and lasting injury to the interests of the country, nor attain the purpose it was designed to effect. The intrinsic worth of the fisheries was pointed out, and also their prospective value to the expected confederation of the British North American Provinces as a staple of extensive trade with foreign countries, a nursery for hardy seamen, and an inexhaustible resource for the industrial energies of our maritime population. The great and peculiar advantages which their exclusive working by British colonists would afford to the united provinces was likewise dwelt upon.

The Memorandum in question proceeded to say that:—

“The Canadian Government receive this expression of the opinion of Her Majesty's Government with the utmost respect. But they doubt whether its adoption would not in the end produce most serious evils. They fear there is no reasonable hope of satisfactory commercial relations being restored with the United States within this year. They think the prospect of attaining this result in the future will be greatly diminished if the United States fishermen continue to exercise the rights given by the late Treaty. The withdrawal of their privileges a year hence will create more irritation than now, as having the character of retaliation. The step, if taken now, is plainly and publicly known to be the consequence of the act of the United States. They, and not Great Britain, have cancelled the agreement, and voluntarily surrendered the right of fishing. The course suggested would certainly be regarded by the American people as evidence of weakness on the part of Great Britain, and of an indisposition to maintain the rights of the Colonies; while it would disturb and alarm the Provinces. The determination to persist in encroachments, and in resistance to law, would be stronger by the impunity of the past year, and the danger of collision, when exclusion becomes necessary, would thus be much increased; while the value of the right of fishing, for the purpose of negotiation, would be diminished precisely in proportion to the low estimate which the Provinces would thus appear to have placed upon it.

“The Committee would also respectfully submit to Her Majesty's Government that any apparent hesitation to assert an undoubted national right will certainly be misconstrued, and be made the ground for other and more serious exactions, till such a point is reached as neither country can recede from with honour.”

Notwithstanding the strong opinions thus entertained, the Government of Canada, reluctantly acquiescing in the suggestion of Her Majesty's Government, adopted the temporary expedient of issuing season licences to United States fishing vessels, at a nominal tonnage rate, so as formally to preserve the right of sovereignty without occasioning any dangerous complications, such as were apprehended by the Imperial authorities. Under this provisional system any vessels attempting to fish without licences, and refusing to procure them from the cruising officers, were to be removed from the fishing grounds.

The Executive Government of Nova Scotia gave to this expedient an unwilling assent. In a Minute of Council, dated the 9th of May, 1866, it was stated:—

“The Council, after the most serious deliberation and with a view to meet the wishes both of the Imperial Government and the Government of Canada, are compelled to state that they are of the opinion that any concession at this moment of the admitted rights of British subjects to the exclusive use of the inshore fisheries of British North America would be most impolitic and disastrous to the interests of British North America.

“The privilege of using these fishing grounds has been deliberately abandoned by the Government and Congress of the United States, and abundant notice was given to the people of that country by the official announcement made more than a year ago which abrogated the Reciprocity Treaty.

“If under these circumstances, when the United States are exhausted by a four years' war and paralysed by an oppressive debt, any indecision is exhibited in the maintenance of these undoubted and admitted rights, and a temporizing policy substituted which will be certain to be misconstrued, the Council believe that the prospect of obtaining a fair Reciprocity Treaty will be diminished, that the most injurious results, will follow, and that the difficulties to be encountered a year hence in dealing with the question will be vastly enhanced.

“ At the same time the Council entirely concur in the view enunciated by the Right Hon. the Secretary of State for the Colonies, recommending that, while firmly maintaining the exclusive right to the fishing grounds, the local Governments should exercise all possible forbearance in pressing their rights, and the utmost caution in selecting the cases for enforcing the extreme penalty of confiscation. In this spirit the legislation of this Province has already been modified so as to remove any reasonable cause of complaint on the part of the Government of the United States.”

This expression of the views of the Government of Nova Scotia is referred to by the Secretary of State for the Colonies to Sir W. F. Williams, the Lieut. Governor, under date the 26th of May, 1866, in the following terms: “ Her Majesty’s Government trusts that on further consideration, and when the Executive Council are informed that there are reasonable grounds for hoping that before next season permanent arrangements may be made with the Government of the United States, they will feel themselves at liberty to withdraw their objections to a temporary arrangement for the year which has received the cordial approval of Her Majesty’s Government.

“ I must distinctly inform you that on a matter so intimately connected with the international relations of this country, Her Majesty’s Government will not be disposed to yield their own opinion of what it is reasonable to insist on, nor to enforce the strict rights of Her Majesty’s subjects beyond what appears to them to be required by the reason and justice of the case.”

A further Minute of Council was passed by the Nova Scotian Executive, on the 21st of June following, expressing entire concurrence in the views held by the Government of Canada, regarding the policy which they felt themselves constrained to adopt; and although adhering to the opinions already expressed, they recognized the necessity of accepting the suggestions of Her Majesty’s Government, and accordingly withdrew all objections to the granting of licences for that year.

This license system continued throughout the years 1866 and 1867 with very unsatisfactory results. It proved quite inefficient in respect of enforcing compliance with its chief conditions, and equally ineffective with regard to the influence it was presumed to exercise towards inducing the United States Government to assist in merging it in some general measure of a permanent and satisfactory nature. The principal causes of its inefficiency and failure may be found in the extreme anxiety to avoid enforcing it wherever there was the least probability of United States citizens not voluntarily complying with it. The annotated instructions to the Naval Officers in command of Her Majesty’s ships issued by the Colonial Office under date of 12th April, 1867, are conceived in this spirit. And also to the fact that amendments to the system suggested by the various Naval Commanders, and particularly by Admiral Sir James Hope, in a despatch to the Admiralty, dated the 3rd of August, 1866, such as were calculated to render it real and practically effective, were pronounced inexpedient by the Lords Commissioners of the Admiralty.

In order to illustrate the complete defeat of the license system, it is sufficient to note the simple fact of Her Majesty’s cruisers not having during these four seasons detained a single American vessel, although it was notorious that great numbers of United States vessels were continually invading our limits even after repeated warnings, many of which were afterwards boarded and found to be still unfurnished with licences. They committed other infractions of the treaty of 1818: such as frequenting our harbours to transfer cargoes and take supplies. The masters openly refused to accept of the proffered licenses, continuing still their deliberate infringements, and yet no vessel was subjected to capture. This sort of protection was of no avail as affecting the interests of Colonial fishermen, but simply ensured Americans in the practical enjoyment of the same privileges which they had enjoyed under the Reciprocity Treaty, and it saved the United States Government from all trouble and expense of maintaining a naval force in the Gulf.

It was, moreover, a manifest departure from the very terms on which the system was so originated, namely: “ That any vessels attempting to fish without licences, will either be required to procure the licence from the cruising officer, or will be removed from the fishing grounds.” (Vide Minute of the Executive Council of Canada, dated 23rd March, 1866.) It also relieved Americans of any pressure such as might influence their Government to desire a settlement of the disputes which prevailed up to 1854; and while it injured the business of Canadian fishermen by affording facilities to foreigners such as, together with a prohibitory duty on British-caught fish, enabled them to compete with us on unequal conditions, it also nullified whatever inducements to enter into a new commercial treaty would otherwise be held forth by reason of an indirect counter-tax on their fishing and maritime industry. The fishermen and fishing vessels of the United States, belonging principally to the middle and eastern States, where controlling influences are exercised to prevent any reciprocal trade arrangements with Canada, it was the more

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important that their special interests should be touched, however inadequately such could be under a merely nominal system.

Another ill-effect attending this continued indulgence towards Americans is remarked upon by Vice-Admiral Wellesley, in the following extract from a despatch to the Secretary of the Admiralty, dated 18th November, 1869:—

“Very few Colonial vessels are engaged in fishing owing to the almost prohibitory tariff imposed in the United States on fish imported in Colonial vessels, *and the Colonial fishermen therefore in considerable numbers man the American vessels.*”

The Government of Canada view with very serious concern the baneful effect on our maritime population of such dependence on American employers. It creates sympathy with foreign sentiments and institutions, and affords opportunities for instilling into the minds of our people ideas and expectations altogether inimical to British connection. Here is actually presented to them the example of subjects of a Republican power and citizens of a foreign State prosecuting their calling at the very doors and in the exclusive limits of Canadian colonists, who are themselves shut out of the markets of that country by a prohibitive tariff adopted in the interests of *their* fishermen, whilst ours cannot even enjoy their own privileges. Can the immediate influence of these circumstances be otherwise than seductive of the loyal attachment and personal enterprise of our seaboard population? It also discourages the independent employment of Canadian fishing craft and provincial fishermen. It tempts our fishermen to catch and sell their fish clandestinely to United States owners of fishing vessels, who can afterwards market them in the United States free of duty as American-caught fish. This traffic demoralizes our population, and accustoms them to systematic violation of our own laws. The residents are induced to connive at other infractions of our treaty rights. The temporary and local advantages which these practices afford are of small account compared with the general injury done to our people. They militate also against our prospects of establishing an extensive fish trade with foreign countries and others of the British possessions, thereby developing the shipping and fishing industries of the New Dominion, and creating a self-reliant and skilful class of fishermen and sailors, identified in property and affection with our national existence, and attached by past and present associations to Imperial welfare.

A Committee of the House of Assembly of Nova Scotia, in a report submitted to that body during the spring of 1867, represented that “the system of granting fishing licences to American fishermen adopted and practised during the last year by the Governments of this and the adjoining Provinces, is viewed with deep regret, as nothing could more injuriously affect the fishing interests of the Province; and they cannot in terms too emphatic express their disapproval of the injustice done to our industrious and enterprising fishermen, in allowing American fishermen, upon nearly equal terms, to fish in our waters side by side with the former, while the American market is virtually closed by a high tariff to their products.”

The Canadian Government had reason to hope that, viewing the conditional inception of this system, and its reluctant adoption, and considering its entire inefficiency, to say nothing of how unjustly it operated on our own fishing interests,—the British Government would as speedily as possible bring it to a conclusion. So far back as the 18th of August, 1866, the Governor General took occasion to suggest, in a despatch to the Colonial Secretary, that advantage should be taken of the presence in London of representatives from all the principal Colonies on business relating to the union of the provinces of British North America, to discuss the subject of the fisheries, and bring about some more satisfactory understanding on the fishery question than then existed. Also, it might be fairly expected that Her Majesty's Government would take steps to ensure an amicable adjustment of points of difference in the manner proposed through the American Minister by Earl Clarendon in May, 1866. The United States Government could scarcely be expected to prefer an early and just settlement of disputed claims so long as the more profitable and convenient practice of occupying our inshore fisheries to the same extent they had done during the existence of the Reciprocity Treaty, by virtue of a nominal and lax system provided and perpetuated for their especial accommodation. That they did not accept the frank and manifestly fair proposal thus presented on behalf of Her Majesty's Government, proves that there was no active desire to agree upon any basis of adjustment, or that the easier terms available in the licence system were so favourable to United States fishermen as to be worth their while to prolong it indefinitely.

The undersigned, seeing no prospect of any change in the commercial policy of the United States, and deeply impressed with the conviction that a continuing injustice was inflicted through the licensing system, ventured in the beginning of the year 1868 to urge that it be discontinued. This recommendation was approved by the Council. Attention was likewise drawn to the propriety of representing to Her Majesty's Government the

constantly increasing necessity for some definite policy on this important question. The growing tendency to tide it over from season to season, appeared to serve only to complicate matters more and more, and to render any ultimate decision all the more difficult to arrive at and carry out. In recommending a decisive policy, the undersigned believes that the true interests of peace would be best advanced. Reference is respectfully requested to the Report of 27th of February, and an Order in Council of 11th March, 1868, based thereon. These documents are printed in the correspondence laid before the Canadian Parliament during last session, a copy of which is annexed.

Again, in the months of September and November last year, attention was directed to certain anomalous proceedings of Americans under cover of the licensing system, and an opportunity indicated for the Imperial authorities to confer with two prominent members of the Government of Canada, at that time in England, on the timely adoption of some settled and acceptable policy.

A further official report by the undersigned, dated 10th of November, 1868, embraced also in the published papers herewith, explains how the greatest consideration and almost excessive forbearance on the part of the Colonial Governments have characterised the introduction and continuance of this licensing system; and that without producing the desired end, or effecting any favourable results, it was fast degenerating into a virtual abandonment of the power to exclude foreigners from our fishing grounds. The report concludes thus:

“This burdensome continuance of a system originated as an amicable concession towards the neighbouring States does not seem to have met with the slightest appreciation. The sole practical effect of it has been to admit foreigners to a free use of our fisheries, whilst imposing on the Imperial and Provincial Governments the material expense of regulating such foreign participation in lucrative advantages, and incurring the cost of protecting British subjects in the concurrent use of privileges exclusively theirs by the laws and usages of civilized nations, and at the same time guarding their own fishing grounds against substantial injury by American fishermen.

“Under all these circumstances it is respectfully but earnestly submitted whether the system of licensing United States fishing vessels, avowedly a provisional one, and implying no principle, should not now be absolutely discontinued, and that it shall in future give place to a definite policy of exclusion, agreeable to colonial interests and consistent with national dignity and rights.

“The undersigned need not in this connection enlarge upon the vital and vast importance to the Dominion of Canada of a strict maintenance of those principles of maritime jurisdiction and rights of fishery derivable from the parent state. Immense as is the intrinsic value of the exhaustless fisheries which form so large a portion of our material resources, their rightful control and exclusive use possess a peculiar value and significance intimately connected with the new condition and prospects of this country. The actual situation and future development of these inshore fisheries acquire if possible additional importance from the selection of a sea-board line of railway connecting the hitherto separated Provinces of the British North American Confederation.”

The foregoing references to the reasons and mode of admitting American fishing vessels and United States fishermen to the inshore fisheries of Canada ought clearly to show that, if Her Majesty's ships have been employed in connection with any local regulations of the Dominion, and to enforce any system from which it might appear that revenue is derived, and that such service is held by the Admiralty to justify a demand on the Colonial treasury for the expenses of ships so engaged, it will in reality amount to charging this colony for enforcing a system against the continuance of which it has repeatedly protested, and the duration of which for four years past could be in no way influenced by Colonial action, but exists for mere want of a definitive settlement, which Canada has always desired and constantly urged, but has no power to attain except through Imperial negotiations.

With reference to Earl Granville's despatch of the 14th of September, remarking on the temporary absence of the Canadian steamer “Druid” from a station near the fishing grounds assigned to her by Admiral Mundy, and in which His Lordship trusts that there is no indisposition on the part of the Government of Canada to withhold their active co-operation with the officers in command of Her Majesty's ships, the undersigned observes certain inaccuracies in the information conveyed through the Admiralty, and referred to in the despatch of the Secretary of the Admiralty to Sir Frederic Rogers, dated 26th August, 1869. Sir Rodney Mundy alludes to the withdrawal of this steamer as “the only vessel” employed by the Canadian Government. The armed schooner “La Canadienne” has been regularly employed in this service, and, as Admiral Mundy mentions in a subsequent correspondence, was always at her post. The instructions to her Commander,

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and other particulars relating to the service, were communicated to the Admiral early in the month of May last. It is further mentioned in a communication to the Admiralty from Vice-Admiral Wellesley, of the 18th November last, that the employment of the steamer "Druid" is "the only measure" adopted by the Colonial authorities to protect the fisheries. During last season boats' crews were engaged at several places where it was usual for foreign vessels to approach the coasts, warning them off and offering licences. It is true that the steamer "Druid" was absent on public duty for a short time from that part of the fishing grounds committed to her charge; but she was not at any time "idle" or attending to "private matters." When not specially occupied in watching the fishing fleet, she was serving the Lighthouses around the coast and the Humane Establishment at Cape Sable, a duty on which she has always been employed. These imperative duties lying in the neighbourhood of the cruising limits, it might be supposed that their performance would not interfere very much with her fishery service. Should the experience of the past season show that these duties cannot be combined with efficiency, the requisite provision might be made in future to perform them otherwise. Her Majesty's Government can be assured that, far from their being any want of concerted action between the Colonial authorities and the officers commanding Her Majesty's ships, or any disposition to withhold their co-operation in other respects, they have most earnestly endeavoured from the outset to give effect to the policy of which the granting of licences through the Fishery Officers and the Customs Officials forms an essential part.

The undersigned readily perceives that the Imperial Government may hesitate, in view of the antagonistic opinions held by the British and American Governments on the construction of the Convention of 1818, at present to enforce strictly the rights of exclusion from our inshore fisheries which are admittedly just and legal. But Her Majesty's Government cannot fail to be struck with the injustice to us, and the danger to the Empire, which attend an indefinite and temporizing policy.

It is therefore respectfully recommended that, unless the course submitted in a former report of the 15th instant be pursued, the United States Government be at once urged to enter into a Mixed Commission of the nature described in the Earl of Clarendon's despatch of the 11th of May, 1866, founded on suggestions offered by Mr. Adams, then American Minister at London.

And that, pending the recommendations of such Joint Commission, as they may be adopted and confirmed by the respective Governments, an improved system of licensing American fishing vessels shall be enforced under regulations necessary to its effective operation, and limited positively to the ensuing year.

In the event of the United States Government declining this proposal, the existing licences which expire with the closing year should not be renewed; and a policy of entire exclusion from our fishing limits be adopted and enforced.

With further reference to the concluding portion of Earl Granville's despatch of 21st of June last, signifying the readiness of Her Majesty's Government to furnish for next year one vessel of war to assist in giving effect to regulations for protecting the fisheries, provided that the Canadian Government furnish at their own cost such other vessels as may be necessary, the undersigned would draw the attention of Council to the national character of this service as contra-distinguished from the municipal duty which it appears to be considered. It, in fact, involves political considerations. The public right of fishing in the waters of British North America has been dealt with and disposed of in former times by Imperial authority, and has formed the subject of treaties or conventions with foreign powers. The differences which existed between the British and American Governments under the treaty of 1783, arose from concessions of fishing privileges in Colonial waters made by the Imperial Government in favour of citizens of the United States; and the succeeding disputes which have arisen out of the Convention of 1818, resulted from the terms of an arrangement made entirely by the Imperial authorities. Those disputes were the same that would have been revived at the termination of the Reciprocity Treaty, had not a temporary postponement occurred through the licensing system. The Government of Canada did not desire to avoid their settlement. If therefore they are now to be still further postponed in deference to the views of Her Majesty's Government, the people of Canada may reasonably claim that Imperial connection with the great question in suspense shall be duly represented by Her Majesty's ships. The purely local or municipal duties of guarding the coast and inshore fisheries within the limits of our territorial jurisdiction, the Canadian authorities do not hesitate to assume, and will amply provide for; but in support of those national rights on which the whole question depends, it is respectfully submitted that a sufficient Imperial force should be maintained in Colonial waters. Hitherto the number of war vessels detached for this service has been, according to the testimony of the commanding officers, altogether too few, and should the inadequacy

of the force be further reduced to the small measure of one ship, the moral and material effect would, it is to be feared, prove as injurious to our interests as it is possible to conceive. Were an increased number of cruisers to be employed, the undersigned is prepared to recommend that they be supplemented by a sufficient number of sailing vessels armed and equipped by the Canadian Government as a Marine Police to enforce our fishery laws and protect our inshore fisheries. These vessels would be similar in build to the foreign fishing vessels, and well manned. The schooner "La Canadienne" now employed is described by naval officers as very suitable to the duty, and has accomplished like duties for several years past in a most satisfactory manner. The others might be provided somewhat on that model. These auxiliary vessels could cruise close in shore, and accompany the fishing fleet, co-operating always with Her Majesty's ships, and furnished with licences to be issued if required to foreign fishermen.

The question raised by Earl Granville respecting the future management of the fishery service, it would be premature to discuss before a policy shall have been determined upon. It may also be advisable for the Government to consult with the Canadian Parliament on this important proposal. The undersigned begs leave therefore to defer its consideration to another memorandum.

Lord Granville alludes to presumed hostility of Canada towards the United States. The authority of statements made in the American Legislature is referred to for the existence of such a hostile spirit. This feeling, his Lordship adds, would evidently increase the risk of complications arising with the United States in which the Imperial Government might become involved. The despatch under notice assigns this presumption as an additional reason why the precautionary arrangements made in 1866 should still subsist, and the present control of the service be withheld from the Colonial Government. The undersigned thinks it highly desirable that this very erroneous and hurtful impression should be removed from the mind of Earl Granville.

The inhabitants and Government of Canada are now, as they ever have been, animated by most neighbourly and friendly feelings towards the people of the United States.

It so happens that in the career of free nations times and incidents will occur when the temper and sentiments of individual portions even of kindred peoples, enjoying institutions which admit of the utmost liberty of discussion, with an unfettered and active newspaper press, may be mistaken for public estrangement. And in the case of outlying dependencies of a powerful Empire, it is quite natural that Colonial sympathy with Imperial concerns should for the time being wear an aspect of antipathy towards those with whom the Mother country has differed on great questions of national policy. Their relative situation, and a mutual feeling of pride or delicacy, might deter the one from seeking and the other from offering any general evidence of public opinion pending those differences. Such may have been to some extent the case of this country during the late war between the Northern and Southern States. Many persons in Canada, as in the Federal States, in the heat of conflict and during the earlier stages of that gigantic struggle, no doubt held and expressed peculiar views of the unhappy contest, which were on calm reflection qualified or dispelled. Others, forming a majority of Canadians, though firm in a quiet adherence to the strict neutrality enjoined by Her Majesty's Government, felt strongly the trying position of the long-established Government of the American Union; and they warmly sympathised with the Northern people who are their nearest neighbours, and with whom they had so long and fortunately maintained the most intimate social and commercial relations. It is possible that feelings engendered by certain untoward occurrences as between the British and American Governments have been reflected on Canada; and that to minds momentarily obscured by prejudice, or by a sense of injury, from whatever source or cause, any just and moderate demands relating to our rights or our privileges should appear to be tinged by hostility.

The Government of Canada are as sincerely desirous as Her Majesty's Government can be to avoid any measures of an irritating tendency. They are actuated now, as they have been for four years past, by the same spirit of moderation and forbearance acknowledged by Mr. Secretary Cardwell in a despatch of the 21st of April, 1866. But they cannot consent to forego the just rights and privileges of British subjects, nor perpetuate an unsatisfactory policy, out of consideration for what the United States Government and the American people may choose to think of their motives,—especially when such imaginary hostility is believed to have been suggested by the real and retaliative "unfriendliness" of America towards Great Britain.

The whole nevertheless respectfully submitted.

P. MITCHELL,
Minister of Marine and Fisheries.

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RETURN to an Address of the HOUSE OF COMMONS, dated 3rd May, 1869; For a Return of all Licences granted during the past year to American Fishermen to fish in the waters of the Dominion; the names of the vessels and of their masters or owners, and to what Port they belonged; the amount of revenue derived from such licences, and the names of the Ports or places at which such licences were issued; also, of all Regulations and Orders in Council that have been made respecting the protection of the Fisheries since the 1st July, 1867, and for the current year.

By Command.

HECTOR L. LANGEVIN,
Secretary of State.

Department of the Secretary of State,
Ottawa, 14th May, 1869.

RETURN to an ADDRESS of the HOUSE of COMMONS.

For information relating to the issue of licences to foreign fishing vessels, and correspondence affecting the protection of the Fisheries of Canada.

P. MITCHELL,
Minister of Marine and Fisheries.

Department of Marine and Fisheries,
Fisheries Branch, Ottawa, 14th May, 1869.

Downing Street, 6th July, 1867.

My LORD,

I have the honour to transmit to you the enclosed copy of a despatch from the Lieutenant Governor of Prince Edward Island, stating that his Government had increased the fee on fishing Licences, because the Government of Nova Scotia and New Brunswick, acting, as Mr. Dundas presumed, in concert with Canada, had determined to issue fishing licences on a tonnage fee of 4s. instead of 2s. per ton; or, as elsewhere stated, a dollar instead of half a dollar.

Similar information as to Nova Scotia has reached England from the Admiral at Halifax.

I have learned with surprise that the fee to be demanded from American Fishermen has been doubled without communication from Her Majesty's Government.

I request that your Lordship will have the goodness to inform me whether the step has been taken in Canada, and if so, that you will apprise me of the reasons which may have induced the Canadian Government to adopt the measure. As the proceeding is reported to have occurred in Nova Scotia and New Brunswick before the date of Confederation, I have, in order to save time, written to request Sir F. Williams and Major-General Doyle for similar information.

I have, &c.,

(Signed)

BUCKINGHAM & CHANDOS.

Governor, the Right Hon. Viscount Monck,
&c. &c. &c.

Quebec, 18th July, 1867.

Am I right in saying that no change has been made in price of Canadian fishing Licences to United States vessels this year?

(Signed)

DENIS GODLEY.

To Hon. A. Campbell, Ottawa.

Answer.

There is no change.

Ottawa, 18th July, 1867.

(Signed)

W. F. WHITCHER,
for Hon. Mr. Campbell,

Acting Minister of Marine and Fisheries.

To Denis Godley, Esq., Quebec.

MY LORD,

Downing Street, 3rd September, 1867.

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I have the honour to transmit to you, for your information, the enclosed copy of a despatch received from the Lieutenant Governor of Prince Edward Island.

The anomaly of having a charge of one dollar for licences in those waters connected with the former separate government on the sea-board, and half a dollar in the waters belonging to the former Government of Canada is objectionable. But the season is now so far advanced, that unless you should find it necessary on the spot, I have no desire to suggest a change for the remainder of this current season.

Mr. Dundas' despatch affords some reasons for thinking that next season one dollar would be no more than a suitable fee for the whole Dominion of Canada, and for the smaller adjacent Colonies; and also that it would be advisable to give up the plan of three warnings, which plainly renders the existing Laws ineffectual, and teaches the American Fishermen to treat them with indifference. On this point, however, I should be glad to receive your opinion.

It does not appear whether Monsieur Fortin of "La Canadienne" has received a fresh commission since the Dominion has been created, so as to extend his authority over all the waters of the Dominion.

I presume that this has been done, but I quite concur in the expediency of the orders which he appears to have received, that in case of his granting any Licences, he is not to charge more for them than the half-dollar authorized in the waters of the former Province of Canada.

I have, &c.,

BUCKINGHAM & CHANDOS.

(Signed)

Governor the Right Hon. Viscount Monck,

&c. &c. &c.

DEPARTMENT OF MARINE and FISHERIES.

Fisheries Branch,

Ottawa, 27th February, 1868.

The Minister of Marine and Fisheries has the honour to report, on reference by the Privy Council, of despatches from the Duke of Buckingham and Chandos, dated 6th July and 3rd September last, relative to increasing the fees at present charged for Season Fishery Licences to American fishing vessels and United States fishermen, authorizing them to take bait and fish and frequent harbours in all the waters, and to land or haul and dry nets, and to cure fish on the coasts of the several Provinces now forming the Dominion of Canada; and those of Prince Edward Island, in common with subjects of Her Britannic Majesty; also on a memorandum by the Governor General, dated 21st ultimo, bringing under notice of the Privy Council the actual position of the Fishery Question, and suggesting four different modes of dealing with the subject, namely:—

First. To maintain the small fee (of fifty cents per ton) merely still as an assertion of title.

Second. To increase the fee to a sum representing the value of the liberty conceded.

Third. To absolutely prohibit fishing by United States fishermen in Colonial waters.

Fourth. To propose to the Government of the United States, to admit their vessels and fishermen on condition of opening American markets to Canadian-caught fish.

The despatches from the Secretary of State for the Colonies favour the continuance of the present licensing system, and intimate the expediency of adopting a uniform tonnage rate at one dollar per ton.

The first course suggested by the Governor General's memorandum, besides its inadequacy, is liable to the grave objection noticed by his Excellency of being likely to degenerate into a tacit relinquishment of the exclusive right of fishery. A continuation even for another year of this nominal licence fee, which system when established was expressly limited to the first year, but has now extended over two years, ought on no account whatever to be proposed. The special privileges thus conveyed were for the season of 1866, after the termination of the Reciprocity Treaty, and as a temporary measure, permitted to United States fishing vessels and fishermen in a conciliatory and liberal spirit and on entirely exceptional terms. The merely nominal fee of fifty cents per ton of measurement of the vessels proposing to engage in fishing was, as expressed in a despatch from the then Governor General of Canada (Lord Monck) to the late Sir Frederick Bruce, on the 23rd May, 1866, intentionally fixed at this very low rate for the formal purpose of asserting exclusive rights of fishery in Colonial waters; and his Excellency indulged the hope that

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some satisfactory permanent arrangement might be arrived at before the recurrence of another fishing season. It was further observed, in this connection, that the minimum tonnage duty so imposed was adopted for that year only, and must not in any sense be regarded as an equivalent for the advantages accorded. And in the course of negotiations to effect such a temporary arrangement, it was distinctly understood, in the words of a despatch from Mr. Cardwell, dated 3rd March, 1866, that unless some satisfactory agreement between Great Britain and the United States, embracing the whole subject of reciprocal commercial relations, should be made during the course of the then current year, the special privileges thus allowed should cease, and all concessions made in the treaty of 1854 be liable to withdrawal.

There is every reason to think, it was in the expectation of its enduring for such limited period, and being succeeded by legitimate exclusion, that the then Governments of Nova Scotia and Prince Edward Island were enabled to overcome the strong reluctance felt to the proposed arrangement, and expressed in a minute of the Executive Council of Nova Scotia, dated 21st June, 1866, although they ultimately concurred with Canada in granting joint licences.

Notwithstanding these reserved conditions, the issue of licences to American fishing vessels at a nominal charge has been continued throughout the past year, subject only to an alteration which increased the rate per ton to one dollar for those licences issued at ports in Nova Scotia and Prince Edward Island. The Government of the late Province of Canada deeming it essential to maintain the obviously nominal character of the rate first stipulated, and desiring to act in complete accord with Her Majesty's Government, did not concur in the partial advance of fifty cents suggested by the Governments of the sister Provinces in the course of last season.

Throughout the year 1866 about eight hundred American vessels have prosecuted fishing in various places around the sea coasts and in the Gulf and River St. Lawrence, many of them making two or more voyages,—of which number only 454 took out licences, the aggregate amount of tonnage fees paid by them being \$13,016.85. In Nova Scotia there were 354 licences issued, the collections on which amounted to \$9,368.50; in Prince Edward Island 89 were taken out, and fees paid to the amount of \$3,339.35; only 10 licences were obtained in Canada, on payment of \$296.00, and but one in New Brunswick, at \$13.00. None were granted in Newfoundland.

The returns for 1867 have not yet been completed, but it is generally understood that the number of licences issued is in still greater disproportion to the number of vessels actually fishing in provincial waters than it was during the previous year. From Canada and New Brunswick, none were procured; and in Nova Scotia, the whole number issued was 269, the amount received (\$13,929) is proportionately greater because of the double rate. This diminution is said to be partly owing to the practice of Imperial cruisers in giving three separate warnings to each vessel before either enforcing the acceptance of licences or attempting to make seizures. Such indulgence is mentioned in a despatch from the Colonial Office of 3rd September last, as rendering the existing laws ineffectual, and causing the American fishermen to treat them with indifference. It also operates as a relative injustice towards those who have voluntarily taken licences, and offers a premium on evasion or refusal.

Thus the practical effect of a formal licence system has been to admit Americans to an almost free use of our fisheries, whilst incurring on our own part, and that of the Imperial Government, a very considerable and uncompensated expense to merely regulate foreign participation in those important advantages, to protect British fishermen in the concurrent enjoyment of their rightful privileges, and to guard the fishing grounds against substantial injury.

With reference to the fourth course pointed out by his Excellency, it may be here remarked that a somewhat similar proposal has already received the earnest consideration of the Government. In answer to Mr. Secretary Seward's proposition, conveyed by the despatch from the British Minister at Washington, under date of 4th June, 1866, to negotiate a reduction of United States customs duties on fish imports from the Provinces, in consideration of admitting American fishing vessels and fishermen to fish in provincial waters, it was stated in the Minute of Council, approved on the 18th of June, 1866, and communicated on the day following to the United States Government, that no engagements could be entered into which would at all connect the admission of American vessels and fishermen to the desired liberty, with a remission of duties proposed to be levied by the United States on provincial-caught fish.

The undersigned is of opinion that, besides being in other respects objectionable, any proposal to now effect this object and open a free market as an equivalent for unrestricted access to Canadian fisheries, would certainly fail of its intent. And even if successful it

must indefinitely defer all hopes of a return to the policy of reciprocal trade. Moreover, the time required to bring about such an alteration in the United States tariff, involving the sanction of Congress, would amount in fact to the loss of another season.

The United States Government are fully advised of the provisional nature and nominal character of the licensing system adopted avowedly as a temporary expedient in 1866; and while their fishermen have continued to enjoy the fishing privileges during an additional year no advance has been made towards effecting a permanent and fair arrangement, nor have any means been sought to attain a just settlement of the Fishery Question. Early in the year 1866 the Earl of Clarendon, on behalf of Her Majesty's Government, expressed a cordial desire to associate with the American Government, in naming a mixed Commission to inquire into and define the several questions which had been put in abeyance by the Reciprocity Treaty of 1854, and had authorized the British Minister at Washington to enter forthwith into negotiations with Mr. Secretary Seward for such purpose. It does not however appear that the friendly concert then suggested has since been acceded to; notwithstanding that revival of the former irritating and critical conditions was due entirely to the deliberate action of the United States in abrogating the treaty. Their customs regulations are not modified, nor are their (virtually prohibitive) tariff rates on the chief productions of the Dominion yet relaxed.

These excessive duties bear with peculiar hardship on our fishing industry, and particularly that of Nova Scotia and Prince Edward Island; the fishermen and dealers in those Provinces being forced into competition, in United States markets, under serious disadvantages side by side with the American free catch taken out of our own waters. At the same time other producers are subjected to equally heavy charges on the agricultural, mineral, and other natural products of the United Provinces.*

The direct extent to which such prohibitory duties affect the fishery interests of these Provinces may be stated in few words. During the year 1866, for example, the several Provinces have paid (in gold) as custom duty on provincial-caught fish exported to the United States about \$220,000, whilst American fishermen in the same period have paid as licence fees the comparatively insignificant sum of \$13,000, although in that year they took from our deep-sea and inshore fishings over four millions of dollars worth of fish, and one hundred and fifty thousand dollars worth from the inland waters of the Province of Ontario.†

If there appeared at this juncture any near prospect of continued liberality and forbearance being reciprocated by the United States—if there was evinced an active desire to restore equitable trade relations and promote reasonable interchange of the staples of the two neighbouring countries,—the inequality of these conditions and the discriminative features of their commercial policy, might not seem to press with so great urgency. There is, however, no indication of such desirable results. And whatever may be at present determined on by Her Majesty's Government, unless before the advent of another fishing season some satisfactory arrangement shall be effected, the existing and any other mere provisional system ought wholly to cease, and all concessive liberties of fishing be absolutely withheld.

Regarding the third course mentioned by his Excellency, the adoption of which is considered to be fraught with disagreeable and perhaps dangerous complications, it is obviously that one which sooner or later must be adopted. The difficulties and delicacy of this question constantly increase through deferment. Every renewal of concessions seems calculated to augment the claims advanced, and serves to confirm the American fishermen and people in an indefinite conviction of the rightful character of their entire pretensions. They must come at length to the conclusion that Great Britain is indisposed to effectively dispute them, or unwilling to assert and maintain the just claims of her subjects. Any misconstruction of this kind must necessarily intensify disputes, and may, in spite of the

* MEMO. FROM U. S. TARIFF:

Mackerel	\$2 00 per bushel.
Herrings	1 00 "
Salmon	3 00 "
Other pickled fish	1 50 "
All others:	½ct. per lb.

NOTE.—These rates, with other Government taxes, are in most instances equal to 33 per cent., and as regards pickled fish from Lakes Superior, Huron, Erie, and Ontario, are utterly prohibitory.

† NOTE.—More forcibly to illustrate the unequal operation of the present system, suffice it to instance the following cases: a British vessel of 71 tons, built and equipped last season at St. John (N.B.), costing \$4,800, expressly for the mackerel fishery in the Gulf of St. Lawrence and Bay of Chaleurs, took 600 barrels of fish, which sold in Halifax and Boston for \$6,000. After paying expenses, including \$936 in gold for customs, a profit of \$1,200 accrued to the owners. An American vessel from Newburyport (Mass.), of 46 tons burthen, took a licence at Port Mulgrave (N.S.), paying \$46. The whole cost of vessel and voyage was \$3,200, or \$2,400 Halifax currency. She fished 910 barrels of mackerel, which sold in Boston for \$13,000, about \$9,110 in gold, leaving a profit of \$6,710.

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utmost moderation and prudence on the part of British fishermen, expose the two nations to occupy a position at once false and perilous.

It is stated in the instructions from the Secretary of State for the Colonies, dated 12th April, 1866, that Her Majesty's Government are clearly of opinion that by the Convention of 1818, the United States have renounced the right of fishing, not only within three miles of the colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek; and also, that American vessels might be lawfully prevented from navigating the Gut of Canso.

There can be no doubt the claims advanced in former times by the maritime provinces, and which are said to have occasioned difficulties, are just and tenable—being confirmed alike by British and American authorities on international law. A report by the Officer in charge of the Fisheries, on certain disputes arising out of the above-named Convention is submitted herewith.

The people of these Provinces having loyally responded to the policy of the Empire, and under severe trials and increasing disadvantages for two years past displayed that moderation and forbearance anticipated in Mr. Cardwell's despatch of the 21st April, 1866, might justly urge the peculiarity of their situation. They might earnestly impress upon Her Majesty's Government the vital and vast importance of these Fisheries to the actual position and prospective interests of the New Dominion, and confidently expect that the maritime jurisdiction and national right of fishery derivable from the parent state shall be now firmly asserted and vigorously enforced. Such a policy, temperate in spirit, just in its operation, and national in its objects, would doubtless favourably influence the public sentiment of Nova Scotia, and present a new and tempting inducement to the Islands of Prince Edward Island and Newfoundland to join the Confederation.

However desirous we may be to restore those commercial relations which have proved mutually beneficial to both parties, the Canadian Government would disclaim all idea of coercion through the medium of forcibly excluding Americans from their fishing grounds, and disavow any action conceived in a retaliatory spirit; being actuated solely by the conviction that absolute exclusion (if only from the indisputable limits of the inshore fishery) is more likely to ensure an amicable adjustment of the entire controversy than renewed evasion of an issue that should be fairly met and in the interests of peace and justice be finally determined. The welfare of this country depends upon the peaceful pursuit of its several industries, and the steady development of its varied resources. With the extensive sea-board we possess, and the rich fields our coast affords for maritime enterprise, Canadians look forward to the occupation of those shores by a still more numerous and productive population, supplying the wants of our people and contributing largely to the foreign and domestic commerce of British North America, whilst affording material for a hardy and skilled marine. Hence their anxiety that this important question should be brought to an early and satisfactory settlement. Conscious of their rights, and equally anxious to obviate every possibility of estrangement between neighbouring peoples, or of international difficulty between Great Britain and the United States, they would rather accept a further temporary arrangement for the current year—provided it shall be made contingent on co-temporary inquiries by a mixed commission of the nature indicated in the Earl of Clarendon's despatch of 11th May, 1866.

Referring therefore to the second course proposed by his Excellency, and suggested by the Secretary of State for the Colonies, as if alone open to immediate and practical adoption, it remains to be considered on what term licensed admission should take place.

Without at present raising any question as to the definition of bays, &c., and conceding for the time being that the modification of strict right already consented to by Her Majesty's Government in respect to all bays or creeks of less than ten geographical miles in width at the mouth, might without detriment to our legal claims temporarily continue, it is suggested that Americans be again admitted to the inshore fishings without limitation, but at an increased rate of charge.

In order that provincial fishermen may be placed on a somewhat less disadvantageous footing in comparison with United States citizens in British waters, a higher rate per ton should be charged for licences to American vessels. This charge should be regulated with reference as well to compensating our own fishermen and traders for the tax levied on fish exported to the United States markets, as to forming a fund for the maintenance of a Marine Police, made requisite by the presence of foreigners, and also to encourage and develop the Fisheries; and it should not in any sense be rated either as an equivalent for the privileges conveyed, or as commensurate to the advantages enjoyed.

It is recommended that the rate be \$2 per ton. The mackerel fishery being that in which Americans chiefly engage, and as mackerel is the principal fish marketed in the United States by Canadians, on which the tax is now \$2 per barrel, this rate amounts to a

charge of but 20 cents per barrel, still leaving them an advantage of \$1.80, on each barrel, besides the drawback allowed on salt.*

To effectively carry out the proposed policy, it is necessary that the practice of repeated warnings should be abandoned, and other regulations made with reference to such participation in the Fisheries by United States vessels and fishermen. The Government of the Dominion will also require to establish and maintain a respectable force of marine police. And it may be found desirable on the part of Her Majesty's Government, as formerly, to instruct the naval officers in command of the North American Squadron to co-operate with the Dominion authorities in enforcing this system and protecting the Fisheries. It is further recommended that an Act be submitted for the consideration of Parliament during the present session, which would legalize and enforce the policy herein recommended—and as this policy is merely experimental—that such Act be limited in its duration to one year.†

The whole, nevertheless, respectfully submitted.

P. MITCHELL,

Minister of Marine and Fisheries.

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COPY a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by his Excellency the GOVERNOR-GENERAL in Council on the 11th day of March, 1868.

The Committee have had under consideration the annexed memorandum dated 27th February, 1868, from the Hon. the Minister of Marine and Fisheries, having reference to the subject of the Despatches dated 6th July and 3rd September last, from his Grace the Secretary of State for the Colonies, as well as to your Excellency's memorandum of the 21st January last, respecting the policy to be pursued in regard to the admission of American citizens to fish on the coasts of the several Provinces, now forming the Dominion of Canada, and they respectfully report their concurrence in the views and recommendations contained in the said annexed Report, and submit the same for your Excellency's approval.

They would further suggest that a copy of this Order in Council, when sanctioned by your Excellency, should at once be communicated to the Secretary of State for the Colonies, and also to the Government of Newfoundland and Prince Edward Island.

Certified.

(Signed)

W. A. HIMSWORTH,
Assistant C. P. C.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

The Committee of the Privy Council have considered the memorandum of his Excellency the Governor-General relative to a Minute of the 11th instant upon the subject of licensing American fishing vessels;

His Excellency correctly observes that he considers himself relieved from any inconvenience which may arise from the lateness of the period at which this Minute has been agreed to, and the Council have certainly no reason to impute blame for any delay which has heretofore arisen either to his Excellency or to the Imperial Government.

His Excellency also observes that in assenting to the Minute of Council referred to, he has done so upon the understanding that it shall not be made public, or be acted upon until he shall have received the assent of the Secretary of State for that purpose, and observes that the plan of licensing was originally instituted in concurrence with the Imperial Government, and calls the attention of the Privy Council to the fact that the forces of the Royal Navy have been those which have been used for the assertion of the right to exclude foreigners from these Fisheries.

With reference to his Excellency's stipulation that no action should be taken on the approved Minute of Council until the policy adopted shall have been assented to by the Secretary of State, the Committee of Privy Council must observe that such a delay will not only give rise to new occasions of difficulty, but is not justified by the circumstances of the case.

If United States fishermen are now allowed to proceed to the fishing grounds under the supposition that a merely nominal system still exists, and the right of exclusion is practically abandoned by the British Government, they will in all probability either resist the exaction of an increased fee, or altogether avoid paying for any licences.

There certainly is nothing in the present aspect or past history of this matter to afford

* NOTE.—The total amount estimated from this increase of rate is \$130,000, being about \$90,000 less than the sum payable as duties.

† NOTE.—Vide statute 31 Vic. Cap. 61, "An Act respecting fishing by foreign vessels."

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any justification or even excuse for inaction. And referring to the various communications on the subject between the Imperial, Canadian and American Governments, the Council find ample ground for the action presently taken being promptly carried out.

His Excellency will perceive that the Minute of Council of the 31st March, adopted on the letters of Mr. Secretary Cardwell, dated 3rd and 10th March, 1866, originated the licence system, and, although, as his Excellency states, it was in concurrence with the Imperial Government, it was based on the previous action of the Canadian Government, and the policy which was thought most desirable for Colonial interest, as proposed by them. That policy, it is true, was adopted in express deference to the wishes intimated by Her Majesty's Government, pointing to the logical and just consequences of the voluntary abrogation of the Reciprocity Treaty by the United States, which should succeed the proclamation of the 20th of July, 1866, and it was so adopted "on the distinct understanding," suggested in Mr. Cardwell's first-named despatch, already referred to by the Privy Council, "that unless some satisfactory arrangement between the two countries be made during the course of the year, this privilege will cease, and all concessions made in the Treaty of 1854 will be liable to be withdrawn."

Such was the principal condition on which the system was approved by the Government of the then Province of Canada; and on which this Government procured its adoption by the Maritime Provinces. To this conditional policy Her Majesty's Government gave direct confirmation by the despatch to the Governor-General of the 21st April, 1866, fully approving of the course proposed for the then current year.

The principle therefore being recognised, and its operation having been since extended and acted upon with an advance in the rate of charge of licences in some of the Maritime Provinces, whilst no effectual endeavour has been in the meanwhile made to realize the expectation of some more permanent and satisfactory arrangement indulged in by the Secretary of State and intimated to the American Government—the Privy Council respectfully consider that any reasonable and moderate terms on which the licence system may be continued for another season form a matter of detail within the Province of the Canadian Government, being simply *the extension of a principle fully sanctioned and acted upon, and involving no new elements of consideration*. In this connection the Council beg to refer to the fact of such advance in the price of licences not being a new proposal. The Despatch of Vice-Admiral Hope, of the 7th July, 1866, communicated to his Excellency by Earl Carnarvon on the 18th August of the same year, recommends that "next year the rate of the present licence shall be raised to that which will still be a moderate one, after which that it shall be doubled each succeeding year until it becomes prohibitory." This recommendation was communicated by his Excellency in a Despatch to the Colonial Office, of 18th August, 1866, with the suggestion that advantage should be taken of the intended presence of the Confederate Delegates in London, to arrange a more satisfactory understanding on the Fishery Question than the existing one; and as no change of policy was proposed by the Imperial Government, it is presumed that they viewed the licensing system as sanctioned in principle and detail, to be carried out by the Province so long as they were content to submit to the unjust disadvantages which it entails.

Referring to the observation of his Excellency, that the present state of the relations between England and the United States renders it necessary that great care should be taken that no act on the part of any British Dependency should introduce fresh complications into these relations, the Privy Council quite concur in the desirability of avoiding every possible cause of irritation, and have on such account guarded most carefully against introducing any new element into the policy adopted. An attentive perusal of the minute in question will show that, even as respects the limits for exclusion of unlicensed vessels, any action which might occasion dispute has, for the time being, been waived. It does not seem at all probable that Her Majesty's Government will find, in the guarded and moderate policy adopted, any such objectionable feature. And as regards the employment of the forces of the Royal Navy to assert the right of excluding foreigners from these Fisheries; his Excellency will find that the Minute of Council provides that the licence fees shall form a fund for the support of a marine police to enforce the system, thus supplementing the efforts of Her Majesty's vessels.

The Privy Council cannot refrain from respectfully impressing upon his Excellency the urgency of communicating without further delay to the American Government, the course decided on, as they feel, should this not be done, advantage may be taken to continue the present objectionable and inefficient system for still another year. Already has decisive action been deferred, in the hope that certain indications of a returning disposition towards renewed commercial intercourse, which were perceptible in the United States, would lead to proposals obviating the necessity for any special policy on the fishery question. These, however, have not as yet led to anything definite, and the subject being in

this instance more urgent than when two years ago it was pressed upon the decision of the Canadian Government by Mr. Secretary Cardwell, it is of the highest importance that no further time should be lost.

Privy Council Chamber,
Ottawa, 16th March, 1868.

DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

Ottawa, 3rd April, 1868.

The Minister of Marine and Fisheries has the honour to bring under the notice of the Governor-General in Council, that for several years past a practice has prevailed in the United States of repacking (in bond) certain kinds of British and French caught fish for exportation to foreign markets, and although the custom is profitable to Americans engaged in the business, while it has incidentally proved beneficial to our own fishermen, the United States Customs authorities have, it is credibly reported, received instructions to disallow it in future. Such a regulation will afford an additional advantage to the United States fishermen, and superadd to the almost prohibitory effect of American imposts on provincial-caught fish. It is highly desirable therefore that immediate action should be taken to carry out the policy adopted by the minute of the 11th ultimo. Any further delay may occasion the loss of a great part of the licence fees which might be collected from the spring fleet of American fishing vessels resorting to Canadian waters.

Respectfully submitted,

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

Downing Street, 9th May, 1868.

MY LORD,

With reference to your Lordship's Despatch of the 11th of March, and your subsequent Despatch, No 52, of the 23rd of March, I have the honour to inform you that Her Majesty's Government do not object to the proposed rate this year of two dollars a ton on licences to American fishermen to fish within British waters on the coasts of the Dominion of Canada.

This information will be communicated to the Governor of Prince Edward Island and Newfoundland.

The Lords Commissioners of the Admiralty have been requested to authorize the Admiral to instruct the naval officers under his command that one previous warning will henceforward be sufficient before seizing any vessel which may be fishing in transgression of the law.

I have, &c.,

(Signed) BUCKINGHAM & CHANDOS.

Governor, the Right Hon. Viscount Monck,
&c. &c. &c.

Government House,
Prince Edward Island, 12th May, 1868.

MY LORD,

I had the honour to receive last evening your telegram of date the 9th instant, informing me that the Imperial Government had sanctioned a fee of two dollars per ton fishing licences this year.

Under these circumstances fishing licences will be issued by this Government at that rate, and the licences will declare that they give the privilege of fishing for the present year in the waters subject to the jurisdiction of the Dominion of Canada, as well as of this Island.

I have, &c.,

(Signed) GEORGE DUNDAS,
Lieutenant-Governor.

His Excellency the Viscount Monck,
&c. &c. &c.

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Charlottetown, P. E. I., 18th May, 1868.

Island licences state that they give permission to Americans to pursue deep-sea fisheries in all waters within jurisdiction of Island or of Dominion, and to crews to land upon the coasts of Island or of Dominion, to dry nets or to cure fish subject to Fishery Laws of Canada. Is there any objection to this?

(Signed) GEORGE DUNDAS,
Lieutenant-Governor.

His Excellency the Viscount Monck.
&c. &c. &c.

Government House,
Prince Edward Island, 19th May, 1868.

MY LORD,

I have the honour to enclose copies of the Fisheries Licence, which it is proposed to issue for the present season:

As these licences state that they give the privilege of fishing in the waters of the Dominion of Canada, I yesterday telegraphed to your Lordship to ascertain if there is any objection on the part of your Lordship to the form of this licence. The extension to the Dominion of Canada is proposed by my advisers to be inserted in the licences of this year, in order to remove doubts which existed last year on the part of the American fishermen, as to the mutual recognition of these licences.

In order to avoid any difficulty, these licences will not be issued until I am assured that there is not any objection on the part of your Lordship to this form; I shall therefore be obliged, if your Lordship will communicate to me your decision by telegraph at your earliest convenience.

I have, &c.,
(Signed)

GEORGE DUNDAS,
Lieutenant-Governor.

His Excellency the Right Hon. Viscount Monck,
&c. &c. &c.

DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

Ottawa, 19th May, 1868:

The Minister of Marine and Fisheries begs to recommend that the arrangement entered into in 1866, between the then Provincial Governments, by which fishing licences issued to United States vessels should be mutually interchangeable without reference to the respective collection of fees thereon, be for the present season continued; and that the Lieutenant Governor of Prince Edward Island be informed, by telegraph, in reply to his Excellency's telegram of yesterday, that there is no objection to the form of licence proposed.

The whole, nevertheless, humbly submitted.

(Signed) P. MITCHELL.
Minister of Marine and Fisheries.

DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

Ottawa, 20th May, 1868.

The Minister of Marine and Fisheries begs to report, with respect to the telegraphic Despatch from the Lieutenant Governor of Prince Edward Island, relative to the form of fishing licences proposed to be issued to United States vessels by his Excellency's Government, that, in pursuance of an agreement made in 1866, between the then Provincial Governments, mutually interchangeable licences were granted during two years past to American fishermen without reference to the appropriation of moneys collected thereon.

Under this arrangement the Government of Prince Edward Island has already received as licence fees on 115 licences, the sum of \$4,272.00, without having incurred any other expense than the mere issuing of such licences; while the Governments of Nova Scotia,

New Brunswick, and Canada have incurred considerable outlay towards enforcing the licensing system. The agreement in question was regarded as a temporary one; and any such provisional understanding entered into prior to Confederation might now very properly be revised. If that province may continue to enjoy the benefit of protection afforded as well by the Dominion as by the Imperial Government to the inshore fisheries, being relieved of all cost and responsibility in the matter, and at the same time derive funds from the system, its operation in this regard will prove highly objectionable. Whatever inducements a just policy and efficient measures to prevent intrusion by foreign vessels and fishermen, are supposed to hold forth to those of the inhabitants of that Island engaged in or interested in the fisheries, would be much lessened in their effect if the system be indiscriminate.

The undersigned perceives that the question of local jurisdiction is merged in the mutual recognition of licences; and that any difficulty which might otherwise attach to the necessity for common action and co-operation among the Naval and Dominion Service is thus avoided. It seems however none the less desirable to establish at once a practical distinction in favour of the United Provinces, upon whom must devolve so much of the trouble and cost of enforcing an exclusive policy, or the modification of it by compulsory licensing.

As the season is now far advanced, and further delay in negotiating a different arrangement on the basis of participation on the part of Prince Edward Island in the expense of the fisheries protection service, or the payment of some proportion of the fees collected, might injuriously affect the issue of licences for this year, it is respectfully suggested that the form of licence which the Lieutenant Governor proposes should be at once approved, and that in the event of the licence system being continued another season, definite terms shall be made for the future.

Occasion is taken to state that it is requisite, for the information of the Privy Council, that returns in detail of the names, tonnage, &c., of vessels licensed at Prince Edward Island during the years 1866 and 1867, similar to those published for Nova Scotia and Canada, should be furnished to the Government.

The whole, nevertheless, humbly submitted.

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 22nd May, 1868.

On a memorandum dated 20th May, 1868, from the Honourable the Minister of Marine and Fisheries, reporting with respect to the telegraphic despatch from the Lieutenant Governor of Prince Edward Island relative to the form of fishing licences proposed to be issued to United States vessels by His Excellency's Government, that in pursuance of an agreement made in 1866 between the then Provincial Governments, mutually interchangeable licences were granted during two years past to American fishermen, without reference to the appropriation of moneys collected thereon.

That under this arrangement the Government of Prince Edward Island has already received as licence fees on 115 licences the sum of \$4,272, without having incurred any other expense than the mere issuing of such licences; while the Governments of Nova Scotia, New Brunswick, and Canada have incurred considerable outlay towards enforcing the licensing system. That the agreement in question was regarded as a temporary one, and any such provisional understanding entered into prior to Confederation might now very properly be revised.

That if that Province may continue to enjoy the benefit of protection afforded as well by the Dominion as by the Imperial Government to the inshore fisheries, being relieved of all cost and responsibility in the matter, and at the same time derive funds from the system, its operation in this regard would prove highly objectionable.

That whatever inducements a just policy and efficient measures to prevent intrusion by foreign vessels and fishermen are supposed to hold forth to those of the inhabitants of that Island engaged in or interested in the fisheries; they would be much lessened in their effect if the system be indiscriminate.

The Minister states that the question of local jurisdiction is, he perceives, merged in the mutual recognition of licences, and that any difficulty which might otherwise attach to the necessity for common action and co-operation among the Naval and Dominion Service is thus avoided. That it seems, however, none the less desirable to establish at once a practical distinction in favour of the United Provinces, upon whom must devolve so much of

APPENDIX. the trouble and cost of enforcing an exclusive policy, or the modification of it by compulsory
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That as the season is now far advanced and further delay in negotiating a different arrangement on the basis of participation on the part of Prince Edward Island in the expenses on the fisheries protection service, or the payment of some proportion of the fees collected, might injuriously affect the issue of licences for this year, he suggests that the form of licence which the Lieutenant Governor proposes should be at once approved, and that, in the event of the licence system being continued another season, definite terms shall be made for the future.

The Minister takes occasion to state that it is requisite for the information of your Excellency in Council that returns in detail of the names, tonnage, &c., of vessels licensed at Prince Edward Island during the years 1866 and 1867, similar to those published for Nova Scotia and Canada, should be furnished to the Government.

The Committee concur in the Report of the Minister of Marine and Fisheries, and advise that the form of licence proposed by the Lieutenant Governor of Prince Edward Island be approved as recommended.

Certified.

WM. H. LEE,
 Clerk, Privy Council.

DEPARTMENT OF MARINE and FISHERIES (Fisheries Branch).

Ottawa, 22nd May, 1868.

The Minister of Marine and Fisheries has the honour to refer to certain suggestions offered in the report of Captain Hamilton, in command during last season of Her Majesty's ship "Sphinx," engaged in protecting the fisheries of the Gulf of Saint Lawrence, and fully concurred in by Vice-Admiral Sir Rodney Mundy. These suggestions relate to the more effectual detection of trespass on the inshore fisheries by United States fishing vessels, and better enforcement of the licensing system.

This officer suggests, as the best means of ensuring protection to British fishermen, and securing compliance with our fishery laws on the part of Americans, that small schooners should be employed, similar to those belonging to the fishing fleets, and cruise inshore to intercept vessels when clearly within forbidden limits; also that boats from the men-of-war should cruise about in the vicinity of their ships for the purpose of detecting such vessels as might be unprovided with licences.

The Canadian Government having already in employ an armed schooner ("La Canadienne"), together with a steamer (the "Druid"), and as the expense of chartering other schooners would be very considerable, it seems to the undersigned most advisable rather to improve the suggestion made by Captain Hamilton relative to the engagement of boats' crews than to incur the cost of other decked vessels.

The fishing fleet often resort for shelter, and sometimes for bait, to harbours within easy reach of the fishing grounds; they also fish quite close inshore off several parts of the coast, where in fair weather said boats can readily accost them. And as several boats' crews stationed at convenient places could at the same time co-operate with and assist the local Fishery Overseers charged with carrying out the fishery laws and regulations among Canadian fishermen, it is considered preferable to adopt such means, having reference to both economy and efficiency, instead of engaging schooners. The fact, moreover, of waiving for the time being the right of exclusion from bays of less than ten miles in width, favours the adoption of smaller craft.

It is respectfully recommended that the undersigned be authorized to employ efficient boats' crews at the following places:—

Ports Hood and Digby, in Nova Scotia; Miramichi, West Isles, and Miscou, in New Brunswick.

Arrangements may be made for these crews to act under the general direction of the officers in command of the Government vessels, and to receive directions and aid in case of need from Her Majesty's ships. Licences can also be supplied to the person in charge of each boat; for issue to any vessel to the owner of which the alternative of seizure or acceptance might be afforded.

The whole, nevertheless, humbly submitted.

(Signed)

P. MITCHELL,
 Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 1st June, 1868.

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On the annexed Report from the Hon. the Minister of Marine and Fisheries, submitting in reference to certain suggestions made by Captain Hamilton of Her Majesty's ship "Sphinx" for the employment of vessels for the detection of trespass by United States fishing vessels on the inshore fisheries, and the better enforcement of the licensing system,—that boats' crews be employed for that service on certain parts of the coasts of Nova Scotia and New Brunswick.

The Committee advise that the recommendations contained in the said annexed Report be approved; it being understood that the Officer in charge of a boat shall not be authorized to capture or seize any vessel, but only to report the fact of such vessel fishing without licence to the nearest Government vessel.

Certified,

(Signed) Wm. H. LEE,
Clerk, Privy Council.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

DEPARTMENT OF MARINE and FISHERIES (Fisheries Branch).

Ottawa, 22nd May, 1868.

The Minister of Marine and Fisheries has the honour to report for the information of the Governor in Council, that the steamer "Druid" is nearly ready for sea, and to recommend that a suitable person being selected as commander, she be placed, when ready, on active service.

In addition to the duties assigned to this vessel, in supplying the light-houses, rendering assistance to wrecks, relieving distressed mariners, and tending the Humane Establishments around the coasts of Nova Scotia, it will be necessary also to employ her as formerly in carrying out the fishery laws still in force in that province, and the recent Acts of the Dominion Parliament for protecting the fisheries, particularly with respect to the collection of licence fees imposed on American fishing vessels. The officer in command will receive instructions similar to those proposed to be issued to the officer in charge of the schooner "La Canadienne."

As the licences issued by Canada are to be interchangeable with those granted by Prince Edward Island, it is desirable that these officers should procure commissions of the Peace from the Island Government, which view might be communicated to the Lieutenant Governor.

The whole, nevertheless, humbly submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 28th May, 1868.

On a Report, dated 22nd May, 1868, from the Honourable the Minister of Marine and Fisheries, stating that the steamer "Druid" is nearly ready for sea, and recommending that a suitable person being selected as commander, she be placed, when ready, on active service.

That in addition to the duties assigned to this vessel, in supplying the light-houses, rendering assistance to wrecks, relieving distressed mariners, and tending the Humane Establishments around the coasts of Nova Scotia, it will be necessary also to employ her as formerly in carrying out the fishery laws still in force in that province, and the recent Acts of the Dominion Parliament for protecting the fisheries, particularly with respect to the collection of licence fees imposed on American fishing vessels.

The officer in command will receive instructions similar to those proposed to be issued to the officer in charge of the schooner "La Canadienne," a copy of which is annexed to his report.

That as the licences issued by Canada are to be interchangeable with those granted by Prince Edward Island, it is desirable that these officers should procure Commissions of the Peace from the Island Government, which view might be communicated to the Lieutenant Governor.

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The Committee concur in the report of the Minister of Marine and Fisheries and submit the same for your Excellency's sanction.

Certified.

(Signed)

W. M. H. LEE,
Clerk, Privy Council.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

Government House,
Prince Edward Island, 28th May, 1868.

MY LORD,

With reference to my Despatch of date 17th instant, I have the honour to enclose an extract from the "Island Gazette" of this day's date, showing the places at which Fishing Licences for the present year are to be issued, with the names of the officers authorized to issue such licences.

I have, &c.,

(Signed)

GEORGE DUNDAS,
Lieutenant Governor.

His Excellency the Viscount Monck,
&c. &c. &c.

BY AUTHORITY.

Colonial Secretary's Office,
Prince Edward Island, May 13, 1868.

Fishing licences will be granted at this office to United States vessels to prosecute the deep-sea fisheries during the year 1868, in all waters within the jurisdiction of Prince Edward Island, and of the Dominion of Canada, on payment of a tonnage fee of two dollars, or twelve shillings currency per ton; and at the following outports, viz:—

Casumpee, John Clark, Esq.
Richmond Bay, Henry Stewart McNutt, Esq.
Georgetown, Archibald J. McDonald, Esq.
Colville Bay, John McLean, Esq.

GEORGE COLES,
Colonial Secretary.

DEPARTMENT OF MARINE and FISHERIES (Fisheries Branch).

Ottawa, 29th May, 1868.

The undersigned has the honour to report, in further reference to a report from this Department dated 20th instant, on the proposal of the Government of Prince Edward Island to issue Fishing Licences to foreign vessels interchangeably with those issued by the Canadian Government, and to the Minute of Council of 22nd instant passed thereon, also referring to recent despatches from Lieutenant Governor Dundas (12th and 19th May), communicating the form of Licence proposed to be issued in pursuance of such mutual recognition; that, as the present form of licensing already in use and adopted by the Dominion Government (a copy of which is herewith), does not specify any extension to the waters of that province, nor imply any jurisdiction beyond the waters of Canada, but affects the interchangeable character desired by means of a manuscript endorsement by the issuing Officer, it is inadvisable to allow so important a substantial difference in the form as might be drawn into a precedent, and will convey to foreigners an indistinct idea of jurisdiction liable to be confused with the concurrent rights of colonists as British subjects.

It is therefore respectfully suggested that the form submitted by the Government of Prince Edward Island be approved, after omitting the words "or of the Dominion of Canada," "or of the said Dominion of Canada," and "of the Dominion of Canada," and leaving the application over our waters to be endorsed by the issuing officer on each licence granted similar to the practice adopted in Canada; and that the Naval Officers in Her Majesty's Service should be advised of this and instructed to recognize the endorsements.

The whole, nevertheless, humbly submitted.

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council, on the 1st June, 1868.

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On a Memorandum, dated 29th May, 1868, from the Honourable the Minister of Marine and Fisheries, reporting in further reference to his memorandum of 20th instant, on the proposal of the Government of Prince Edward Island to issue Fishing Licences to foreign vessels, interchangeably with those issued by the Canadian Government, and to the Minute in Council of 22nd ultimo, passed thereon; also, referring to certain recent despatches from Lt. Governor Dundas (12th May), communicating the form of licence proposed to be issued in pursuance of such mutual recognition; that as the present form of licence already in use and adopted by the Dominion Government, a copy of which he submits, does not specify any extension to the waters of that Province, nor imply any jurisdiction beyond the waters of Canada;

He, the Minister, states he deems it inadvisable to permit the Government of that Province to assume, as is done by their licences, a jurisdiction in the waters of the Dominion beyond that which our Government have assumed by our licences in the waters of Prince Edward Island.

He therefore suggests that the form submitted by the Government of Prince Edward Island be approved, after omitting the words "or of the Dominion of Canada," "or of the said Dominion of Canada," and "of the Dominion of Canada," and leaving the application over our own waters to be endorsed by the issuing officer on each licence granted, similar to the practice adopted in Canada; and that the Naval Officers in Her Majesty's Service should be advised of this, and instructed to recognize the endorsements.

The Committee submit the above recommendation for your Excellency's approval.

Certified.

(Signed) WM. H. LEE,
Clerk, Privy Council.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

Admiral Mundy to Lord Monck.

"Royal Alfred,"

Halifax, 8th June, 1868.

MY LORD,

I have the honour to acknowledge the receipt of your Excellency's letter of the 28th ultimo, on the subject of granting licences to United States fishing vessels.

I regret that I am unable to comply with the suggestions offered by Mr. Mitchell, Minister of Marine and Fisheries, that the Captains in command of Her Majesty's ships employed in the Gulf of St. Lawrence for the protection of the fisheries, should take charge of and issue licences to any fishing vessels which they may fall in with, and find unprovided with them.

It is not within the province of the duties of a ship of war to undertake this service, more especially as it would appear from the last paragraph of Mr. Mitchell's letter, that the money which the master of the fishing vessel might be provided to pay would be received by the Captains of Her Majesty's ships, and subsequently paid over to the credit of the Receiver General.

The officers in command of the cruisers will be furnished with the list of the places named by the Minister of Marine and Fisheries at which licences will be issued to American vessels, and when the boarding officer finds that the vessel he has visited has not the required licence, he will indicate the stations where these may be procured, acquainting the master at the same time that he will be liable to detention if he should again be met within British limits unprovided with a licence.

I have, &c.,
(Signed) RODNEY MUNDY,
Vice-Admiral.

His Excellency the Right Hon. Viscount Monck,
Governor General of the Dominion of Canada.

Lieutenant Governor Dundas to Lord Monck.

MY LORD,

Government House,
Prince Edward Island, 9th June, 1868.

In consequence of your Lordship's despatch of 1st instant, I have ordered the issuing officers at the various outports of this Island to return the fishing licences which

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(after the assurance that the Canadian Government had no objection to the form) had been forwarded to these officers, and licences with the omission of the words now objected to by the Canadian Government will be issued in their place.

So soon as answers are received from all the officers authorized to issue licences, I shall have the honour to report to your Lordship whether any of the licences of the form to which objection is now taken have been issued, and I trust that if any such have been issued, the fishery officers of Canada may receive instructions to recognize and endorse them, or to take such other steps as may be deemed advisable in order to prevent any difficulty therefrom to the holders.

I shall be glad to receive from your Lordship, at your earliest convenience, the form of endorsement used in Canada, and also to hear what officials are authorized to endorse these licences, and at what places.

I would also be glad to hear whether your Lordship would commission an officer of the Island to endorse the Island licences.

Enclose a report of the Attorney General on the Minute of the Privy Council of Canada of the 1st June.

The Right Honourable Viscount Monk,
&c. &c. &c.

I have, &c.,
(Signed) GEORGE DUNDAS,
Lieut. Governor.

SIR,

Attorney General's Office,
Charlottetown, 8th June, 1868.

I have read over his Excellency Viscount Monk's despatch of the 1st June instant, transmitting copy of an approved Minute of the Privy Council of Canada, suggesting a change in the form of the licence to be issued in Prince Edward Island, and also a copy of the Minute referred. The fishery licences issued by Prince Edward Island are objected to, because they purport to extend to the waters of Canada, and imply a jurisdiction beyond the waters of Prince Edward Island, and it is suggested that the form of licence to be issued hereafter be amended by omitting the words "or of the Dominion of Canada," "or of the said Dominion of Canada," and "of the Dominion of Canada," leaving the application over Canadian waters to be endorsed by the issuing officer on each licence granted.

The proposed amendment would leave the licences applicable solely to Prince Edward Island and its waters. I advise therefore that, pending further correspondence with the Canadian Government, no licence be granted except such as are limited to this Island and its waters only, and that instructions be at once sent to the various officers authorized to issue licences, not further to issue any of the licences which contain any reference to the Dominion of Canada.

To prevent delay, new licences had better be printed and issued referring to this Island and its waters only, and furnished to the proper officers.

There is, however, some ambiguity in the recommendation which suggests that the application to Canadian waters should be endorsed by the issuing officer on each licence granted. The term "the Issuing Officer" can hardly mean, I should think, the officer who issues the licence here in Prince Edward Island, because that would appear to be at variance with the suggestion to remove all reference to the Dominion of Canada from the licence. Who then is the "issuing officer" referred, and how and where is the licence to be presented to him for endorsement?

Meantime licences had better be issued in the limited form to which I have already referred.

His Excellency George Dundas, Esq.,
&c. &c. &c.

I have, &c.,
(Signed) JOSEPH HENSLEY,
Attorney General.

To prevent difficulties under licences already issued, the Canadian Government should be requested to direct their officers to recognize and endorse any licences already issued, although they are more extensive than they desire. The Canadian Government will, no doubt, accede to this request upon being assured that steps have been taken to prevent any more of such licences being issued in Prince Edward Island.

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CANADA.

That the Officers of the Dominion, in accordance with the minutes referred to, are instructed to endorse on the licences issued by them, the fact that they apply also to the waters around Prince Edward Island, and that they are directed to recognize licences granted by the Island Government and similarly endorsed by their Officers appointed by them to issue such licences, and which we have agreed to recognize as applicable to the waters of Canada.

He further submits that should any of the Island Officers have issued licences without endorsement prior to the report by the Island authorities of the terms of the arrangement, the same should be recognized as suggested by his Excellency Lieutenant Governor Dundas.

The Committee submit the above recommendations for your Excellency's approval.

Certified.

(Signed)

WM. H. LEE,
Clerk Privy Council.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

DEPARTMENT of MARINE and FISHERIES (Fisheries Branch.)

Ottawa, 27th June, 1868.

With reference to the Despatch from Lieutenant-Governor Dundas, dated 18th instant, suggesting that special commissions should be issued to officers in Canada and Prince Edward Island charged with the issue of licences to foreign fishing vessels, authorizing them to endorse mutually the applicability of such licences to the respective fisheries of the Dominion and the Island, the undersigned has the honour to report that the Minute in Council of 23rd instant, which fully explains the matter, will render it unnecessary to adopt His Excellency's suggestion.

Respectfully submitted.

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

Ottawa, 14th September, 1868.

SIR,

I beg to state, for the information of the Government, that during the present season, in consequence of the refusal of the American fishermen passing through the Strait of Canso to pay the tonnage dues now exacted, the officers of the customs there have prevented such vessels from having their former business transactions with the merchants and others in that locality, and from landing, refitting, or obtaining supplies there. The effect of this prohibition is that a very lucrative and extensive trade, long enjoyed by my constituents, has been entirely cut off, and has been transferred to Prince Edward Island, where, although there is said to be in force a similar ordinance to our own in relation to tonnage dues, I have still reason to believe that the violation of such ordinance is a matter of daily recurrence, and that in fact the American fishermen on the coasts and in the ports of Prince Edward Island are permitted as ample privileges as they ever enjoyed during the existence of the Reciprocity Treaty.

I need not remind you that the treaty between Great Britain and the United States, in relation to the Fisheries of British North America, is equally operative on the coasts of Prince Edward Island as it is on the coasts of Nova Scotia, under the facts as I assume them to exist. The knowledge of such being the scope of the treaty, on the part of my constituents, largely aggravates the very serious damage to which they have been subjected.

Under these circumstances I deem it my duty very respectfully to solicit the attention of the Government to this important subject, and it will be a matter of great gratification to myself and to those on whose behalf I am interested, to learn at as early a day as may be convenient, that steps have been taken by the Government to ascertain the facts in relation to this matter with a view to some practical and beneficial result.

I have, &c.,

(Signed)

STEWART CAMPBELL, M.P.,
Guysborough, N.S.

Hon. H. L. Langevin, C.B.,
Secretary of State, Canada.

APPENDIX.
CANADA.

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STEWART CAMPBELL, M.P.,
Guysborough, N.S.

Hon. H. L. Langevin, C.B.,
Secretary of State, Canada.

MEMORANDUM.

APPENDIX.

CANADA.

Ottawa, 15th September, 1868.

Mr. Stewart Campbell, after communication this day with the Honourable the Minister of Marine and Fisheries, begs to submit the following remarks in connection with his letter of yesterday's date conceived in general terms, and addressed to the Honourable the Secretary of State.

During the continuance of the Reciprocity Treaty, and even during the season of 1867, a very large and lucrative trade and business, extending a distance of 25 miles interiorly from the Strait of Canso, had existed between the merchants and inhabitants of the County of Guysborough and the American fishermen passing through the Strait. This trade and business consisted in the sale to the Americans of very many thousands of barrels manufactured by the people of that county; in the sale of salt, bait, and necessary fishing and other supplies, in the storage of the cargoes and materials of such vessels, and in the refitting of the same. This trade and business had rendered the western side of the Strait of Canso (embracing three convenient harbours, and forming a portion of the County of Guysborough) the constant resort of American fishing vessels, and a very prosperous and progressive section of the Province.

During the present season, the Department of Customs, through its officers, by a strict construction of the treaty between Great Britain and the United States, have put a stop to all commercial intercourse between the American fishermen and the constituents of Mr. Campbell, in consequence of the refusal by the former to pay the tonnage dues now exacted from them. The effect of this prohibition has been to transfer to Prince Edward Island the whole of the advantageous trade heretofore subsisting, and, as a natural consequence, a very serious depression at this moment exists in that community.

Mr. Campbell has good reason to believe that the American fishing vessels are now admitted to equally ample privileges in Prince Edward Island as they enjoyed previous to the abrogation of the Reciprocity Treaty, he having been credibly informed that during the present season, notwithstanding the fact of there being in the Island a similar regulation in reference to tonnage dues as exists in the Dominion of Canada, the American fishing vessels do not pay such dues, while they are constantly to be found within the prohibited limits of the coasts of that Island, and carrying on commercial intercourse in the ports and harbours thereof in violation of the treaty with Great Britain. The treaty is of course equally operative when licences are not obtained at Prince Edward Island, as it is on the coasts of Nova Scotia, and the constituents of Mr. Campbell, with the knowledge of this fact, feel, as they have reason to feel, much aggrieved by the destruction of their trade under the peculiar circumstances.

Mr. Campbell regrets to be obliged to say that he anticipates considerable commercial embarrassment in the community whose interests he represents, as the consequence of the diversion of the trade in question.

Mr. Campbell would add, that he has also reason to believe that much of the fish landed by the Americans on Prince Edward Island, is in reality British-caught fish, while it is exported thence to the United States as fish caught in American bottoms.

DEPARTMENT OF MARINE and FISHERIES.

Sir,

Halifax, Nova Scotia, 15th September, 1868.

I have the honour to enclose copy of a letter just received from Mr. Malcolm McDonald, relative to American vessels shipping their fish in steamers from Canso, having a licence. Mr. Vincent J. Wallace also writes me as follows:—

“American fishermen returning with fares and landing in transit at Port Hawkesbury, Cape Breton, *without licences*, their cargoes are taken from them in steamers to United States—with this privilege I do not of course expect to be called on for another licence.”

Will you please instruct me what steps to take in this matter?

When I was at the Strait of Canso a short time since, the merchants then complained that their trade this year had been entirely destroyed, in consequence of the privileges allowed in Prince Edward Island to *unlicensed* American fishermen. These privileges, to which I adverted in a former communication, have, I am credibly informed, been increasing every day, and the result to Nova Scotia traders on the shores of the Strait of Canso has been of the most disastrous character.

I have, &c.,

(Signed)

H. W. JOHNSTON.

The Hon. P. Mitchell,

&c.

&c.

&c. Ottawa.

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Custom House,
Hawkesbury, 7th September, 1868.

SIR,

There are many American vessels coming in here from the bay to ship their fish by the steamers for Boston. When I do not allow them to do so without a fishing licence, they return to Charlottetown, where they say they can ship without taking a licence. Will you please let me know if I can make any concession in this matter, as I am pressed on the subject by the merchants of this place, who appear to think that it is quite legitimate for the American fishermen to trade with them? Please say if it is desirable to carry out the law strictly.

I have, &c.,
(Signed) MALCOLM MACDONALD.
Compt.

Department of Marine and Fisheries,
Ottawa, 15th September, 1868.

The Minister of Marine and Fisheries, to whom have been referred, for Report to Council, the letters of Stuart Campbell, Esq., M.P. of the County of Guysborough, Nova Scotia, under date 14th and 15th instant, in relation to the exercise of privileges by American fishermen, and the construction to be placed upon the Treaty of 1818, begs to report—

That Mr. Campbell alleges, that under the Reciprocity Treaty, a trade of considerable magnitude grew up in the Province of Nova Scotia, and especially in that part of it bordering upon the Straits of Canso, between the people of that Province and American fishermen frequenting our waters; that a considerable market was afforded for the farmers in the supplying of these fishermen; that the manufacture of barrels had sprung up to a great extent along the Straits, giving employment to great numbers of people, and that a large business was done through the local merchants in supplying the American vessels with salt and other outfits for the prosecution of their business; that business practically continued even since the termination of the treaty until the present year, when, as he alleges, the American vessels were prevented by the Customs Officers from landing, refitting, and storing cargoes and supplies, from purchasing barrels, salt, and outfits in the Straits, without first taking out licences, and paying the fee of \$2 per ton, as it was contended that the Treaty of 1818 precluded such privileges, and that the permission to fish or enjoy the privileges not conceded to them by the treaty could only be enjoyed on such licence being obtained. Mr. Campbell alleges that in the neighbouring Colony of Prince Edward Island a different system prevails, and that, though they are equally bound by the treaty referred to, they permit the storing of fish, and the landing of bait and supplies, and the purchasing of salt, barrels, and other outfits and materials necessary for the prosecution of the fisheries, whether the masters of these vessels have first taken out a licence or not.

Mr. Campbell further alleges that he believes that American fishermen largely supply themselves in the vicinity of the said Island, and within the prohibited limits, with fish caught in British waters, and catch fish and obtain supplies, and in a large majority of cases have no licences—thus practically evading the terms of the treaty and enjoying all the rights of Her Majesty's subjects.

He further complains that the effects of such a laxity in the enforcement of the treaty rights in Prince Edward Island, while they are stringently enforced in Nova Scotia, has had the effect of drawing off a lucrative trade which had sprung up in the Strait of Canso to the ports of that Island.

The undersigned begs respectfully to submit:—

That the rights which the citizens of the United States are entitled to enjoy in relation to the fisheries on the coast of these Provinces, are those only which are granted them by the Convention of 1818.

That this Convention excludes them from any right of fishing within three miles of the coast of British America, and that the prescribed distance is to be measured from the headlands or extreme points of land next the sea or the coast, or the entrances of bays or indents of the coast, and consequently that no rights exist on their part to enter the bays or ports of Nova Scotia for the purpose of fishing, other than for the purpose of getting wood and water, or for the purpose of shelter and repairing damages therein. (See Sections 2 and 3 of the Imperial Act 59 Geo. 3, Cap. 38 in the latter part of which it is distinctly stated that they shall enter "*for no other purposes whatever.*")

The concluding part of the Fishery Article of the Convention of 1818 reads thus:—
 “ Provided, however, that the American fishermen shall be admitted to enter such bays
 “ or harbours for the purpose of shelter, and for repairing damages therein—of purchasing
 “ wood and of obtaining water, and for no other purpose whatever. But they shall be
 “ under such restrictions as may be necessary to prevent their taking, drying, or curing fish
 “ therein, or in any other manner whatever abusing the privileges hereby preserved to
 “ them.”

It may be suggested, however, that though precluded from entering for purposes of fishing, that they may be permitted to exercise the right of entering for purposes of trade. Whether such a claim might be fairly maintained were the vessel purely a trading vessel would depend upon the treaties between Great Britain and the United States and the usages of nations in such cases. But I presume that no such question could arise here; the vessels in question are alleged to be purely fishing vessels—fitted out as such, and calling into the ports referred to for the purposes of supplying themselves with salt, barrels, stores, and provisions for the prosecution of a fishery business, and for landing and storing their catch from time to time, and alleging that they do not want a licence to fish, as they do not intend to fish within the three miles limit; avowing themselves fishermen, but at the same time declaring that they do not contemplate fishing within the limits. This class of vessels have no right to enter our ports for other purposes than those of *shelter, repairing damages, purchasing wood, and obtaining water.*

Citizens of the United States have no right conceded them by the Treaty of 1818, to navigate or use the passage or Strait of Canso, and the Queen's Advocate-General and Her Majesty's Attorney-General of England in 1841, gave the following opinion upon this point:—

“ We are of opinion that, independently of treaty, no foreign country has the right to
 “ use or navigate the passage of Canso; and attending to the terms of the Convention
 “ relating to the rights of fishing to be enjoyed by the American citizen, we are also of
 “ opinion that that Convention did not either expressly or by necessary implication concede
 “ any such right of using or navigating the passage in question. We are also of opinion
 “ that casting bait to lure fish in the track of any American vessel navigating the passage
 “ would constitute a fishing within the negative terms of the Convention.”

I would also notice that a letter from the Hon. Edward Cardwell, the Secretary of State for the Colonies, to the Lords of the Admiralty, under date 12th April, 1866, in relation to this question of the Fisheries, states:—

“ The determination of the Reciprocity Treaty, concluded in 1854, between Great Britain
 “ and the United States, renews the first article of the Convention of the 20th of October,
 “ 1818, with various Imperial and Colonial Acts enumerated in the margin, of which the
 “ operation had been suspended during the continuance of the treaty by the Imperial Act
 “ 18 and 19 Vic. Cap. 3, Sec. 1, or otherwise.”

The letter referred to goes on to state, amongst other things, that, except within certain limits named, American fishermen are not to take, dry, or cure fish on or within three miles of the coasts, bays, creeks, and harbours of British North America. But they may enter such bays and harbours for *certain specified purposes*, under such restrictions as may be necessary, to prevent abuse, by fishing or otherwise; but are forbidden to enter such bays or harbours except for *certain defined purposes*. The letter further states, after referring to Act of Geo. III. and the Merchant Shipping Act, that more extended powers are conferred by the Local Acts of Nova Scotia, New Brunswick, and Prince Edward Island on certain officers, sufficient to bring into port any foreign vessel which continues within these waters for twenty-four hours after notice to quit them, and in case she shall have been engaged in fishing to prosecute her to condemnation. It further refers to the wish of Her Majesty's Government, in reference to treatment of American fishermen, in connection with a question of bays and headlands, and that they should not be interfered with, unless found within three miles of the shore; but if found within these limits, should receive the notice to depart, which is contemplated by the laws of Nova Scotia, New Brunswick, or Prince Edward Island, if within the waters of one of these Colonies under circumstances of suspicion, and the letter in concluding states:—

“ Her Majesty's Government do not desire that the prohibition to enter British
 “ Bays should be generally insisted upon, except when there is reason to apprehend some
 “ substantial invasion of British rights. And in particular they do not desire American
 “ vessels to be prevented from navigating the Gut of Canso (from which Her Majesty's
 “ Government are advised they might be lawfully excluded), unless it shall appear that
 “ this permission is used to the injury of Colonial fishermen, or for other improper
 “ objects.”

The undersigned therefore concludes that as it is only by treaty right that these

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American fishing vessels have a right to enter Nova Scotia ports, and as that is limited to specific objects, they have no right to exceed them; and the Customs officers were quite within the scope of their jurisdiction in refusing to allow them to enjoy privileges other than those named in the treaty.

Next it is submitted that the same duties which it devolved on the Customs Officers of the Dominion applied equally to those of Prince Edward Island, which latter Colony has, like the Colonies of New Brunswick and Nova Scotia, her own laws, similar in their scope and spirit, and giving ample power to enforce compliance with the terms of the Convention of 1818 above referred to. But it is alleged by Mr. Campbell that they are not equally enforced by the Officers of that Government, and while this enures to the benefit of the Island, inasmuch as it attracts the trade, a large share of which Nova Scotia formerly enjoyed, it must be most damaging to certain sections of the latter Province, and if permitted to continue, would be manifestly unjust.

Before dealing with the question of remedy for such an anomalous state of things, the undersigned would respectfully recommend that he be instructed to employ Mr. Campbell personally to proceed to Prince Edward Island and Nova Scotia, and ascertain with accuracy the facts in detail, in relation to the American fishing trade with these Colonies, and report fully on all matters connected therewith, with as little delay as possible.

Respectfully submitted.

P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR-GENERAL in Council on the 18th September, 1868.

14th and
15th Sept.,
1868.

The Committee have had before them the Memorandum from the Honourable the Minister of Marine and Fisheries, dated 15th instant, on the subject of the letters of Stewart Campbell, Esq., M.P. for the County of Guysborough, N.S., in relation to the exercise of unauthorized privileges by American fishermen on the coast of Prince Edward Island, and the construction to be placed on the Treaty of 1818, and they concur with the Minister in advising that, before dealing with the question of remedy for the anomalous state of things described in the Memorandum submitted, Mr. Campbell be instructed to proceed to Prince Edward Island and Nova Scotia, and ascertain with accuracy the facts in detail in relation to the American fishing trade with these Colonies, and report fully on all matters connected therewith, with as little delay as possible.

Certified.

(Signed)

WM. H. LEE,
Clerk, Privy Council.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

Ottawa, 16th September, 1868.

SIR,

With reference to your letter of the 14th instant, drawing attention to the fact that, owing to the refusal of American fishermen passing through the Gut of Canso to pay tonnage dues exacted under authority of the Fisheries Act, the lucrative trade formerly carried on there has been entirely cut off and transferred to the Island of Prince Edward, where, it is alleged, they are permitted to land stores and take cargoes in violation of the Convention of 1818, entered into between Her Majesty's Government and the Government of the United States, and the laws of Prince Edward Island in relation to the enforcement thereof, and contravening the spirit of the arrangement entered upon by the Government of the Dominion and that of Prince Edward Island in relation to the mutual recognition of licences issued to American fishermen by the Government of that Island and of the Dominion respectively; I beg to request you to make a personal visit to these localities, and ascertain with accuracy and in detail the facts in relation to the United States fishing trade with these Colonies, ascertaining;

1st. The names and tonnage of such vessels as have entered the ports of Prince Edward Island from the United States during the past three years, and separately the numbers that have visited the Island during the present year;

2nd. How many of those were purely trading vessels; the number of those purely

fishing vessels, and the number of those which were of a mixed character of fishing and trading;

3rd. In all cases where you can do so, ascertain the several tonnages and crews of these vessels, with the cargoes;

4th. Ascertain, if possible, how many of those vessels were provided with licences, and by whom issued, and whether any and what number of these, fished within the three miles limit;

5th. Whether any, and what, American fishing vessels, not having licences, were permitted to land stores, bait, salt, barrels, tackle, and other outfits; or to trade or purchase some or any parts thereof, and whether any of them, after declining to take licences in the ports of Nova Scotia afterwards took licence or not in those of said Island;

6th. The nature and value of stores, fish, and supplies landed, as well as the value of the fish, barrels, and other outfits purchased,—the nature and extent of the damage done to the trade of the ports of the Gut of Canso, and any other incidental detail which may appear of importance or bearing on the question;

7th. The number of said vessels which came into the ports of said Island, purely for the purposes permitted by the Treaty of 1818, viz., *for the purpose of shelter and of repairing damages therein—of purchasing wood and of obtaining water,* and more particularly during the present season;

8th. Whether any, and what number of American vessels, stating the tonnage and crews thereof, entered the Straits of Canso during the present year, and so far as you can obtain this information, also get it with regard to the ports of Nova Scotia;

9th. Note carefully the practical working or application of the Treaty of 1818, or of other laws relating to or affecting American fishermen in British North American waters, and state wherein they differ in the two Colonies referred to, and also whether there is any difference in the local laws of these Colonies, and if so, state what they are;

10th. Ascertain whether any difference exists in the application or enforcement of such laws; and if so, state what effect it has had upon the trade of each Colony, and the nature and extent of the damage done to the trade of each, and whether such difference in the manner of enforcement of existing laws is done under official authority and with their knowledge, or does it arise from exceptional circumstances, and if the latter, state what they are;

11th. You will please ascertain the quantity of fish caught by American fishermen, landed in Prince Edward Island, and transhipped either in American or British bottoms to American ports, and the relative shipments in each. Also, whether any, and to what extent, fish caught by British subjects and sold to Americans is exported to American markets as American-caught fish;

12th. Also, whether American-caught fish are forwarded, and to what extent, in steamboats trading from the ports of the Island, Nova Scotia, or New Brunswick to the States, or over the railroads of either Nova Scotia or New Brunswick towards their destination;

13th. You will also please state the best remedy for any or all of the evils which are complained of in relation to the working of the laws, and while reporting fully on all the matters specially herein referred to, you will also get such information, and with as little delay as possible, and report on such other points as you may consider to be connected therewith or have a bearing on this question.

I have, &c.;

(Signed)

P. MITCHELL,

Minister of Marine and Fisheries.

Hon. Stewart Campbell,
Ottawa.

Guysborough, N.S., February 2nd, 1869.

SIR,

With reference to your communication of the 16th September last, on the subject of the operation of the licence system policy embodied in and intended to be enforced by the provisions of the Act for the regulation of fishing and protection of the fisheries, and the Act respecting fishing by foreign vessels, and also in relation to the fishing trade and business generally, I have the honour to inform you that in accordance with your instructions conveyed to me by that communication, I visited the Island of Prince Edward, and the other localities affected by the subject in the months of October and November last, and I now beg to report the following observations bearing upon the general question. I regret that in doing so, I shall not be able to reply seriatim to the several inquiries

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propounded by you. The difficulty or rather the impossibility of obtaining in the Island the required information will, I hope, be regarded as sufficient apology for such deficiency; and the probably less satisfactory shape which this communication will consequently assume. I trust, however, that even in its present form, it will not be without some value.

The principal source of inconvenience and grievance on the part of the British traders and subjects generally in the Maritime Provinces, who are connected with the fisheries is to be found in the great change of circumstances brought about by the abrogation of the Reciprocity Treaty. During the existence of that treaty, the entire freedom with which that branch of industry represented by the fisheries, was pursued on the part of the subjects of the United States of America on the coasts of the British Provinces, naturally brought these foreigners into most intimate business relations with merchants, traders, and others in many localities of the maritime portion of the Dominion, and especially at and in the vicinity of the Strait of Canso. The great body of the large fleet of American fishermen, numbering several hundred vessels, which annually passed through that Strait to the Gulf of the St. Lawrence in the prosecution of the fisheries, and especially the mackerel fishery, was invariably in the habit of procuring much of the requisite supplies for the voyage at the several ports in that Strait. The business thus created largely benefited not only those directly engaged in commercial pursuits, but was also of immense advantage to other classes of the inhabitants of several of the adjacent counties of Nova Scotia. The constant demand for, and ready disposal at remunerative prices to the American fishing vessels, of a large quantity of farm produce, and other products of industry in the shape of barrels, hoops, lumber, wood, &c., was at once the character and result of the intercourse which subsisted during the existence of the Reciprocity Treaty. The total exemption from duty of all fish exported from the Maritime Provinces to the markets of the United States was also a boon of inestimable value to the very large class of British subjects directly and indirectly connected with our fisheries and its resulting trade. This state of things, which was beneficial also in no small degree to the subjects of the United States, undoubtedly created a condition of general prosperity and contentment among the classes of British subjects referred to, such as had never previously existed.

On the termination of the Reciprocity Treaty in 1866, by the Act of the Government of the United States, both parties, viz., the subjects of Great Britain and those of the United States, were remitted to their respective former status under the terms and provisions of the London Convention of October 20th, 1818, and the several Colonial enactments based on, and in accordance therewith, supplemented by such exceptional rights in favour of foreign fishing vessels as the licence system or policy has created and conferred. To that status I beg now to advert. And first with regard to the rights of American fishermen under the Convention of 1818, although no small amount of official correspondence and even controversy between Great Britain and the United States has taken place on this subject, particularly previous to the Treaty of Washington, 1854, commonly known as the Reciprocity Treaty, the right of American fishermen to participate in the fisheries on the Coasts of British North America are very clearly defined by the latter part of the first Article of the Convention of 1818: "And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's Dominion in America, not included within the above mentioned limits." (The limits here referred to are specified in the same Article, and have no application to the matter in hand.) "Provided however that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

Notwithstanding the just and indisputable construction of the terms of this Article by Her Majesty's Government, to the effect that the Government of the United States have thereby renounced the right of fishing not only within three miles of the Colonial shores, but also within three miles of a line drawn across the mouth of any British bay or creek, and although Her Majesty's Government is advised that American vessels engaged in fishing might be lawfully excluded from navigating the Strait of Canso, yet as I apprehend it is not the desire of Her Majesty's Government, or of the Government of this Dominion, to either waive or enforce the more extensive but legal construction of the Article already cited in the foregoing respects, the policy of granting American subjects the liberty to fish within three miles of the Colonial shores, and the conditions upon which such liberty is to be permitted, became, on this branch of the subject, questions of very serious moment, and entitled to very serious and mature consideration. Upon the first of

these points, I think I may assume that both the Imperial and Dominion authorities entertain no other idea than that of insisting, under any circumstances, upon the absolute right to exclude American fishermen from any free participation in the inshore fisheries. Any other policy would, I conceive, under existing circumstances be unjust and suicidal, particularly in view of the impositions of the United States Government upon British-caught fish, and would certainly eventuate in general dissatisfaction of the most aggravated kind. I trust therefore that it is unnecessary to dwell upon this point. Upon the second, viz., The conditions upon which, if permitted, the liberty to fish is to be enjoyed by the subjects of the United States, difference of opinion may no doubt exist, and the character and form of those conditions are of course subject to question. The experience of the past may, in this particular as in others, be a guide for the present. I shall therefore examine the operation of the licence system during the last three years, and present the results. In 1866, the tonnage duty under that system was 50 cents per ton. In 1867 it was \$1.00 per ton, and in 1868 \$2.00 per ton. In 1866 about eight hundred vessels were engaged in the fisheries of the Gulf and River St. Lawrence, of which number 454 took out licences, the aggregate amount of tonnage dues paid by them being \$13,016.85. In Nova Scotia there were 354 licences issued, the collections on which amounted to \$9,368.50. In Prince Edward Island 89 licences were taken out, and dues paid to the amount of \$3,339.35. Only 10 licences were taken out in the late Province of Canada, the payment on which was \$296. But one was issued in New Brunswick, yielding \$13, and none were granted in Newfoundland.

In 1867, in Canada and New Brunswick no licences were issued. In Nova Scotia the whole number issued was 269. The amount received therefor was \$13,929. This amount is proportionably greater in consequence of the double rate of \$1 per ton, as against 50 cents per ton in the previous year. The actual diminution in the number of licences may be regarded as owing in some measure to the practice of giving three warnings to intruders, before enforcing acceptance of licence, or making seizure.

In 1868, 49 American fishermen took out licences in Nova Scotia, the tonnage dues on which at \$2 per ton amounted to \$4,691.50. The diminution in this year of the number of licences accepted, is attributed to the high rate of the tonnage duty. From personal observation and inquiry I am disposed to charge it to another but additional reason, and that is the exemption from all restrictions practically enjoyed by American fishing vessels at the several ports and on the shores of Prince Edward Island. In this connexion I would submit the very strange and startling fact that only five or six licences were issued by the Island authorities in the past year. Free fishing upon grounds within the most liberal interpretation of the phrase "prohibited limits" was the rule and not the exception. This unquestionably passive toleration on the part of the Island authorities is certainly quite inconsistent with the arrangements entered into with regard to the mutual adoption of the licence system and the exaction of a similar rate of tonnage dues between the Government of the Island and that of Canada.

On the assumption that the policy of exacting tonnage dues from the American fishermen for the privilege of fishing in British waters will be continued for the present, the question naturally presents itself, at what amount such exaction should be placed. The statistics of the last three years show a decided diminution in the acceptance of licences by the Americans in proportion to the increase of duty payable thereon; and I am strongly of opinion that henceforth it will be extremely difficult, if not impossible, to induce them to accept licences, unless the dues be placed at the lowest rate yet exacted. I derive this view from personal intercourse with many of the parties concerned; and even in their submission to that rate, I might be disappointed, if the authorities of Prince Edward Island continue practically to encourage the refusal to take licences from the authorities of the Dominion, by permitting on the shores within the jurisdiction of that Island, the free fishing to which I have already adverted. There is, I am aware, a considerable class of persons who advocate a continuance of the present high, or even a higher rate of duty as the condition of licence. But it must be borne in mind that in the present state of this question a high rate of duty means efficient protection and its accompanying expense. Without that efficient protection, licences at any rate exceeding a nominal amount, and I consider 50 cents per ton to be an amount of that character, will not be accepted. And this brings me to the consideration of the nature and character of such protection. I would be the last man to utter a word or write a line that could be construed as a matter of reproach towards the Imperial naval authorities, in respect of their services on this point, but the facts of the case compel me to say that I cannot regard with favour the present system of the protection of the fisheries. The inefficiency of the protection now afforded may be attributed to two causes. In the first place, Her Majesty's ships are sent on this service at too late a period in the fishing season. It is during the months preceding the fall of the year that

their presence on the fishing grounds is most required. Later in the season the fish resort to deeper water, and are to be found outside of the prohibited limits. Protection therefore is not then necessary. As an illustration of the habits of the fish, as well as of the necessity of the vessels engaged in the protection of the fisheries being on the ground at an earlier period, I may mention that I was credibly informed, when at Georgetown, Prince Edward Island, by an eye-witness of the fact, that in the month of August last an entire fleet of about 100 sail of American fishermen had actually and very successfully fished for several days, without interruption, in the land-wash near Rustico, on the North side of the Island, of course to the great insult and detriment of British subjects residing there. I was also given to understand that Her Majesty's ships "Niger" and "Barracouta," detailed as the protective force during the last season, did not reach the shores of Cape Breton and Prince Edward Island until the beginning of the month of October. In the second place, the vessels ordinarily employed on this service are of considerable size, and being steamers, their approach is readily discerned by actual intruders, and thus time is afforded for escape. It is a remarkable fact that not a single seizure has been made during the season.

The conclusions suggested by the foregoing state of facts are very intelligible. If the present high or any higher rate of tonnage dues is to be continued, and in view of the hostility which such exactions will undoubtedly induce, the water police to be provided must be of corresponding power of control, and perfect good faith, material aid and activity on the part of the authorities of Prince Edward Island must be demanded. As I have already intimated, the force now provided seems of a character ill-calculated to answer the purpose for which it is designed. Upon a careful consideration of the subject, and having conferred with many persons whose opinions are entitled to weight, I am led to entertain the opinion that the aid of H. M. ships of the class now used might to some extent be dispensed with. A single vessel of war discreetly stationed in the vicinity of the principal fishing grounds, say alternately at Port Hood, Cape Breton, and Georgetown, Prince Edward Island, and perhaps an additional port to the northward of the Island, from the first of July to the tenth of November, would be sufficient, if in connection with her and subject to proper communication with her Commander, four or five fast-sailing schooners of similar size and appearance to the ordinary class of American fishing vessels, with a commissioned officer, and sufficient crew, and duly armed, were appointed to cruise during the above-mentioned period within the points embracing the fishery rights of the Dominion. The expense of such a force is easy of ascertainment, and it would no doubt be considerable. This however would be met to some fair extent by the revenue from dues, and possibly by a share of seizures. This suggestion is predicated upon the exaction of what may be termed a high rate of tonnage dues. If on the other hand the nominal rate of 50 cents per ton as heretofore stated, and which is more as an explicit acknowledgment of our right than as an equivalent for the privileges conceded, be sanctioned. I feel well assured that although the revenue derived would be of smaller amount, yet the force necessary to ensure its collection might be of a very inferior, and consequently less expensive description, while the national bitterness which this question is daily engendering would be largely averted.

And here I may offer some observations as to what in my judgment would be the probable effects of dealing with the American fishermen in the more liberal spirit of cheap licences. In a former part of this communication I have referred to the active and advantageous business relations subsisting between them and the merchants, traders, and others, in the Eastern Counties of Nova Scotia, and particularly at the Strait of Canso, during the existence of the Reciprocity Treaty, and pointed out the very prosperous condition of our own people during that period. Much depression has prevailed since its abrogation, caused principally by the exaction of a higher rate of tonnage dues, which has induced the Americans to transfer their former business relations to Prince Edward Island, where the terms of the Convention of 1818 are practically permitted to be unrecognized. The suggestion I have offered with regard to the imposition of a nominal duty of 50 cents, seems to me if adopted as well calculated to restore to the sections of Nova Scotia referred to much of their former prosperity and consequent contentment. I firmly believe that licences at that rate will be generally if not universally accepted. The liberty to use our ports as a consequence of such acceptance of licences will be again embraced. The transfer of their trade to Prince Edward Island will be checked, if not abandoned. The Americans will use the more convenient ports of the Strait of Canso. Their cargoes will be landed and stored there, while if they desire to ship the same to their own home markets, facility to do so by steamers which pass through the Strait of Canso weekly will be at hand. And I feel convinced that a marked improvement in our trade and business generally would be the immediate result.

There is another branch of the general subject on which I take the opportunity to

remark, and that is the probability of a large amount of American-caught fish being forwarded as British-caught fish to ports in the United States by steamboats trading from British ports and particularly from ports in Prince Edward Island. There is an obvious difficulty in obtaining accurate information on this point. The records of the Custom Houses in the United States would be the only means of arriving at just conclusions in the matter. I may, however, give an extract of a letter received from a merchant of standing, residing at St. John, N.B., which throws some light upon the state of the case. It is dated 4th December, 1868. The writer says, "I fear the Bostonians are doing a large illicit trade in British-caught mackerel in Prince Edward Island. There have been large quantities passing through here this season, principally Prince Edward Island brand. I learn that they are forwarded by an American, who is carrying on a shore fishery at the Island in small boats, and in addition, buys all he can get, and is allowed by the authorities at Washington, to enter his fish as American-caught, he being an American citizen. The shipments have been from 200 to 300 barrels by each boat semi-weekly since I came here, up to last week, and as I am told, was going on for some time before. I presume they will amount in the aggregate to some 4000 or 5000 barrels for the season by this route. They arrive here by railway from Shediac, and likely the same parties are shipping by the Charlottetown, Halifax, and Boston line also. This may lessen your Bay fares, as many of that catch may be purchased by them, and entered free of duty at Boston."

The foregoing seems to embrace the principal points of inquiry suggested by your communication and instructions, and I trust that the same will be acceptable to the Department and the Government.

Hon. P. Mitchell,
Minister of Marine and Fisheries.

I have, &c.,
(Signed) STEWART CAMPBELL.

DEPARTMENT OF MARINE and FISHERIES (Fisheries Branch).

Ottawa, 3rd October, 1868.

The Minister of Marine and Fisheries has the honour to bring under the notice of the Privy Council, that the information he has received from Nova Scotia leads him to believe that the steps taken to enforce the payment of the tonnage dues chargeable on American fishermen are quite inadequate to the requirements of that service.

A recent communication from Port Hood alleges that about three hundred American fishing vessels were in that port about the 28th ult., and that not one in twenty had licences, and that there was no cruiser or cutter on the coast.

The undersigned would respectfully suggest that the attention of his Excellency the Governor General be called to the facts above stated, with the view of securing for this great source of national wealth the more active services of Her Majesty's cruisers engaged on the North American Station.

Respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 9th October, 1868.

On a memorandum dated 3rd instant, from the Honourable the Minister of Marine and Fisheries, stating that the information he has received from Nova Scotia leads him to believe that the steps taken to enforce payment of the tonnage dues chargeable on American fishing vessels are quite inadequate to the requirements of the service.

That a recent communication from Port Hood alleges that about 300 American fishing vessels were in that port about the 28th ultimo, and that not one in twenty had licences, and that there was no cruiser or cutter on the coast.

He therefore suggests that the attention of your Excellency be given to the facts stated, with a view of securing to this great source of national wealth the more active services of Her Majesty's cruisers engaged on the North American Stations.

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The Committee concur in the Report of the Minister of Marine and Fisheries, and submit the same for your Excellency's approval.

Certified.

(Signed)

WM. H. LEE,
Clerk, P.C.

To the Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

DEPARTMENT OF MARINE and FISHERIES (Fisheries Branch).

Ottawa, 9th November, 1868.

In connection with the unsettled state of the Fishery Question between Great Britain and the United States, the Minister of Marine and Fisheries desires respectfully to draw the attention of the Governor General in Council to certain anomalous features of the present system of granting licences to American fishing vessels.

When it was at first suggested that at least some formal recognition of the just and reasonable claims of the British North American Colonies, to exclusive rights of fishery within the limits described in the Convention of 1818, should be exacted, the Canadian Government perceived that the situation of the inshore fishings around Prince Edward Island and the exceptional position of that colony as regards the other confederated colonies, must necessarily occasion new difficulties in carrying out the desired policy; and that any system not under uniform control would operate to the relative disadvantage of the other provinces forming the Confederation. This was felt to be the case not merely in a pecuniary but likewise in a political sense. The proposal, however, that interchangeable licences should be issued by the respective Governments was acquiesced in by Canada, as well in deference to the proposed arrangement of a complicated and urgent dispute, as in view of the expressly temporary nature of the system. But this system has now extended over three years, instead of being confined to the current season of 1866, as it was then stipulated should be the limits of its duration. And owing to the practice of mutually recognising licences issued, the chief political burden of such renewed policy, and the whole provincial cost of applying and enforcing the system, have devolved on the united provinces, while a very large share of the licence fees collected has accrued to Prince Edward Island. These results appear in some degree an aggravation of injury borne by the Dominion from the continued admission of foreign fishermen and vessels into Colonial waters on merely nominal terms, whilst the produce of Canadian fisheries still competes in the United States markets on most disadvantageous conditions with fish caught by Americans on the same fishing grounds.

The undersigned having already brought this particular subject under notice, begs reference to the Minute of Council adopted thereon, the 22nd of May last.

Another anomaly arising out of the licensing system has developed itself in the course of the fishing season of 1868, and forms the subject of a report on the 15th of September last, to which the Minister has now the honour to revert.

It is therein stated that a very considerable trade, which formerly existed among the crews of American fishing vessels and the merchants at several of the ports of Nova Scotia, to which they resorted in great numbers, has latterly become diverted to Prince Edward Island; and that such diversion occurs through facilities afforded by the Island authorities to United States citizens, to fish and land and trade there without first obtaining fishing licences, such as are required at Nova Scotian ports, in conformity with the laws and the system adopted under the existing Treaty with Great Britain. Although these vessels are prohibited by the Imperial and Provincial Statutes, and by the Convention of 1818, from entering British harbours for any other purposes than shelter, or to repair damages and to purchase wood and water, the masters are there allowed to procure supplies, to store fish and bait, buy salt, barrels, and other materials necessary for fishing operations, without any interference on the part of the Island officials; all of which is in violation of the Customs laws, and at variance with the letter and spirit of the Treaty by which they are equally bound with the officers and inhabitants of the other provinces. In addition to which evasive privileges United States vessels (unlicensed) are also permitted to transfer their cargoes at Prince Edward Island to foreign steamers, and to include quantities of fish captured by and purchased from the Island fishermen,—thus exempting them from duties levied on fish caught and marketed by the other colonists. The actual gain from this mode of dealing with the crews and owners of United States fishing vessels, and the requisite establishment of business firms and agencies at the Island, together with minor benefits of local trade, doubtless prove more than an equivalent to the aggregate amount of

small tonnage fees which might be derived through strict enforcement of the laws, and the system in force under the treaty.

The undersigned perceives that were the revenue officers who are stationed at these ports of Nova Scotia, to avail themselves of the auxiliary means afforded by the Customs Acts, to enforce, under pain of direct seizure and confiscation, the acceptance of licences, notwithstanding any professed intention to resort to Prince Edward Island to procure licences—which are not there required of them—the evil complained of might in a measure be remedied. These officers have (under instructions) refrained from such legitimate action because of an anxious desire to avoid every possible risk of collision, and bearing in mind the particular wish expressed by the Colonial Secretary's Despatch of 12th April, 1866, respecting the free navigation of the Gut of Canso by American vessels.

There can be no doubt that the laxity and connivance of the authorities of Prince Edward Island are calculated practically to defeat the Imperial measures devised for the protection of our Fisheries, and they certainly thwart the endeavours of the Canadian Executive to give effect to the very moderate and conciliatory views of Her Majesty's Government. It is, moreover, peculiarly unfortunate that any such grievance as the diversion of an active portion of local trade should at this time be superadded to the feeling of discontent in Nova Scotia, particularly as it seems closely related to the insufficiency of naval assistance referred to in the Minute of Council dated 9th of October last. In the present temper of that province an injury of this kind is naturally ascribed to the policy and action of the Dominion Government, instead of being attributed to the peculiar conduct of Prince Edward Island.

It is quite obvious from recent events, that influential parties in the United States are seeking to take advantage of, as well as to encourage the isolation of that province, and by tempting inducements to the fishing and other interests there designed to react upon the fishing populations of the adjacent provinces, may much embarrass any future disposal of the fishery question.

Under all of these circumstances it seems highly important, that, if the system of licensing American fishing vessels is to be again renewed, the whole administration of it should be placed under control of the Government of Canada. Otherwise it will be absolutely necessary, should the licence system continue, to compel the masters of foreign fishing vessels to provide themselves with licences on entering the Gut of Canso, or upon touching in their course at any of the ports of Nova Scotia. It is, however, questionable whether such system of licensing, adopted as a temporary expedient on the termination of the Reciprocity Treaty, should be further continued, since its past continuance has not led to any desirable results.

The undersigned recommends that advantage be taken of the presence in England of Sir Geo. E. Cartier and the Honourable Mr. Macdougall, C.B., to make this the subject of personal conference with the Secretary of State for the Colonies.

The Minister having prepared and furnished directions to Stewart Campbell, Esq., M.P. of Guysborough, Nova Scotia, in accordance with the Minute of Council dated 18th September last, to ascertain accurately the facts in detail of the American fishing business and trade at the various sea-ports of Prince Edward Island and Nova Scotia, and their relation to the licensing system, that gentleman is still engaged in making such inquiries, and so soon as his report shall be received it may be found necessary again to refer to the subject.

The whole respectfully submitted.

P. MITCHELL,
Minister of Marine and Fisheries.

DEPARTMENT OF MARINE and FISHERIES (Fisheries Branch).

Ottawa, 10th November, 1868.

The undersigned desires to bring under the notice of the Governor General in Council the still unsettled and very unsatisfactory state of the fishery question between Great Britain and the United States, and respectfully suggests that the attention of Her Majesty's Government be again called to the same.

An opportunity is at present afforded by the presence in England of Sir Geo. E. Cartier and the Hon. Mr. Macdougall, C.B., to make this question the subject of personal conference with the Secretary of State for the Colonies, with a view to the timely adoption of some permanent and satisfactory policy.

It will be recollected that the irritating and critical discussions on this important question, which for several preceding years had engaged the anxious attention of the two

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Governments, were put in abeyance by the Reciprocity Treaty of 1854. The concession of free access for American fishermen and fishing vessels to the inshore fisheries of British North America formed an essential and valuable element in such compact. That treaty, fraught with commercial advantages to the United States and Canada, and promotive of mutual friendship and prosperity between Great Britain and America, was (for somewhat equivocal reasons) voluntarily determined by the latter power. Through this abrupt termination of a measure involving the arrangement of serious and protracted disputes, those difficulties became revived, which, prior to the treaty, had exposed both nations to constant political anxiety and subjected them to great public expense. It was hoped that this action on the part of the United States—resulting apparently from causes less potent and enduring than considerations of international peace and business relations of a liberal and profitable character—would, after a short period of reflection, undergo some revision more or less favourable to resumed intercourse. In such hope the Government of Canada, with the concurrence of the mother country—both being actuated by an earnest spirit of conciliation and liberality—sought out and adopted a plan to effect the admission, in an authorised form, of United States citizens to fish along the shores of these Colonies, and thus avoid the danger and vexations which must necessarily attend a practical revival of differences amongst the fishermen of both countries. The formal expedient of exacting season licences from these foreign vessels, admitting them for the time being to fishing privileges identical with those enjoyed under the late convention, and on merely nominal terms, was thus in operation early in the same year during which the treaty had been abrogated by the American Government. It was deemed necessary, however, to stipulate that the system so devised should be limited to the current year; and in the various communications which have passed between the British and United States authorities this limitation has been coupled with the expression of a hope that, in the meantime, such temporary arrangement might be superseded by return to the policy of reciprocal free trade, and the restoration of that commercial freedom and unrestricted fishing which heretofore existed. During three successive seasons the same system has been continued. It was each year renewed with manifest reluctance, attended as it has been by considerable loss and many inconveniences, occasioning impatient acquiescence on the part of the maritime provinces.

This burdensome continuance of a system originated as an amicable concession towards the neighbouring States does not seem to have met with the slightest appreciation. The sole practical effect of it has been to admit foreigners to a free use of our fisheries, whilst imposing on the Imperial and Provincial Governments the material expense of regulating such foreign participation in lucrative advantages, and incurring the cost of protecting British subjects in the concurrent use of privileges exclusively theirs by the laws and usages of civilised nations, and at the same time guarding their own fishing grounds against substantial injury by American fishermen.

Under all of these circumstances it is respectfully but earnestly submitted whether the system of licensing United States fishing vessels, avowedly a provisional one, and implying no principle, should now be absolutely discontinued, and that it shall in future give place to a definite policy of exclusion, agreeable to Colonial interests and consistent with national dignity and rights.

The Minister need not in this connection enlarge upon the vital and vast importance to the Dominion of Canada of a strict maintenance of those principles of maritime jurisdiction and rights of fishery derivable from the parent State. Immense as is the intrinsic value of the exhaustless fisheries, which form so large a portion of our material resources, their rightful control and exclusive use possess a peculiar value and significance intimately connected with the new condition and prospects of this country. The actual situation and future development of these inshore fisheries acquire if possible additional importance from the selection of a sea-board line of railway connecting the hitherto separated provinces of the British North American Confederation.

Reference is requested to Minutes of Council, dated 23rd of May, 1866, and 27th February, 1868.

The whole, nevertheless, respectfully submitted.

(Signed) P. MITCHELL,
Minister of Marine and Fisheries.

TELEGRAM to W. H. VENNING, Inspector of Fisheries, ST. JOHN, NEW BRUNSWICK.

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Ottawa, 3rd March, 1869.

Newspaper telegrams say United States fishermen and vessels trespass on Canadian inshore fishings, around islands in Passamaquoddy Bay, and elsewhere along that coast, interfering with and injuring Canadian fishermen. If clearly within Canada waters and doing substantial injury to native fishermen, and that there exists thereabouts, no mutual toleration between neighbours regarding fishing and fish-trade, such as makes invasion of exclusive rights practically of no serious concern, two courses are open: either warn them off, and seize in default of removal, or compel them to take and pay for licences,—both recourses being provided for by the “Fisheries Act.” Visit the locality, satisfy yourself with certainty of the facts and limits, and see what is best to do. Report by telegram before taking decided action.

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

Fisheries Office, St. John, New Brunswick,
6th March, 1869.

SIR,

With reference to your telegram of the 3rd instant, alluding to the encroachments of American fishermen in Passamaquoddy Bay, Lepreaux Harbour, and the bays and harbours intervening between them on the south-western coast of New Brunswick, and directing me to visit the localities, and ascertain the facts, I have the honour to report:—

That the fishing season was over, and the vessels had left the coast previous to the receipt of your instructions, but I immediately proceeded to collect the most reliable information regarding the subject, which I now transmit for your consideration.

In consequence of the protection which has, for the last three years, been enforced on the spawning ground at the southern head of Grand Manan, the shoals of herring have been immense the last winter, and have attracted unprecedented numbers of various kinds of deep-sea fishes, whose principal food consists of herrings, and other small fish.

The fishing on the coast and in the numerous harbours and inlets having been unusually good, large numbers of American vessels frequented our waters. These consist of two classes, viz., fishermen and traders,—the former catch all they can, and buy all they can; the latter buy from the shore people all their fish, paying in cash or goods at their own prices. As far as I can learn, these vessels never make entry at the Customs, never pay tonnage dues, nor any duties on the goods brought for the prosecution of their trade.

This is nothing unusual,—the system has been pursued for years, and was formerly considered by the settlers and inhabitants rather an advantage than otherwise, for it gave them a ready market for their fish, and supplied them with goods at a cheaper rate than our dealers, who paid Customs duties, could furnish them.

This winter, however, the number of American vessels attracted to this fishery was more than usually numerous; in some localities, such as New River, Lepreaux, and St. George Harbours there were sometimes from thirty to forty, and took up so much room that our fishermen were comparatively crowded out, and made complaints to the local authorities. These complaints did not reach me until near the close of the fishing season, consequently I was unable to take any steps to remove the evils complained of. I am credibly informed that the captains of these vessels, when warned off by the local authorities, refused to leave, asserting that they would occupy the ground till forcibly driven off.

The overseer of the county resides at too great a distance to be applied to in an emergency of this kind, and I would strongly recommend the appointment of a competent intelligent man, with magisterial power, as overseer for the eastern district of Charlotte County, comprising the parishes of St. George, Pemfield, and Lepreaux, with local wardens in the several parishes to act under his directions. This officer should have power to swear in a boat's crew, in cases of emergency; and take such steps as the exigencies of the case might demand.

As the duty is a responsible and highly important one, a first-class man in point of intelligence and judgment will be required, and I will take the earliest opportunity of consulting with John Bolton, Esq., M.P., of the county as to the selection of a suitable man for the office of overseer of the eastern district, and suitable men for the office of local wardens, the result of which consultation will be reported to you without loss of time.

Respectfully submitted.

(Signed)

W. H. VENNING,

Inspector of Fisheries for New Brunswick and Nova Scotia.

Hon. P. Mitchell, Minister of Marine and Fisheries.

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SIR,

"Royal Alfred,"

Bermuda, 5th March, 1869.

I have the honour to acquaint your Excellency that I have directed Commodore Phillimore, the senior officer at Jamaica, to send to Bermuda, the "Niobe," "Royalist," "Dart," and Mullet," which vessels I propose to employ in the ensuing summer for the protection of the Fisheries in Newfoundland and the Gulf of St. Lawrence.

I have also ordered the "Phoebe," frigate, Captain Bythesea, to rejoin my flag at this Island from Barbados, and she will be ready to proceed to Quebec on the opening of the navigation, should the Lords Commissioners of the Admiralty desire me to afford a vessel of war of her class to that part of my command.

The "Minstrel" gunboat will also be stationed on the northern division.

I shall be glad if your Excellency will inform me at your earliest convenience if these arrangements meet your wishes, and any information your Excellency may be able to afford me in reference to the state of the fishery question with the United States will be of service to me in framing my instructions to the cruisers.

The "Britomart" gunboat, now employed in the West Indies, might come to the northward if actually necessary, though her services, on account of the disturbed state of Hayti and Cuba, are useful in the south.

I have, &c.,

(Signed)

RODNEY MUNDY,

Vice-Admiral.

His Excellency, the Right Honourable Sir John Young, Bart., G.C.B.,
&c. &c. &c.

DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

Ottawa, 29th April, 1869.

The undersigned has the honour to recommend to the Governor General in Privy Council, that under section one of the statute passed during last Parliament, and entitled, "An Act respecting fishing by foreign vessels," he be authorized to continue the granting of fishing licences, for the year 1869, to foreign fishing vessels, admitting foreign fishermen to fish, and dry and cure fish in Canadian waters within the limits described in the aforesaid section, at the same rate of *two dollars per ton* measurement, as was adopted for the past year.

With a view to render more effectual the system of licensing thus temporarily continued for the current year, it is recommended that the naval officers in command of Her Majesty's vessels, and also the Fishery officers and others engaged in the service of protecting the Fisheries of Canada, or charged with the duty of issuing such licences, be instructed to discontinue the practice of giving foreign fishing vessels "three warnings" before either enforcing the acceptance of licences, or being compelled to depart from the inshore fishing grounds under pain of seizure, and that a single warning during the whole season, and the lapse of twenty-four hours, shall be allowed, as provided in the second section of the above-recited Act.

Also that commissioned officers (or some competent persons specially deputed therefor) on board of Her Majesty's ships employed on the service of protecting the Fisheries, be empowered to grant licences to United States fishing vessels, whenever and wheresoever they shall be met with, and may be required to procure the same, for which purpose a supply of blank licences, duly stamped, should be furnished through the Admiral for distribution among the officers, or persons, so authorized to grant them and receive the fees payable thereon for remittance to this department.

As it may be necessary again to recognize, interchangeably, the licences issued by Canada and Prince Edward Island, occasion should be taken to direct the attention of the authorities of that province to the laxity and evasion which have existed in respect of requiring foreign vessels, frequenting the Island harbours and fishing stations, to be provided with licences. Reference is requested to reports on this subject, dated 15th September and 9th November last.

In addition to the services of the Government vessels "La Canadienne" and "Druid," it is necessary to employ boats' crews at Ports Hood, Mulgrave, Digby, and Westport, in Nova Scotia, L'Étang Harbour, West Isles, Miscou, Fox Island (Miramichi), in New Brunswick; either at the Magdalen Islands or Chaleur Bay, in Quebec. Arrangements may be made for these crews to act under the general direction of the officers in command

of the Government vessels, and to receive further directions and aid in case of need from Her Majesty's ships. If practicable they would also be placed under charge of some of the local fishery overseers, who could be supplied with licences for issuing to any foreign vessel, to the owner of which the alternative of seizure or acceptance might be afforded, after the prescribed notice, by any of Her Majesty's commissioned officers, or Canadian officers in command of vessels (others than the boats referred to) engaged in protecting the Fisheries, to whom such refusal shall be reported. This plan would be at once more efficient and economical than to adopt the suggestions already made by Admiral Mundy, and referred to in a report from this department of 22nd May last, to employ several small sailing vessels, to cruise along various parts of the coasts. Should another suggestion, however, offered in the Admiral's despatches of last year be now adopted—namely, to allow boats from Her Majesty's cruisers to move about in the vicinity of their ships and detect foreigners fishing without licences—the system would be materially improved, particularly if the officer in charge, or some other person on board, be ready to issue licences.

The estimates for the Fisheries service, during the latter part of the year ending 30th June next, and the first half of the ensuing financial year from July to 31st December, not having made any provision for these additional expenses, the funds which it is intended to provide for the year from the 1st July, 1869, to the 30th June, 1870, being also very limited, it will be necessary now to supplement them, in order to give effect to the recommendations herein submitted, at least to the extent of enforcing the system throughout the summer and autumn months. A further sum of at least \$3,200 would be required.

The Minister further submits that it may prove desirable to make use of either of the provincial steamers, when not otherwise indispensably occupied during the fall mackerel fishery, in conjunction with the other vessels employed; but this would be done only in case of absolute necessity, and can, it is believed, be effected without material expense except for coal, and by economizing closely the funds obtained for maintaining the steamers.

The whole respectfully submitted.

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 29th April, 1869.

The Committee have had under consideration the memorandum, dated 29th April, 1869, from the Honourable the Minister of Marine and Fisheries, submitting for your Excellency's approval, certain recommendations on the subject of licensing foreign vessels to fish in Canadian waters, and suggesting the measures which he considers it expedient to adopt in order to secure a better observance by such vessels of the regulations established in reference thereto, and requesting a further appropriation for the current year of \$3,2000, to enable him to give effect to the recommendations submitted.

The Committee advise that the recommendations contained in the said memorandum be approved and acted on.

Certified.

(Signed)

WM. H. LEE,
Clerk, Privy Council.

To the Honourable the Minister of Marine, and Fisheries,
&c. &c. &c.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 5th May, 1869.

On the recommendation of the Honourable the Minister of Marine and Fisheries, the Committee advise that the form of notice to foreign vessels employed in fishing in Canadian waters be approved and published, and that it be disseminated in such manner as the Minister shall direct.

Certified.

(Signed)

WM. H. LEE,
Clerk, Privy Council.

To the Honourable the Minister of Marine, and Fisheries,
&c. &c. &c.

DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

Ottawa, 1st May, 1869.

Public notice and the attention of foreign fishermen is hereby drawn to the provisions of an Act of the Parliament of Canada, entitled:

"An Act respecting fishing by foreign vessels," which renders liable to seizure and confiscation any foreign ship, vessel, or boat found fishing, or preparing to fish, or having fished (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours, whatever, of Canada, and (as affects United States ships, vessels, or boats) not included within the limits specified and described in the first article of the convention of 1818, unless provided with a licence.

Licences may be had, on payment at the rate of \$2 per ton measurement as follows:

On board the Government armed schooner "La Canadienne," in the Gulf and River St. Lawrence, through Napoléon Lavoie, Esq., in command;

On board the Government armed steamer "Druid," on the coasts of Nova Scotia, New Brunswick, and Quebec, through Captain P. A. Scott, R.N. in command;

ALSO

At the Marine and Fisheries Office, Halifax, N.S., through H. W. Johnston, Esq.

At the Fisheries Office, St. John, N.B., through W. H. Venning, Esq.;

AND

At Port Hood, Cape Breton, N.S., through the Customs Officer, E. D. Tremain, Esq.;

At Port Mulgrave, N.S., through the Customs Officer, V. J. Wallace, Esq.;

At Port Hawkesbury, N.S., through the Customs Officer, Malcolm McDonald, Esq.;

At Cape Canso, N.S., through the Customs Officer, Wm. Bigelow, Esq.;

At Pictou, N.S., through the Customs Officer, D. McCullough, Esq.;

At Port Digby (Bay of Fundy), N.S., through the Customs Officer, Bottsford Viets, Esq.;

At Westport (Bay of Fundy), N.S., through the Customs Officer, B. H. Ruggles, Esq.;

At Grand Manan Island (Bay of Fundy), N.B., through the Local Fishery Overseer, W. B. McLaughlin, Esq.;

At St. Andrews (Passamaquoddy Bay), N.B., through the Customs Officer, J. H. Whitlock, Esq.;

At West Isles (Passamaquoddy Bay), N.B., through the Customs Officer, J. R. Dixon, Esq.;

At Beaver Harbour (Bay of Fundy), N.B., through the Local Fishery Overseer, Leonard Best, Esq.;

At Shippegan Island, N.B., through the Customs Officer, P. J. N. Dumaresq, Esq.

At Miscou, N.B., through the officer in charge of the boat's crew;

At Fox Island (Miramichi), N.B., through the officer in charge of the boat's crew;

At New Carlisle (Chaleur Bay), Quebec, through the Customs Officer, John Fraser Esq.;

At Percé, Quebec, through the Fishery Overseer, P. Vibert, Esq.;

At Gaspé Basin, Quebec, through the Customs Officer, J. C. Belleau, Esq.;

At Amherst (Magdalen Islands), through the officer in charge of the boat's crew, and through the Customs Officer, J. J. Fox, Esq.

P. MITCHELL,
Minister of Marine and Fisheries.

COPY of a REPORT of a Committee of the Honourable the PRIVY COUNCIL, approved by His Excellency the GOVERNOR GENERAL in Council on the 7th May, 1869.

On the recommendation of the Honourable the Minister of Marine and Fisheries, the Committee advise that the accompanying draft of "Special Instructions," which he proposes to issue to the officers in command of the Government vessels "La Canadienne" and "Druid," employed in the fisheries service, be approved by your Excellency.

Certified.

(Signed) WM. H. LEE,
Clerk, Privy Council.

The Honourable the Minister of Marine and Fisheries,
&c. &c. &c.

DOMINION OF CANADA.

APPENDIX.

CANADA.

SPECIAL INSTRUCTIONS to the officers commanding the Government vessels "La Canadienne" and "Druid," engaged in protecting the Fisheries of Canada.

DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

SIR,

Ottawa, 1st May, 1869.

The Government having decided to continue the system of granting licences to foreign fishing vessels, for the year 1869, admitting foreign fishermen to fish, and dry and cure fish in Canadian waters, and land upon the coasts of Canada for the purposes of curing fish and drying their nets, certain special directions for your guidance during the ensuing season, in addition to the ordinary instructions for protecting the Fisheries in the Gulf and River St. Lawrence, are thus made necessary.

This issue of licences takes place under the provisions of the "Act respecting Fishing by Foreign Vessels" (31 Vic. cap. 61), copies of which are herewith; and your particular attention is directed to the several provisions of said statute affecting the powers and proceedings therein prescribed.

Blank licenses to the number of _____, numbered from _____ to _____, both numbers inclusive, dated at Ottawa, the 30th day of April, 1869, and signed by me, are enclosed for your use. Each licence issued must be filled up with the name of the vessel, of what place, name of master, number of crew, and tonnage, and countersigned by you. A full registry thereof should be kept, and these particulars form part of your returns. Also note the actual date of delivery of each licence. Returns of the licences granted shall be made at the close of the season, in the form of the accompanying blank statements.

In addition to issuing licences through you, and through the Customs Officers at Ports Hood, Mulgrave, Plaister Cove, Hawkesbury, Ship Harbour, Pictou, Cape Canso, Digby and Westport, in Nova Scotia; West Isles, St. Andrews, L'Etang, and Shippegan, in New Brunswick; Amherst, Port Daniel, Paspébiac, New Carlisle, Gaspé, and Percé in Quebec,—the Department purposes to employ efficient boats' crews of from four to six men, each under the control of a Fishery Overseer, of the location of which you will be duly informed. These will be subject generally to your direction, and also receive instructions and aid in case of need from commissioned officers belonging to Her Majesty's ships. They will be furnished from here with blank forms of licences, to be offered to foreign fishing vessels not otherwise provided, and will report to you, or some of Her Majesty's officers, any refusal to accept the same, and whatever trespass may have been committed; but boats' crews are not authorized to capture or seize any vessel.

Licences are mutually interchangeable with those issued for fishing in the waters of Prince Edward Island by the Government of that province, for the current season only. Keep separate entries of the different foreign vessels holding such licences, and report where they are found, and in what branch of the fishery they are at the time engaged.

Although the above named Acts and the licence system apply to all foreign vessels and fishermen, it is probable that in practice American vessels and fishermen chiefly will be concerned. Therefore it is requisite for you to be more especially informed of the relation of United States citizens to fishing privileges in the waters of Canada, as well of a common and concurrent nature, as those of an exclusively Canadian character.

The terms of the first article of the Convention of the 20th October, 1818, between Great Britain and the United States, has since the expiry of the Reciprocity Treaty governed the participation of American fishermen in the Gulf and Labrador fisheries.

1. United States fishermen may exercise the liberty of fishing in common with British subjects along that part of the coast of Canada extending from Mount Joly, near the River Grande Natashquan, to the easterly limit of Canada, at Blanc Sablon Bay, and at the Magdalen Islands; and enjoy freedom also to land and cure fish on certain of the unsettled shores of the Labrador coast. Wherever any settlement exists the privilege of landing and curing fish may be enjoyed by previous agreement with the settlers, or with proprietors of the ground.

2. In all other parts foreigners are precluded from fishing within three marine miles of Canadian shores. American vessels may, however, enter into all bays and harbours for certain specified purposes under such restrictions as may be necessary to prevent abuse by fishing or otherwise.

With regard to the Magdalen Islands, although the liberty to land and to dry and cure fish there is not expressly given by the terms of the Convention to United States fishermen, it is not at present intended to exclude them; nor is it desirable to impose a narrow construction on the term "unsettled." Places containing a few isolated houses might not, in some

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instances, be susceptible of being considered as "settled" within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation and the circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the desire of Her Majesty's Government that rights of exclusion should not be strained, will probably influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

Americans so admitted should be made aware that, in addition to being obliged in common with those subjects of Her Majesty with whom they exercise concurrent privileges of fishing in Colonial waters, to obey the laws of the country, and particularly such acts and regulations as exist to ensure the peaceable and profitable enjoyment of the Fisheries by all persons entitled thereto; they are peculiarly bound to observe peace and order in the quasi-settled places to which by the liberal spirit of these instructions they may be admitted.

The limits within which you will, if necessary, exercise the right of excluding American vessels or boats, and United States fishermen, are for the present year to continue exceptional. Difficulties have arisen in former times with respect to the question, whether the exclusive limits should be measured on lines drawn parallel everywhere to the coast and describing the sinuosities, or on lines produced from headland to headland across the entrances of bays, creeks, or harbours. Her Majesty's Government are clearly of opinion, that by the Convention of 1818, the United States have renounced the right of fishing not only within three miles of the Colonial shores, but within three miles of a line drawn across the mouth of any British bay or creek. It is, however, the wish of Her Majesty's Government neither to concede, nor, for the present, to enforce any rights in this respect which are in their nature open to any serious question. Until further instructed, therefore, you will not interfere with any American fishermen unless found within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than ten geographical miles in width.

With reference to those inshore fishings, it is proposed for the current season to allow United States fishermen to resort to them on the basis of their participation in such privileges under the Reciprocity Treaty of 1854. The special definitions of rivers and mouths of rivers, and the description of Fishery reserved under that Treaty for the exclusive use of British subjects, will be those stated in the awards of the Joint Commission and in the Article I of the said Treaty. Also the same reservations in respect of private property and preoccupation will be maintained.

The conditions upon which such liberty will be thus continued are:

1. Compliance with the Fishery Laws, Municipal Regulations, and Harbour Rules of Canada;

2. Taking out a licence for the season of 1869, and paying the licence fee chargeable thereon. This licence fee will be rated by you on the tonnage of each vessel or boat at the rate of *two dollars* per ton measurement.

Where you find any difficulty in ascertaining tonnage, or have good reason to suspect misrepresentation, you will estimate the same, and charge the dues accordingly.

Should the master or crew, owing to the unexpected nature of this demand, and from having left any United States port unprepared with funds for such a purpose, be unable to pay the licence fee in cash, you will take a draft on some responsible person, payable at the port whence the vessel or boat has sailed or outfitted, or at some other convenient place. This draft should be made payable at ten days' sight, and you will forward it immediately to Ottawa for collection. Be particular to endorse on the licence a memorandum of the mode of payment, and a supplementary condition to the effect that if payment shall fail to be made or secured on such draft being notified or presented, the licence shall lapse.

After accosting every United States vessel or boat actually within a maritime league of the shore, along any other part of the coast except Labrador and around the Magdalen Islands, or within three marine miles of the entrance of any bay, harbour, or creek which is less than ten miles in width, either fishing, preparing to fish, or having obviously fished within the exclusive limits, you will offer the owner, master, or person in charge, a licence on the above terms.

Should the owner, master or person in charge of any foreign ship, vessel or boat, being clearly within prescribed limits and so found fishing, preparing to fish, or having fished therein, refuse or neglect to take and pay for a licence, yet after being duly notified to depart and informed of liability to forfeiture, still wilfully persist in despite of a single warning and the lapse of twenty-four hours' notice, to remain and fish in such waters, or shall be again found fishing, preparing to fish, or having fished, you will seize and detain

the ship, vessel, or boat for an infraction of the Statute of Canada, entitled, "An Act respecting Fishing by Foreign Vessels," copies of which are herewith for use and distribution.

Compulsory means may be employed; but such resort to force will be justified only after every other prudent effort has failed.

If from threatened resistance and obvious determination to contest the seizure, and because of the inadequacy of your own force, you shall believe any attempt at capture liable to be frustrated, you will warn the parties of the futility of resistance and that you are authorised to procure the assistance if needed of any of Her Majesty's cruisers.

If a ship, vessel, or boat be found violating the Convention, or resisting consequent seizure, and she shall be enabled momentarily to effect her escape from the vicinity, she remains still liable to seizure and detention during the same voyage, if met by yourself in Canada waters and in British waters everywhere if brought to account by Her Majesty's cruisers.

The Act of Parliament already mentioned subjects to forfeiture any foreign ship, vessel, or boat which is found fishing, or having fished, or preparing to fish within the prohibited limits, and provides for the enforcement of this forfeiture.

In your capacity of a Customs Officer you cannot receive any aid from Her Majesty's vessels, but only for unlawful fishing. It is therefore preferable that your proceedings should be taken under the Act above referred to.

All seizures must be placed as soon as convenient in the custody of the nearest Customs collector; and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant, or mate, and of two at least of the most respectable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the fishing took place, and the ship, vessel, or boat was so seized.

On capture it will be desirable to take part of the foreign crew aboard the vessel under your command, and place some of your own crew, as a measure of precaution, on board the seized vessel. If your ordinary complement does not admit of this being done, or if because of several seizures the number of your hands might be too much reduced, you will endeavour to engage a few trustworthy men to supply any such emergency. The portion of foreign crew taken on board the Government vessel, you will land at the nearest place where a Consul of the United States is situated, or where the readiest conveyance to any American Consulate in Canada, or the other British Provinces, may be reached, and leave them there.

When any of Her Majesty's vessels about the fishing stations or in port, shall be met with, you should, if circumstances permit, go on board and confer with the Naval Commander, and receive any suggestions he may feel disposed to give, which do not conflict with these instructions, and afford him any information you may possess about the movements of foreign craft, also inform him of what licences you have granted and what vessels accosted.

Do not fail to make a full entry of all circumstances connected with foreign vessels, noting their names, tonnage, ownership, crew, port, place of fishing, cargo, voyage and destination, and (if ascertainable) their catch. Report your proceedings as often as possible, and keep the Department fully advised on every opportunity of where instructions would most probably reach you at stated intervals.

These instructions, it is almost needless to add, should be carried out with the utmost forbearance, discretion, and firmness; and the Government relies upon your tact and judgment in performing the special duties which circumstances have thus attached to the Fisheries Service with which you are charged.

They should be communicated to the Commanders of any of Her Majesty's cruisers you may meet with, and a form of the licence in use should be left with each of them, with your countersignature thereon.

Considerable inconvenience is caused by Canadian fishing vessels, and those belonging to Prince Edward Island, neglecting to show their colours. Please draw the attention of the masters to this fact, and request them to hoist their colours without requiring to be hailed and boarded.

I am, &c.,

(Signed)

P. MITCHELL,

Minister of Marine and Fisheries.

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To the GOVERNOR-GENERAL, OTTAWA; from GOVERNMENT HOUSE, PRINCE EDWARD ISLAND (via Pictou, N.S.).

Ottawa, 10th May, 1869.

The Government of this Island will agree as they did last year to the interchangeability of the fishery licences. Cable not yet laid to this Colony. Could not answer first telegram, received on the 7th instant, earlier. No boat leaving for Pictou until to-day, although a boat arrived 8th instant, bringing second telegram.

(Signed)

R. HODGSON,
Administrator.

SIR,

Ottawa, 4th May, 1869.

The Governor General has been pleased to appoint you a Fishery Officer under the Fisheries Act, with Magisterial powers for the Dominion of Canada, for all the purposes of the Fishery Laws.

Copies of these Acts are herewith for your use, the provisions of which it will be your duty to enforce.

Special instructions for the present season, with reference to granting Licences to foreign fishing vessels, are also herewith.

Enclosed is a printed form of the Oath of Office which it is necessary for you to take and subscribe under the Fisheries Act. Please retain one copy as completed, and return the other to be filed in this office.

I have, &c.,

(Signed)

P. MITCHELL,
Minister of Marine and Fisheries.

P. A. Scott, Esq.,

Commanding Steamer "Druid," Ottawa.

A similar letter was written to L. Lavoie, Esq., Fishery Officer, commanding "La Canadienne," Ottawa, same date.

SIR,

Ottawa, 3rd May, 1869.

I have the honour to forward, for transmission to Sir Rodney Mundy, twelve copies of the formal instructions addressed to the Fishery Officers in charge of the Government vessels "La Canadienne" and "Druid" engaged in protecting the Canadian Fisheries, for their guidance in the issue of Licences to foreign fishing vessels.

Also, I am to enclose two hundred copies of Blank Fishery Licences for foreign fishing vessels, numbered from 402 to 601, both numbers inclusive, dated here the 30th April, 1869, and signed by the Minister of Marine and Fisheries, under authority of an Order of the Governor General in Council of the 29th ultimo. Also, 25 blank forms of statements of Licences issued, that the Issuing Officer or other person may the more conveniently make returns of the same.

The Minister directs me, while enclosing these forms, to refer to that part of the report from this Department of the 29th ultimo, which was approved of by the Minute of Council above mentioned, suggesting that some persons on board of Her Majesty's vessels, or in charge of boats from the Imperial cruisers, should be authorized to issue such Licences; and to add that the present number of forms is supplied for Vice-Admiral Mundy, to be disposed of in that manner, should the suggestion be accepted and carried out by his orders. Each Licence granted should be countersigned by the Issuing Officer, or other person.

Moneys collected as Licence fees may be paid to the credit of the Receiver General, through the Branch of the Bank of Montreal at Halifax, as "Collections on Fishing Licences."

I have, &c.,

(Signed)

W. F. WHITCHER,
For the Hon. the Minister of Marine and Fisheries.

F. Turville, Esq.,

Governor's Secretary, Ottawa.

SIR,

Ottawa, 3rd May, 1869.

I have the honour to acquaint you, for the information of Vice-Admiral Mundy, with the names of places and persons, where and from whom licences to foreign fishing vessels for the year 1869 may be procured, as stated in the accompanying printed notice, copies of which have been circulated and posted at the various places resorted to by foreign fishing vessels on the coast of Canada.

The Minister directs me respectfully to suggest the desirableness of giving local publicity to these notices, through Her Majesty's Consuls at Boston and Portland, who might be requested also to cause copies to be circulated through the Vice-Consuls and Consular Agents in neighbouring ports where American fishing vessels, which frequent Canadian waters during the fishing season, usually outfit and resort.

I have &c.,

(Signed) W. F. WHITCHER,

For the Honourable the Minister of Marine and Fisheries.

F. Turville, Esq.,
Governor's Secretary, Ottawa.

SIR,

Ottawa, 4th May, 1869.

The Government having decided to continue for this year the system of issuing fishery licences to foreign fishing vessels, under the Fishery Laws, I am directed to enclose for your use two hundred blank licences, numbered from 602 to 801, both numbers inclusive, dated here the 30th April, 1869, and signed by the Minister. Please forward such portion of this supply to each of the Customs Officers in Nova Scotia, to whom it is usual to intrust the granting of the same, as they will probably require for use during the current season. The places designated as most convenient for the delivery of licences, and where foreign vessels are accustomed to call along the coasts of Nova Scotia are,—Ports Hood, Pictou, Mulgrave, Hawkesbury, Cape Canso, Digby and Westport. Should you know of any others to which it is desirable to send licences, please include them. Report afterwards how the forms are distributed. The Officers in command of the Government vessels "La Canadienne" and "Druid" will also issue licences, forms for which are to be supplied to them from here. A copy of special instructions to each is herewith for your own information. It is further expected that some persons will be authorized on board of Her Majesty's ships engaged in the fisheries protection service to grant licences, for which purpose copies have been sent to Vice-Admiral Mundy. It is presumed that you have still unused a sufficient number of blank forms of returns of licences issued to answer for the present year.

The rate at which licence fees are to be charged is \$2 per ton measurement.

Each licence will be countersigned by the Issuing Officers. The fees collected are to be paid over without any deduction to the Dominion Treasury, through you, and sums equal to five per cent., on the same will be afterwards paid on demand (with their returns) through this department for the Officers' labours respectively.

Reference may be had to the copies of the Fisheries Act with which the issuing Officers are already furnished for the text of the statute, entitled, "An Act respecting Fishing by Foreign Vessels," also, for Chapter 94 of the Revised Statutes of Nova Scotia.

Should these Officers at any time require aid, instructions, or specific advice in connection with the enforcement of the Acts above cited, the Department will readily assist them.

It should however be impressed upon them, that all due prudence and precautions are expected to characterize their dealing with these foreign fishing vessels.

I have, &c.,

(Signed) W. F. WHITCHER,

For the Honourable the Minister of Marine and Fisheries.

H. W. Johnston, Esq.,
Marine and Fisheries Office, Halifax, N.S.

A similar letter to the above was written and dispatched to W. H. Venning, Esq., Inspector of Fisheries New Brunswick and Nova Scotia, the same date.

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DEPARTMENT OF MARINE AND FISHERIES (Fisheries Branch).

SIR,

Ottawa, 11th May, 1869.

The Government having decided to continue for this year the system of issuing fishing licences to foreign fishing vessels, under the Fishery Laws, I am directed to enclose for your use 12 blank licences, numbered from 1003 to 1014, both numbers inclusive, dated here the 30th April, 1869, and signed by the Minister.

I also enclose 6 blank forms of returns of licences issued, and 25 copies of a notice enumerating the several persons authorized to issue these licences, for posting at conspicuous places in your neighbourhood.

The unused blank forms of licences are to be returned here at the end of the season, and should there be any discrepancy between the numbers furnished and issued and the residue returned, please state it.

I have, &c.,

(Signed) W. F. WHITCHER,

For the Honourable the Minister of Marine and Fisheries.

J. J. Fox, Esq., Collector of Customs,
Amherst, Magdalen Islands.

Similar letters were written and dispatched to J. C. Belleau, Esq., Collector of Customs, Gaspé Basin; to John Fraser, Esq., Collector of Customs, New Carlisle, and to P. Vibert, Esq., Fishery Overseer, Percé, at the same time and date.

SIR,

Ottawa, 4th May, 1869.

I have the honour to apply for your authority for Capt. Scott, R.N., who is charged with the command of the steamer "Druid," employed in the service of protecting the fisheries, to procure through the Deputy Adjutant General at Halifax (Lieut. Col. Sinclair), the armament detailed in the memoranda overleaf, either from the naval arsenal at Halifax, or from our own stores, if in possession of the articles required.

I have, &c.,

(Signed) P. MITCHELL.

Minister of Marine and Fisheries.

The Honourable Sir G. E. Cartier, K.C.B.,
Minister of Militia.

MEMO. of armament required for Government Steamer "Druid":—

Two guns, six (or nine) pounders, with necessary stores;

100 rounds of ammunition for same;

100 detonating tubes;

20 muskets (naval rifles) and bayonets, complete with belts, pouches, &c. &c.

500 rounds of ammunition for same;

20 cutlasses, &c., &c.

20 pistols.

300 rounds of ammunition, &c., for same.

Certified:

W. F. WHITCHER,

For Hon. the Minister of Marine and Fisheries.

STATEMENT of the Fishing Licences issued to American Fishing Vessels during the year 1868, in the several Provinces forming the Dominion of Canada, with the names of Owners, Tonnage, Port, Amount of Licence Fee, and Name of Officer.

NOVA SCOTIA.									
Name of Vessel.	Owners.	Port.	Tons.	Men.	Where Issued.	Name of Officer.	Rate per Ton.	Amount of Licence Fee.	
							\$	\$	
Venelia	Jas. W. Eaton.	Castine, Me.	54	16	Port Mulgrave.	Vincent J. Wallace	2 00	108 00	
Fashion	J. Lewis	Gloucester, Mass.	46	14	"	"	2 00	92 00	
Telegraph	Patrick Fanning	"	67	16	"	"	2 00	134 00	
H. Atwood	S. Foster	Wellfleet, Mass.	61	16	"	"	2 00	122 00	
F. Dunbar	Joseph Dunbar	Castine, Me.	61	15	"	"	2 00	122 00	
J. G. Farr	Daniel Douglass	Gloucester, Mass.	70	18	"	"	2 00	140 00	
Chanticleer	Geo. M. Arey	Newburyport, Mass.	33	12	"	"	2 00	66 00	
Martha Ann	B. F. Jewett.	Camden, Me.	69	17	"	"	2 00	138 00	
R. A. Kingsbury	Wm. Mulloch	Wellfleet, Mass.	55	16	"	"	2 00	110 00	
Freedom	Moses M. Murray	Gloucester, Mass.	32	10	"	"	2 00	64 00	
C. R. Jones	Henry Smith	Salon, Mass.	47	13	"	"	2 00	94 00	
Abigail Brown	Jas. McNeil	Gloucester, Mass.	44	13	"	"	2 00	88 00	
J. W. Fairfield	Adin Storey	Rockport, Mass.	38	11	"	"	2 00	76 00	
Hiram Power.	Jas. McKinnon	Gloucester, Mass.	42	12	"	"	2 00	84 00	
Charger	Wm. H. Thurston	"	51	14	"	"	2 00	102 00	
Tidal Wave	S. D. Rich.	Hingham, Mass.	40	12	"	"	2 00	80 00	
Grace Darling	J. L. Fernald	Camden, Me.	45	13	"	"	2 00	90 00	
Wm. V. Hutchings	John Parkhurst	Gloucester, Mass.	52	14	"	"	2 00	104 00	
Indus (boat)	Z. Rich	Provincetown, Mass.	24	7	"	"	2 00	48 00	
Rio Grande	B. F. Rich.	"	37	10	"	"	2 00	74 00	
Lottie F. Babson	Wm. Greenleaf	Gloucester, Mass.	53	15	"	"	2 00	106 00	
Forest Queen	Albert Farr	"	51	13	"	"	2 00	102 00	
M. L. Wetherell	S. Morrison	"	55	14	"	"	2 00	106 00	
Light Foot	Jas. Wells	"	60	14	"	"	2 00	100 00	
Equity.	Thos. Kimball	"	16	6	"	"	2 00	32 00	
Areola.	B. F. Torrey	"	40	13	"	"	2 00	80 00	
Fanny	J. H. Gilmour	Hingham, Mass.	45	14	"	"	2 00	90 00	
Traverso	F. Gott	Swan's Island, Me.	42	12	"	"	2 00	84 00	
John Pugh	H. Hutchings	"	40	12	"	"	2 00	80 00	
Effort (boat)	Chas. Loveland	New London, Conn.	9	4	"	"	2 00	18 00	
Ranger	Alex. Weston	Gloucester, Mass.	37	11	"	"	2 00	74 00	
Vision.	R. D. Cobb	Hingham, Mass.	43	13	"	"	2 00	86 00	
John Wesley	C. C. Poole	Rockport, Mass.	45	12	"	"	2 00	90 00	

APPENDIX.
CANADA.

STATEMENT of the Fishing Licences issued to American Fishing Vessels during the year 1868—*continued.*

NOVA SCOTIA— <i>continued.</i>									
Name of Vessel.	Owners.	Port.	Tons.	Men.	Where Issued.	Name of Officer.	Rate per Ton.	Amount of Licence Fee.	
							\$ cts.	\$ cts.	
L. B. Snow	Wm. Hampson	Truro, Mass.	36	13	Port Mulgrave	Vincent J. Wallace	2 00	72 00	
Chalcydony	Gilbert Davis	Gloucester, Mass.	43	14	"	"	2 00	86 00	
David A. Osier	Chas. W. Osier	"	26	10	"	"	2 00	52 00	
Chapparell	F. H. Steele	St. George, Me.	41	14	"	"	2 00	82 00	
Laura Sayward	Eps, Sayward & Co.	Gloucester, Mass.	68	14	Halifax	H. W. Johnson	2 00	136 00	
Hy. Ellsworth	"	"	59	14	"	"	2 00	118 00	
Harriott Samantha	David Low & Co.	"	58	17	"	"	2 00	116 00	
Madam Roland	Philip Johnston	"	62	16	Port Hawksbury	Malcolm McDonald	2 00	124 00	
Alhambra	Geo. Steel	"	57	14	"	"	2 00	114 00	
Madanaska Maid	Wm. Brown	"	63	16	"	"	2 00	126 00	
Franklin A.	David Melançon	"	65	17	"	"	2 00	130 00	
Granada	Geo. Steel	"	59	14	"	"	2 00	118 50	
Samuel Gilbert	"	"	51	14	"	"	2 00	102 00	
Fleetwood	R. S. Smith	North Haven, Mass.	55	14	"	"	2 00	110 00	
Geo. B. Lenore	T. Callither	Gloucester, Mass.	58	15	North Sydney	Thos. Sam. Bown	2 00	116 00	
Bay State	W. Walsh	"	52	13	"	"	2 00	104 00	
			2,345	650				\$4,691 00	
CANADA (PROVINCE OF QUEBEC.)									
Montrose	Epir. Sewyard	Gloucester	42	11	Port of New Carlisle	J. Fraser	2 00	84 00	
Comet	Mich. Felch	Newburyport	22	11	"	"	2 00	44 00	
Whisper	Geo. N. Jeffs	"	18	11	"	"	2 00	36 00	
Ann Maria	Wm. Parsons & Co.	Gloucester, Mass.	41	12	Gaspé Bay	Theophile Tetu	2 00	82 00	
Two Forty	Josh. Freund	"	63	14	Seven Islands	"	2 00	126 00	
Massena	Geo. H. Davis	"	59	"	Perceé	Philip Vibert	2 00	119 00	
Senator	Jno. McInnis	Bucksport, Me.	17	"	"	"	2 00	35 00	
			262	59				\$526 00	
					Total amount of Licences issued			\$5,217 50	

Department of Marine and Fisheries (Fisheries Branch),
Ottawa, 10th May, 1869.

W. F. WHITCHER,
For the Minister of Marine and Fisheries.

(Confidential.)

DEPARTMENT of MARINE and FISHERIES.

APPENDIX.

CANADA.

Ottawa, 2nd April, 1868.

The Minister of Marine and Fisheries has the honour to report to the Privy Council with reference to inquiries which have been made in the House of Commons relative to Tonnage duties and Custom House fees imposed on British vessels entering the Ports of the United States, as compared with the charges imposed on American vessels entering Canadian Ports, and as to the advantages which American vessels have in the United States as compared with British vessels:—

1st. No British vessel can carry goods or passengers between one part of the United States and another part thereof, and the rule is applied strictly against us; for instance, a British vessel cannot carry a cargo between New York and California, as that is deemed to be a coasting voyage.

2nd. An American vessel can carry cargo between one British Colony and another, or between the United Kingdom and any British Colony, or between any Ports in the United Kingdom; but no goods or passengers can be carried from one part of any British Possession in America, to another part of the same possession except in British ships; for instance—an American vessel cannot carry cargo between Toronto and Kingston, although she can carry cargo between Quebec and Prince Edward Island.

Before the Union an American vessel could carry cargo between Halifax and St. John, but she cannot do so now, if the Dominion of Canada is considered as only *one* British Possession.

But if the Legislature of a British Possession should present an address to Her Majesty, praying Her Majesty to authorize or permit the conveyance of goods or passengers, from one part of such possession to another part thereof, in foreign ships, Her Majesty, by Order in Council, can authorize the conveyance of such goods or passengers, and if it shall be made to appear to Her Majesty that British ships are either directly or indirectly subject in any foreign country to any duties or charges of any sort or kind whatsoever, from which the national vessels of such country are exempt, or that any preference whatever is shown, either directly or indirectly, to national vessels over British vessels, it shall be lawful for Her Majesty, if she sees fit, by Order in Council, to impose such duties of tonnage upon the ships of such nation, as may appear to Her Majesty justly to countervail the disadvantages to which British navigation is so subjected.

3rd. A British built vessel cannot be registered in the United States, although purchased by a subject of that country.

4th. An American built vessel can be registered in Canada, if owned by a British subject, without payment of any Government charge or duty, except a trifling charge for measurement and registry in Nova Scotia and New Brunswick.

During the late war many American vessels obtained the protection of British Registers, through the liberal provisions of the British Merchant Shipping Act.

5th. In the United States, all vessels, national and foreign, are subject to a tonnage duty of thirty cents per ton gold on entering inwards, with the exception of vessels having a licence to trade between different districts of the United States, or to carry on the bank, whale, or other fisheries, or vessels to or from any port or place in Mexico, the British Provinces of North America, or any of the West India Islands, or in all these trades, which are only required to pay the tonnage duty once a year. This tonnage duty is commonly called in the States a war-tax, as it was imposed during the operation of the late war, and was imposed on all shipping indiscriminately, for the purpose of raising a revenue. Before the war there was no Government tonnage duty or light dues levied on shipping.

6th. In Ontario there are no Government tonnage duties (except canal dues) nor light dues of any kind, imposed on any shipping, and United States vessels navigating the Lakes enter Canadian Ports entirely free of Government tonnage dues, with the exception above named, while British vessels entering United States Ports, on the Lakes, are subject to this war-tax of thirty cents per ton gold—one payment per annum.

The 173rd section of the Imperial Act 16 and 17 Vict. cap. 107, provides that the same tonnage duties shall be paid upon all ships or boats of the United States of America, importing any goods into either of the provinces of Upper or Lower Canada, as are or may be for the time being payable in the United States of America, on British vessels or boats entering the harbours of the State from whence such goods shall have been imported.

This provision, however, has not been acted on, as no Government tonnage dues are exacted on the American Lake tonnage entering Canadian ports, except Canal dues.

In the province of Quebec, there are no Lighthouse tonnage duties exacted on shipping, that service being supported, in Ontario and Quebec, from the general treasury, without

any contribution from shipping. There is, however, a small charge of one cent and two thirds of a cent per ton on shipping entering the ports of Quebec and Montreal, for the support of sick mariners, with the exception of vessels under 200 tons, belonging to any party in the Province, and trading between Quebec and Montreal, or any other port in British North America, and three farthings per ton, on all vessels over one hundred tons, arriving at the Port of Quebec, for the support of River and Water Police. The amount received on account of these services has not hitherto been sufficient to defray the expenditure connected with them. These charges are levied on all shipping indiscriminately, with the exceptions above mentioned, and are devoted exclusively to the support of the services alluded to.

In New Brunswick vessels over 100 tons pay on arrival five cents per ton, Lighthouse duties not exceeding six payments per annum. Smaller vessels pay a reduced rate once a year. Also one penny per ton on vessels over 60 tons for the support of sick and disabled seamen, not exceeding six payments per annum; vessels under that size pay only once a year. Also one penny per ton at certain ports in the Province, for the maintenance of buoys and beacons; vessels under 60 tons pay only once a year.

In Nova Scotia vessels have hitherto paid on arrival or passing through the Straits of Canso ten cents per ton, and only one payment per annum, for Lighthouse duties. The law enacting this charge expired on the 1st April, 1868, and no such charge is now made. At Halifax vessels pay for Hospital dues and sick seamen one cent per ton, and one dollar per 100 tons for the signal station.

In Quebec, the tonnage duty of one sixteenth of a penny sterling per ton on shipping clearing for ports in Europe, and passing in the neighbourhood of Cape Race Light, Newfoundland, has not been collected, as it has hitherto been collected in New Brunswick and Nova Scotia; but an account has been annually made up, of the amount of the duty accruing to the British Government from this source in the Province of Quebec, and the money remitted out of the general revenue to the Board of Trade, London (who have the management of this light), through the Governor-General. For instance, an American vessel clearing from the Port of Quebec for Liverpool, with a cargo of timber, would be liable to pay for the support of Cape Race Light, before clearing, according to the law hitherto in force in New Brunswick and Nova Scotia, one sixteenth of a penny sterling per ton, but no such charge has been made against the ship by the Canadian Government, although they remitted the amount of the tonnage duty to the British Government, on account of such American ship.

7th. In the Custom Houses of the United States, the officers are principally remunerated for the performance of their different duties by fees, which are paid by the shipping and the merchants, but British and foreign shipping pay in nearly all cases alike. For instance, the entry and clearance of a vessel over 100 tons costs \$2.50 in each case, every trip, making \$5 for both. Post entry \$2.00. Granting permit to a vessel not belonging to a citizen of the United States to go from district to district and receiving manifest, \$2.00, receiving manifest and granting permit to unload for such vessel \$2.00.

8th. At all the ports of the Dominion, the Custom House business is transacted without any charge to the ship or the merchant, the salaries of the officers being paid from the general revenue.

9th. In the United States, the Minister is informed, the State canals are closed against British vessels, although, by the 4th article of the Reciprocity Treaty, the Government of the United States engaged to urge upon the State Governments to secure to the subjects of Her Britannic Majesty, the use of the several State Canals, on terms of equality with the inhabitants of the United States. In this matter the United States Government did not appear to have sufficient influence with the State Governments to obtain the concession alluded to, as the privilege was never conceded.

10th. In Canada the canals are open to the vessels of the United States on equally as advantageous and favourable terms as to British vessels, and in some cases, where United States vessels have been too deep to pass through the canals, a portion of the cargo has been taken overland by rail, and re-shipped again, showing the most liberal disposition on the part of the authorities on the British side of the Lakes. With the United States authorities, their treatment of Canadian Lake tonnage carrying cargoes from American ports on the Upper Lakes to American ports on Lake Ontario has, in the opinion of the Minister, been very unfair and illiberal:—for instance, before the repeal of the Reciprocity Treaty, wheat was shipped in British bottoms at American ports on the Upper Lakes, and brought down to Port Colborne; from thence it was taken by rail to Port Dalhousie, shipped there again in British bottoms for American ports on Lake Ontario; but recently, and since the close of the Treaty, the Minister is informed that this important carrying trade, by a forced construction of the American authorities, has been decided to be a coasting trade between two

American ports, and thus prohibited, although it is evident from the fact of the wheat being finally shipped from a British port to an American port, that it cannot fairly and reasonably be considered a coasting voyage. The consequence of this unfair treatment has been to depreciate Canadian Lake tonnage employed in this trade, as is stated by those engaged in the trade, to the extent of about twelve per cent. It is also stated that an objectionable regulation exists in connection with British tonnage in the navigation of Lake Michigan, as all vessels are required to call and report at the port of _____ whether the voyage requires it or not. This is found to be obnoxious and most objectionable, and, as it does not apply to American bottoms, it frequently involves days of delay to the detriment of our shipowners and forwarders.

It will be seen from the foregoing remarks that the shipowning and shipbuilding interests of Canada are labouring under many disadvantages in their trade relations with the United States, such as being debarred from the coasting trade of the States, and the privilege of registry in their ports, besides being subjected to the payment of what is called the war-tax on shipping, Custom House fees for entering and clearing, which are particularly oppressive to small British vessels on the Lakes, and to steamers, as they cannot trade under a coasting licence on the same footing as United States vessels of a similar description; thus giving great advantages in the shape of reduced Custom House fees and additional facilities of ports of call in favour of United States vessels, as well as being debarred from the use of their canals; while, on the other hand, United States shipping are treated in the most liberal manner in Canada, where the canals are open to them on precisely the same terms as to Canadian vessels, in accordance with the fourth article of the Reciprocity Treaty which has been repealed for the last two years—where they get all the benefits of a most expensive system of lights without contributing anything towards the cost of maintaining such lights—where they can enter and clear at any Custom House in the Dominion without payment of any fee whatever, the cost of maintaining the Custom Houses being defrayed out of the general revenue—and where they can procure a British Register for American built vessels without any charge or fee whatever in Ontario and Quebec, and for a trifling charge, ranging from \$1.50 to \$4 in New Brunswick and Nova Scotia; and, although this war-tax has been in operation for some years, and the Imperial Statute already alluded to appears to impose at once the same tonnage duties on United States vessels entering the harbours of Upper or Lower Canada as are imposed on British vessels in the States, still this authority has not been exercised, and no tonnage duty has been exacted.

Under all the circumstances of the case the Minister recommends for the consideration of his Excellency the Governor-General in Council that steps should at once be taken for the purpose of bringing about a more equitable arrangement between the Government of the United States and that of the Dominion of Canada, in favour of the shipowning, forwarding and shipbuilding interests of the Dominion, and in the event of such efforts being unsuccessful, the Minister is of opinion that, in justice to the Canadian interests, the tonnage duties imposed conditionally on American shipping under the 173rd Section of the Imperial Act alluded to, should then be exacted; this would probably be the means of inducing the Government of the United States to take into their favourable consideration the inequalities at present in existence between the shipping interests of the two countries, and may probably tend to the removal on their part of some of the restrictions now existing in the States against Canadian shipping.

Respectfully submitted.

P. MITCHELL,
Minister of Marine and Fisheries.

N.B.—It is stated in the foregoing report that no British built vessel can obtain a register in the United States Ports; which refers to ordinary transfers of vessels. There are however some slight exceptions to this law; for instance, vessels built in a foreign Country, and wrecked within the waters of the United States, and purchased and repaired by a citizen or citizens thereof, provided the cost of repairs be equal to three-fourths of the cost of the vessel when repaired, may be registered in that Country:—And vessels adjudged to be forfeited for a breach of the laws of the United States, being wholly owned by a citizen or citizens thereof, may also be registered in that Country.

Enclosure 2.

(Confidential.) REPORT ON FISHERY QUESTION, by MR. W. P. WHITCHER (Department of Marine and Fisheries, Canada).

REPORT ON THE FISHERY ARTICLES OF TREATIES BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA, AND QUESTIONS ARISING OUT OF THE SAME.

1.—The origin of AMERICAN CLAIMS to participate in the COLONIAL FISHERIES.

Americans found their original claim to equal fishery rights in the Anglo-American seas on the share that New Englanders bore whilst British subjects in the conquest of these Colonies from the French; and also upon their use of the Fisheries in common with those Colonists from whom they afterwards voluntarily separated themselves. Excepting along the coast of Labrador and around the south-western parts of the Gulf of St. Lawrence, off the Bay of Chaleur and the New Brunswick coast, they had fished freely before their separation from Great Britain. In the negotiations which preceded the peace of 1783 they drove a hard bargain for co-extensive privileges of fishery. It was of vital moment to them to secure some foothold, as a new nation, from which other acquisitions might in time be gained. Through force of strong language, and by threats to break off negotiations, but chiefly from the characteristic temper of Great Britain to give way for peace sake, the American Commissioners managed to secure much more favourable terms than in fact and justice they were entitled to.

2.—The FISHERY ARTICLE of the TREATY of 1783.¹

The Definitive Treaty of Peace and Friendship between His Britannic Majesty and the United States of America, signed at Paris on the 3rd of September, 1783, contained the following provision:

“ Art. III.—It is agreed, that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and on all the other banks of Newfoundland: also in the Gulf of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish. And also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland, as British fishermen shall use (but not to dry or cure the same on that Island), and also on the coasts, bays, and creeks of all other of His Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.”

The guarded language of this article is somewhat remarkable. It had been contended on the part of America that her subjects should enjoy common *rights* of fishing the same as when they were British colonists.² And the use of the word “right” was urged very warmly by Mr. Adams.³ In that part of the article which relates to fisheries “in the sea,” a concurrent “right” is agreed to; but in the coast and Labrador fishings simple “liberty” was acceded to.⁴ This text proves how marked, how emphatic was the distinction between a recognised “right” and a conceded “liberty,”—the former being susceptible of permanence, and the latter existing at will.

3.—The TREATY of 1783 as AFFECTED by the WAR of 1812.

The two-fold sense of Article III of the Treaty of 1783 has been before observed. In the first portion of the article there is a clear recognition of a continuing “right” of fishery⁵

¹ A Collection of Treaties between Great Britain and other powers—By George Chalmers; London, 1790, vol. 1.

² “We had fought for, had won and had enjoyed the fishing grounds as British subjects.”—*Mr. Rush*.

³ “Gentlemen, is there or can there be a clearer right? In former Treaties, that of Utrecht and that of Paris, France and England have claimed the right and used the word * * * * If Heaven in the creation gave a right it is ours at least as much as yours.”—*Annals of Diplomacy*.

⁴ “The rights acknowledged by the treaty of 1783, were not only distinguishable from the *liberties* conceded by the same treaty, in the foundation on which they stand, but they were carefully distinguished in the wording of the treaty.”—*Diplomatic Correspondence. Lord Bathurst's Despatch, 30th December, 1815.*

⁵ “It was therefore surely obvious that the word *right* was throughout the treaty used as applicable to what the

which "the people of the United States shall continue to enjoy"—in those parts of "the sea" which had been commonly used by colonists to the exclusion of the French, then, in the conjunct portion is an equally plain and distinct concession of "liberty" to use certain specified waters and coasts within the jurisdictional limits of the British possessions in concurrence with His Britannic Majesty's loyal subjects.⁶

At the Treaty of Peace the high contracting parties must have stood each on a separate footing. They had been at war, and there was then an inchoate national sovereignty, already recognised in the provisional articles of 1782, and afterwards completed and confirmed by the recognition of the independence of the United States.⁷ Their respective sea rights would, without any stipulations, be those recognised and laid down by the Law of Nations. British jurisdiction over the waters around the coasts of so much as should remain to her of colonial empire in North America would extend at least three miles—the bays, harbours &c., being defined customarily by headlands.⁸ Within such extent she was thenceforth absolute and sole proprietor. And it accorded as well with the relative positions as with the antecedents of both nations, that America should afterwards enjoy as a right the Fisheries of the open sea, and that Great Britain should extend to her sovereign neighbour the liberty of using grounds formerly common, but now made exclusive by the recent definition of respective national possessions.

It has been argued that, in the recognition of the sovereignty of the United States there was implied a partition of all the fishery privileges in which their people had participated when colonists and British subjects. From which they assert an absolute right (to participate in all the Fisheries) as "confirmed for ever," and as not affected by the war of 1812, but merely compromised in the subsequent convention.⁹ While it was most obviously nothing more than a conceded liberty to obtain during pleasure.

American Ministers in all of their correspondence have laid great stress on the argument that the fishing liberties they had enjoyed under the treaty of independence were merely defined by the convention of 1818,—in fact, that it was a virtual continuance of the former treaty.¹⁰ The position thus assumed is proclaimed by them to be quite unassailable.

At Ghent, in 1814, the American Commissioners went even further in asserting the principle that the treaty of 1783 is to be regarded as perpetual, and of the nature of a deed in which the Fisheries are *an appartenant of the soil—conveyed or parted with*;¹¹ and that, therefore, no stipulation was necessary or desirable to secure the perpetuity of the appendage more than of the territory itself.¹² The utter fallacy of this argument is made apparent by the fact that the Fisheries *were then*, and had *always since* been appendages of British soil. It would be an extraordinary abuse of language to attempt to prove by the concession of a privilege having its origin in common usage and convenient toleration; that there was implied the acknowledgment of an acquired "right" as between separate sovereignties.

⁶ "United States were to enjoy in virtue of a recognized independence; and the word liberty to what they were to enjoy as concessions strictly dependent on the treaty itself."—*Diplomatic Cor.: Lord Bathurst's Despatch, October 30th, 1815.*

⁷ "The distinction between the special liberty and the general right appears to have been well understood by the American Ministers who negotiated the treaty of 1783, and to have been clearly marked by the very import of the terms which they employed."—*Mr. Russell.*

⁸ The word "right" here means *just claim*: The term "liberty" signified *privilege or permission granted.*

⁹ "His Britannic Majesty acknowledges the said United States, &c. &c., to be free, sovereign and independent states, that he treats with them as such." &c. &c.—*Vide Article I. of the Treaty of Paris in 1783.*

¹⁰ "We treated with our great adversary for peace, and desired it; but we treated as a co-equal sovereign nation."—*Rusk's Diplomatic Relations, Philadelphia, 1860.*

¹¹ *A Compendium of the Law of Nations, by G. F. Von Martens, London, 1802; Law of Nations, by Mons. de Vattel: Philadelphia, 1858.*

¹² *Vide Diplomatic Correspondence of Messrs. Stevenson, Upshur, Everett and Calhoun.*

¹³ "Great Britain could not consider any one state at liberty to assign to a treaty made with her such a peculiarity of character as should make it, as to duration, an exception to all other treaties, in order to found, on a peculiarity thus assumed, an irrevocable title to indulgences which had all the features of temporary concessions."—*Diplomatic Correspondence. Lord Bathurst's Despatch, 30th October, 1815.*

¹⁴ "The point mainly discussed as regards the Fisheries was whether the recognition of the American 'right and liberty' to fish on the banks of Newfoundland and elsewhere in the 3rd article of the treaty of 1783, was of a permanent character, or liable to be abrogated by war. The British doctrine was, that the treaty of 1783, not being re-enacted or confirmed by the treaty of Ghent, was annulled by the war of 1812. The United States, while they did not deny the general rule that a war put an end to previous treaties, insisted that the rule was not applicable to the treaty of 1783, which was a treaty of partition, and by which the rights of each party were laid down as primary and fundamental: so much of territory and incidental rights being allotted to one and so much to the other."—*Editor's note, Wheaton, p. 325, Boston, 1864.*

This is but a specious pretension. An incidental right must be incident to something—territory or situation. Fishery in British waters formed no incident of American territory or maritime situation, after the United States became a separate nation.

¹⁵ "Mr. Adams suggested to his associates, and Mr. Clay embodied in a proposition to be presented to the British Commissioners, the principle that we held our rights of fishing by the same tenure as we did our independence."—*Diplomatic Correspondence, 1815 to 1818.*

¹⁶ "The entire instrument implied permanence, and hence all the fishing rights secured under it to the United States, were placed on the same foundation with their independence itself."—*Editor's note in Lawrence's edition of Wheaton's Law of Nations, p. 325.*

APPENDIX.
CANADA.

And it might be styled preposterous to claim that foreigners could continue to enjoy both the *usus* and the *fructus* of waters now no longer common, but the exclusive property and dominion of another nation whose subjects alone should use them. It is doubly important to American views that the indefeasible character of the old treaty should be sustained, because of its use as corroborative of the "practical construction"¹³ which their fishermen have put upon the renouncement in the new convention, and as vantage ground in any future discussion arising out of different constructions of the existing convention.

The pretension that the fishery article of the former treaty survived the rupture of 1812, is one which very little inquiry should dissipate. Apart from the general effect of hostilities there are other elements in the duration of such engagements, as will be seen on reference to the following authorities :

"Treaties properly so called, the engagements of which imply a state of amity between the contracting parties, cease to operate if war supervenes, unless there are express stipulations to the contrary. It is usual on the signature of a Treaty of Peace for Nations to renew expressly their previous Treaties, if they intend that any of them should become once more operative. Great Britain in practice admits of no exception to the rule that all Treaties, as such, are put an end to by a subsequent war between the contracting parties."

The Law of Nations considered as independent political communities.

By Travers Twiss, D.C.L.

London, 1861, p. 377.

Lord Bathurst's letter of Oct. 30th, 1815.

"A state of war abrogates Treaties previously existing between the belligerents."

President's Message, 1847.

Annual Register.

"Treaties of boundary alone are regarded by jurists as perpetual."

Twiss' Law of Nations, London, 1861.

"As a general rule, the obligations of Treaties are dissipated by hostility, and they are extinguished and gone for ever unless revived by a subsequent Treaty." * * *

"All those duties of which the exercise is not necessarily suspended by the war, subsist in their full force."

Commentaries on American Law.

By James Kent,

New York, 1848, vol. 1, p. 175.

"Agreements the exercise of which is inconsistent with a state of war necessarily expire with the commencement of hostilities."

Supreme Court of the United States,

Sutton v. Sutton.

Russell and Mynes' Reports, vol. 1, p. 663.

"Permanent arrangements respecting national rights revive at peace, unless waived, or new and repugnant stipulations be made."

Chancellor Kent : Wheaton, p. 494.

Even if the general rule that war ends treaties be denied, there exist here all the elements of abrogation.

First.—According to Chancellor Kent it is only as respects national "rights"¹⁴ that revival at peace takes place ; but a mere privilege ("liberty") is not provided for.

¹³ "The treaty of 1783, in relation to the fishing liberty, is abrogated by the war."—*Mr. Russell, 11th February, 1815.* Treaties securing territory and establishing boundaries, might be in their nature perpetual. Perpetuity will be *quo ad* the acquisition of property, or territorial possessions ; but except by express agreement, there could be no common property in piscary subsisting within the jurisdictional waters of another power. Mr. Russell, one of the American negotiators of the treaty of Ghent, wrote in 1815: "The immemorial enjoyment of a privilege within British jurisdiction, by British subjects, the inhabitants of British Colonies, could not well be considered as evidence of a title to that privilege claimed by the citizens of an independent republic, residing within the exclusive jurisdiction of that republic."

¹⁴ *Vide Mr. Uphur's note to Mr. Everett, 30th June, 1843.*

¹⁵ *Wheaton, page 494.*

Second.—There was no renewal at the Treaty of Ghent.¹⁵ Here was an intermediate compact in which some of the stipulations of the Treaty of Paris (1783) were reproduced, and boundaries were adjusted; but although mooted in the negotiations the Fishery subject found no place in the treaty. Thus indicating the designed omission of such other particulars.¹⁶

By article 8 of the same treaty in 1783, it had been agreed, "That the navigation of the River Mississippi, from its source to the Ocean, should for ever remain free and open to the subjects of Great Britain and the citizens of the United States." And although it was described in that instrument as a "right" secured to British subjects for ever, it was withheld, and has been ever since enjoyed exclusively by the United States, because the participatory right *had not been renewed by the Treaty of Ghent.*¹⁷ If a definite "right" of navigation on the waters of a foreign state be annulled by war, how much more should a participant "liberty" of fishery be subject to the same contingency.¹⁸

Third.—Fishery in common with British subjects became incompatible with hostilities. Exercise of the liberty conceded depended on friendly relations. It certainly was withdrawn by the one, as it was practically relinquished and abandoned by the other,¹⁹ when a state of war destroyed all customs and concessions of an amicable nature.

Fourth.—New and repugnant stipulations were made by the first article of the Convention of 1818. So that, if not abrogated by any other act or omission, the third article of the treaty of 1783 was indisputably ended by the repugnant article of that convention.²⁰

Another argument advanced in this connection is founded on prescription,²¹ and relies on the authority of Vattel. That learned writer says: "But, if so far from making itself master of a fishery, a nation has once acknowledged the common right of other nations to come and fish there, it can no longer exclude them from it; *it has left that fishery in its primitive state of communion, at least with respect to those who have been accustomed to take advantage of it.*"

Writers who cite this passage always conveniently forget to explain, that the context refers to acquisition by a nation of fructuary rights in the open sea, contra-distinguished from the exclusive piscary sanctioned by the public law and universal practice of nations as pertaining to jurisdictional waters.²²

¹⁵ "During the negotiations at Ghent, in 1814, the British plenipotentiaries gave notice that their Government did not intend to grant to the United States gratuitously the privileges formerly granted by treaty to them of fishing within the limits of the British Sovereignty, and of using the shores of the British territories for purposes connected with the British fisheries. In answer to this declaration the American plenipotentiaries stated that they were not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto; from their nature and from the peculiar character of the Treaty of 1783, by which they were recognised, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of them all."—*Wheaton, p. 463.*

¹⁶ "The Treaty of Peace concluded at Ghent, in 1814, therefore contained no stipulation on the subject; and the British Government subsequently expressed its intention to exclude the American fishing vessels from the liberty of fishing within one marine league of the shores of the British territories in North America, and from that of drying and curing their fish on the unsettled parts of those territories, and, with the consent of the inhabitants, within those parts which had become settled since the peace of 1783."—*Wheaton, p. 463.*

Chancellor Kent states (vol. 1, p. 176), that the tenth article of the Treaty of 1794 between Great Britain and the United States "was not impaired by the war of 1812," because it contained a stipulation to the effect that in the event of war it should not become rescinded.

¹⁷ "The stipulation in the Treaty of 1783, securing to British subjects a right to participate in its navigation *not having been renewed by the Treaty of Ghent 1814*, the right of navigating the Mississippi is now vested exclusively in the United States."—*Wheaton, p. 353.*

¹⁸ * * * Americans may in their own favour wrest something from treaties beyond their true meaning; but surely they cannot in the case of other nations object to the application of rules applied for their own aggrandizement. In a letter to the American Secretary of State, 22nd April, 1822, one of the United States Commissioners acknowledges that "The British right of navigating the river, within the American territory was precisely similar to the American liberty of fishing within the British territorial jurisdiction."

¹⁹ Andrews and Sabine admit, that during the war with England the distant fishing grounds were abandoned. Mr. Russell, writing to the United States Government, 11th February, 1815, says, "The people of the United States had never, in fact, during that period, enjoyed the fishing privilege a moment; being effectually prevented therefrom by the existing state of hostilities."

²⁰ The very fact of entering into the convention of 1818 entirely abandoned the ground of permanence in the treaty of 1783. If it was permanent, what need was there for later stipulations, which far from augmenting really diminished the freedom accorded by the former compact? None knew and felt this predicament more than did that able, astute, and patriotic man Mr. Secretary Webster.

"Nothing could abrogate the rights and liberties of the United States, *but a renunciation* by the United States themselves."—*Diplomatic Correspondence. Mr. Adams' despatch, September 25, 1815.*

²¹ * * * "A free participation in the Sea fisheries, near the shores of the Colonies is regarded as the just prescriptive privilege of our fishermen;—without such participation our deep-sea fisheries in that region will become valueless."—*Andrews, p. 35.*

²² "The use and enjoyment of navigation and fishery in the sea," &c.
"It is manifest that the use of the open sea," &c.

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4.—POSITION of AFFAIRS after the TREATY of GHENT.²³

In the course of negotiations connected with this treaty peace was repeatedly endangered by the extreme views of Americans on the fishery question. Great Britain, adopting the rule of nations, regarded the "liberty" conceded by Art. 3 of the treaty of 1783 as having lapsed in the war just ended.²⁴ Americans claimed the same privileges as they had enjoyed before the Revolution,²⁵ with such further freedom of new fishing grounds and inshore fisheries as they had, by practical participation, associated with the operations of their own fishermen. Their negotiators were directed to make no peace without confirming these lofty pretensions.²⁶ War should continue for ever rather than the United States should abandon "one iota" of their extraordinary claims.²⁷ The British ministers firmly insisted, but were willing to accept as a partial equivalent for continuance of the liberty allowed in 1783, free navigation of the Mississippi. This reciprocal proffer was declined. Neither would yield. Ultimately the treaty was closed without any mention of fisheries,—Americans still nursing the notion that they would fall back upon their old policy of persistence in fishing over their neighbours' waters. The British Government, however, avowed their just determination to withhold the forfeited privileges.²⁸ A convention subsequently entered into between the two powers to establish "reciprocal liberty" of "commerce,"²⁹ contained no reference to the fisheries, notwithstanding that early in the same year American vessels were warned off the coast by British cruisers. Stimulated by a revival of fishing bounties with drawback allowances, and the prohibitory duties placed by Congress on all foreign-caught fish, in 1816, United States fishing vessels swarmed anew over the colonial fisheries. They penetrated everywhere. Firm in the purpose of maintaining inviolate her territorial and maritime rights, Great Britain defended the fisheries of her colonial subjects. Twenty United States vessels were seized for trespass on the limits of her maritime jurisdiction. These prompt measures led American statesmen to see the folly of their exacting attitude in the recent peace negotiations, and overtures were made which facilitated an adjustment of disputes in the Convention of 1818.

5.—FISHERY ARTICLE of the CONVENTION of 1818.³⁰

"ART. I.—Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks, of His Britannic Majesty's dominions in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind, on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks, from Mount Joly,³¹

"No nation, therefore, has a right to take possession of the open sea, or claim the sole use of it, to the exclusion of other nations, &c. The right of navigating and fishing in the open sea being then a right common to all men," &c. —*Vattel's Droits des Gens*, l. 1, p. 287.

"Prescription appears to me to be inapplicable to the parties and to the subject, and to be defective both in fact and effect. * * * The inhabitants of the colonies originally constituting the United States, even in their colonial condition, could not acquire against their sovereign any right from long usage or mere lapse of time."—*Mr. Russell*, 11th February, 1815.

"A right to fish, or to trade, or to do any other act or thing within the exclusive jurisdiction of a foreign state, is a simple power, a right of mere ability, depending on the will of such state, and is consequently imprescriptible."—*Ibid.*

²³ Signed at Ghent, 24th December, 1814.

²⁴ Vide Instructions from the British Government to the Governor of Newfoundland 17th June, 1815; published in the appendix (A) from British state papers, vol. 2, p. 1171.

²⁵ Mr. Adams' correspondence with Lords Bathurst & Castlereagh in September and October, 1815, and in January, 1816.

²⁶ "It was the first stumbling-block and last obstacle to the conclusion of the Treaty."—*Mr. Adams*.

"There shall be no peace without the fisheries."—*Mr. Monroe*.

²⁷ *Mr. Jno. Quincy Adams*, 28th November, 1814.

²⁸ "Our citizens nevertheless proceeded as formerly to fish off the British coasts, and to use the unsettled shores for curing and drying fish, according to the stipulations of the former Treaty. They were immediately warned off by the British Naval Forces, and some were captured."—*Andrews*, p. 56, *Washington*, 1851.

²⁹ Signed at London, 3rd July, 1815.

³⁰ Signed at London, 20th October 1818.

³¹ "Mount Joli mentioned in all former remark books, has no existence, at least there is no mountain, nor even anything that deserves the name of a hill; but near the termination of the sandy cliffs which end at the south-west extremity of Natashquan Point, the sandy ridge with spruce trees rises into a slight mound, or very little higher than the rest of the country. This is Mount Joli; but so little remarkable in its appearance that we should not have noticed it, had it not been for the name."—*Admiral Bayfield*.

“ on the southern coast of Labrador, to and through the Straits of Belleisle, and thence
 “ northwardly indefinitely along the coast, without prejudice, however, to any of the
 “ exclusive rights of the Hudson’s Bay Company : and that the American fishermen shall
 “ also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and
 “ creeks of the southern part of the coast of Newfoundland hereabove described, and of the
 “ coast of Labrador ; but so soon as the same, or any portion thereof, shall be settled, it
 “ shall not be lawful for the said fishermen to dry or cure fish at such portion so settled,
 “ without previous agreement for such purpose, with the inhabitants, proprietors, or
 “ possessors of the ground.

“ And the United States hereby renounce for ever any liberty heretofore enjoyed or
 “ claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine
 “ miles of any of the coasts, bays, creeks, or harbours, of His Britannic Majesty’s dominions
 “ in America, not included within the above-mentioned limits ; provided, however, that
 “ the American fishermen shall be admitted to enter such bays or harbours, for the purpose
 “ of shelter and of repairing damages therein, of purchasing wood, and of obtaining water,
 “ and for no other purpose whatever. But they shall be under such restrictions as may be
 “ necessary to prevent their taking, drying, or curing fish therein, or in any other manner
 “ whatever abusing the privileges hereby reserved to them.”²²

6.—THE COMMON FISHERY RIGHTS OF NATIONS IN OPEN SEAS.

In order to a full and just understanding of points involved in this fishery dispute, it is essential to consider what are the rights of fishery in the high seas common to nations ; also, what are exclusive rights of fishery in the sea, as expounded by public jurists and sanctioned by universal custom, pertaining to maritime sovereignty.

“ The right of fishing in the open sea or main ocean is common to all nations, on the
 “ same principle which sanctions the common right of navigation, viz., that he who fishes
 “ in the open sea does no injury to any one, and the products of the seas are, in this respect
 “ inexhaustible and sufficient for all. It is possible indeed that one nation may possess an
 “ exclusive right of navigation and fishing against another nation, by virtue of treaty
 “ engagements, as it is competent for a nation to renounce a portion of its rights ; and
 “ there have been instances of such renunciations both in ancient and modern times.”

Twiss’ Law of Nations, p. 253.

“ The free use of the ocean, for navigation and fishing, is common to all mankind.”

Kent’s Commentaries, p. 25.

7.—EXCLUSIVE FISHERY RIGHTS OF NATIONS IN CERTAIN WATERS.

“ The right of fishing in the waters adjacent to the coasts of any nation, within its
 “ territorial limits, belongs exclusively to the subjects of the State.”

Wheaton’s International Law, p. 323.

“ Beside those *bays, gulfs, straits*, mouths of rivers, and estuaries, *which are enclosed by
 “ capes and headlands* belonging to the territory of the State, a jurisdiction and right of
 “ property over certain other portions of the sea have been claimed by different nations, on
 “ the ground of immemorial use.”

Wheaton, p. 326.

“ The right of fishery in the *open sea* may be the exclusive right of a nation.”

Twiss’ Law of Nations, p. 264.

Vide commentaries on American Law.

By James Kent ;

Vol. 1, (6th edition.)

New York, 1848.

The Law of Nations,

By Travers Twiss, D.C.L.

London, 1861.

This mount is about 11 miles east of, or below the Grand Natashquan River. A line drawn on a course N.E. to the Island of Anticosti, strikes the centre of Prinista Bay, on the northerly side of that island, near the elevated plateau and bluff called Table Head.

²² A complete collection of the Treaties and Conventions between Great Britain and Foreign Powers. By Lewis Hertslet, Esq., London, 1840, p. 86.

This Convention was fulfilled by the Imperial Statute 59 Geo. III. Cap. 38. Because of its important bearing on the subject, and the general consonance of its provisions, the Act is copied *in extenso* as Appendix B.

Although Great Britain was always so anxious for peace as to yield much to the importunate and clamorous demands of American negotiators on the fishery question, her policy has been ever upright and consistent. And this Act is in perfect keeping with such straightforward policy.

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Early treaties between France and England prove that a common right of fishing in the seas which divide the two kingdoms did not exist, and was therefore subject to treaty engagements.³³

“ In the case of portions of the sea a nation may have a peculiar possession of them, so as to exclude the universal or common use of them by other nations.”

Twiss' Law of Nations, p. 252.

This dictum is peculiarly applicable to some parts of the North American seas.

In the United States, Fisheries and Oyster beds within the territorial limits of each state, are held by the highest authorities to be “ the common property of the citizens of that state;” and the citizens of another state have no claim to use them, nor can the United States exercise any authority over them in their natural state.³⁴

Angell on Tide Waters.

“ In treating of fishery in the sea, a distinction must be made between what is properly called the open sea, and what may be called the territorial sea, or *Mare Clausum, i.e.*, the sea which is in a certain sense the property of the nation to which the adjacent continent or island belongs, such sea being vested in the crown, or in the sovereign authority as representing the nation. With regard to the limit from the shore to which this right of property in the territorial sea extends, it seems to be agreed by jurists that this limit is three miles (from low-water mark). And the same limit is fixed upon in the convention between Great Britain and France which regulates the use of the fisheries between their respective shores: the fishermen of each country having the exclusive right of fishing within three miles from their own shore undisturbed by those of the other country. The same limit is uniformly adopted by the Court of Admiralty in administering the law with respect to the rules of the sea in British waters.”

Vattel, 128. Selden, 182. Martens, 161.

S.—THE TERRITORIAL and MARITIME JURISDICTION of NATIONS INCLUSIVE of SOLE RIGHTS of FISHING.

“ The maritime territory of every State extends to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands, belonging to the same State. The general usage of nations *superadds to this extent* of territorial jurisdiction a distance of a marine league,³⁵ or as far as a cannon shot will reach from the shore, along all the coasts of the State. Within these limits (*i.e.*, the ports, harbours, bays, and mouths of rivers, and adjacent parts of the sea inclosed by headlands, with three marine miles super-added), its right of property and territorial jurisdiction are absolute, and exclude those of every other nation.”

Elements of International Law, p. 320,

By Henry Wheaton, LL.D.

Second annotated edition by W. B. Lawrence, Boston, 1864.

“ The sea coast does not present one straight and regular line; it is on the contrary almost always intersected by bays, capes, &c. If the maritime domain must always be measured from every one of these points of the shore, great inconveniences would result from it. It has therefore been agreed in practice to draw an imaginary line from one promontory to another, and to take this line as the point of departure for the reach of the cannon.”

Hautefeuille, Droits des Nations, p. 89.

“ The exclusive territorial jurisdiction of the British Crown over the enclosed parts of the sea along the coasts of the island of Great Britain, has immemorially extended to those bays called the King's Chambers; that is, portions of the sea cut off by lines drawn from one promontory to another. A similar jurisdiction is also asserted by the United States over the Delaware Bay and other bays and estuaries forming portions of their territory.”

Bynkershoek, p. 323, of Lawrence's Wheaton.

“ Navigable rivers which flow through a territory, and the sea-coast adjoining it, and the navigable waters included in bays, and between headlands and arms of the sea, belong

³³ *Vide Twiss' Law of Nations, p. 266.*

³⁴ Art. 4, sec. 2, clause 1, Federal Constitution.

³⁵ The mean nautical mile is 2025 yards. A marine league is 6075 yards, or a fraction over 3½ statute miles.

“to the Sovereign of the adjoining territory, as being necessary to the safety of the nation, and to the undisturbed use of the neighbouring shores.”

Kent's Commentaries, p. 25.

“The property and dominion of the sea, might belong to him who is in possession of the lands on both sides, though it be open above as a gulf, or above and below as a strait, provided it be not so great a part of the sea, as when compared with the lands on both sides, it cannot be supposed to be a portion of them.”

Grotius de jure belli et pacis, L. 11.

“The exclusive right of domain, and territorial jurisdiction of the British Crown, have immemorially extended to the bays or portions of the sea cut off by lines drawn from one promontory to another, along the coasts of the island of Great Britain. They are commonly called the King's Chambers. A similar jurisdiction, or right of domain, is also asserted by the United States over the Delaware Bay, and other bays and estuaries, as forming portions of their territory. Other nations have claimed a right of territory over bays, gulfs, straits, mouths of rivers, and estuaries which are enclosed by capes and headlands along their respective coasts, and the principle would seem to be pretty well established as a rule of international law.”

International Law,

By H. W. Halleck, A.M.,

San Francisco, 1861.

“Gulfs and Channels or arms of the sea are, according to the regular course, supposed to belong to the people with whose lands they are encompassed.”

Puffendorf Law of Nature and of Nations, LIV.

“All we have said of the parts of the sea near the coast, may be said more particularly, and with greater reason, of roads, bays, and straits, as still more capable of being possessed, and of greater importance to the safety of the country. But I speak of bays and straits of small extent, not of those great tracts of sea to which these names are sometimes given, as Hudson's Bay and the Straits of Magellan, over which the empire cannot extend, still less a right of property.”

The Law of Nations,

By Mons. de Vattel,

New Edition by Jos. Chitty, Esq.,

Annotated by C. D. Ingraham, Esq.,

Philadelphia, 1858.

“According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon shot will reach,³⁶ and no further, and this is generally calculated to be a marine league.”

Kent's Commentaries p. 29.

“Considering the great extent of the line of the American coasts, we have a right to claim, for fiscal and defensive regulations, a liberal extension of maritime jurisdiction; and it would not be unreasonable, as I apprehend, to assume, for domestic purposes connected with our safety and welfare, the control of the waters on our coasts, though included within lines stretching from quite distant headlands, as, for instance, from Cape Ann to Cape Cod, and from Nantucket to Mauntauck Point, and from that point to the Capes of the Delaware, and from the South of Cape Florida to the Mississippi.”

Kent's Commentaries, pp. 29 and 30.

“It is difficult to draw any precise or determinate conclusion, amidst the variety of opinions, as to the distance to which a state may lawfully extend its exclusive dominion over the sea adjoining its territories, and beyond those portions of the sea which are embraced by harbours, gulfs, bays, and estuaries, and over which its jurisdiction unquestionably extends. All that can be reasonably asserted is, that the dominion of the sovereign of the shore over the contiguous sea extends as far as is requisite for his safety, and for some lawful end.”

Kent's Commentaries, p. 29.

The preceding dicta should be borne in mind, with especial reference to the plea set up by American ministers that the limit of maritime jurisdiction claimed by Chancellor Kent is with respect to “belligerent purposes;” and that the principle of drawing lines from

³⁶ “The distance that a cannon shot will reach has been increased in a remarkable degree by modern inventions; and consequently the Sovereignty over the coast may be deemed to be proportionally extended.”—*Organ of the Russian Government, Le Nord, 11th June, 1861.*

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distant headlands does not sanction such a definition of marine bounds as affecting territorial jurisdiction and piscary. Is not fishery a "lawful end," and are not the fishing pursuits of citizens "purposes connected with our safety and welfare?"

For purely belligerent purposes Great Britain takes sixteen miles of outside sea as the limit, and the United States take much more, both estimating the distance "from a right line drawn from one headland to another."³⁷

9.—THE CONVENTION OF 1818 AS RELATING TO ACQUIRED RIGHT AND CONCURRENT LIBERTY OF UNITED STATES CITIZENS.

This convention left the "right" of Americans precisely as it had existed under the treaty of 1783, to take fish at all places "*in the sea*" common to both nations. But, while curtailing the "liberty"³⁸ formerly allowed in respect of taking fish inshore, it enhanced facilities for curing. Under the former compact they could fish in the chief places about Newfoundland, but could not use the shores; they might catch and cure fish generally on the coasts, bays, and creeks of the mainland and Magdalen Islands, provided that where settled the consent of the residents should be obtained for landing and curing.³⁹ Under the latter agreement they could both take and cure fish on certain parts of Newfoundland, and a limited extent of Labrador, subject only to permission for drying conveniences from the settlers where the coasts should be inhabited; but the liberty of fishing and curing on the coasts, bays, and creeks of Nova Scotia, and that part of Labrador south-west of Mount Joly, near Natashquan River, and almost opposite to the east end of the Island of Anticosti, was altogether withheld.⁴⁰ And, as if the more emphatically to mark their acquiescence in the rightful exercise of the power and authority of Great Britain to withhold so much of the liberty as had given rise to "differences" named in the preamble, the United States voluntarily⁴¹ renounced for ever any freedom before "enjoyed or claimed," to take, dry, or cure fish on or within three marine miles of any other portions of the coasts, bay, creeks, or harbours of British America.⁴²

In so far as the British claim is concerned, this formal renunciation appears to have been quite unnecessary. Mr. Webster refers to it as being "an oversight in the convention of 1818, to make so large a concession to England."⁴³

The American negotiators were accused of having given up "fishing rights of long existence and great magnitude."

³⁷ Chancellor Kent, p. 30.

Mr. Jefferson, in 1793.

Mr. Madison, in 1806.

³⁸ "The liberty claimed under the Treaty of 1783 by the United States in respect to the fishery within the British jurisdiction and territory, was confined to certain geographical limits."—*Wheaton*, p. 471.

³⁹ "In the 3rd article of the Treaty of 1783, Great Britain acknowledged the right of the United States to take fish on the banks of Newfoundland and other places from which Great Britain had no right to exclude any independent nation. But they were to have the liberty to cure and dry them in certain unsettled places within the British territory. If the liberties thus granted were to be as perpetual and indefeasible as the rights previously recognised, it was difficult to conceive that the American plenipotentiaries would have admitted so strange a restriction of a perpetual and indefeasible right as that with which the article concludes, which left a right so practical and so beneficial as this was admitted to be, dependent on the will of British subjects, proprietors or possessors of the soil, to prohibit its exercise altogether."—*Diplomatic Cor. Lord Bathurst's Despatch*, 30th October, 1815.

⁴⁰ "Great Britain had always considered the liberty formerly enjoyed by the United States, of fishing within British limits and using British territory as derived from the 3rd article of the Treaty of 1783, and from that alone; and that the claim of any independent state to occupy, and use, at its discretion, any portion of the territory of another, without compensation or corresponding indulgence, could not rest on any other foundation than conventional stipulation."—*Diplomatic Cor. Lord Bathurst's Despatch*, 30th October, 1815.

⁴¹ "We inserted the clause of renunciation. The British plenipotentiaries did not desire it."—*Negotiations of American Minister*, 1818. *Rush's Productions*, p. 290.

⁴² "When the United States, by the Treaty of 1818, solemnly renounced for ever the right to fish within three miles of the coasts, bays, creeks or harbours of certain portions of North America, the stipulation was neither extraordinary nor extravagant. It is matter of common history that sea-girt nations claim peculiar rights within a league of their shores; and equally plain that according to the maxims of international law, this claim is defined by lines drawn not only between the formations of bays, but from the headlands of indentations of the coasts."—*Memorial to Her Majesty*, 2nd September, 1852.

⁴³ "It would appear that by a strict and rigid construction of this article, fishing vessels of the United States are precluded from entering into the bays or harbours of the British provinces, except for the purposes of shelter, repairing damages, and obtaining wood and water. A bay, as is usually understood, is an arm or recess of the sea entering from the ocean between capes or headlands; and the term is applied equally to small and large tracts of water thus situated. It is common to speak of Hudson's Bay, or the Bay of Biscay, although they are very large tracts of water.

"The British authorities insist that England has a right to draw a line from headland to headland, and to capture all American fishermen who may follow their pursuits inside of that line. It was undoubtedly an oversight in the Convention of 1818 to make so large a concession to England, since the United States had usually considered that those vast inlets or recess of the ocean ought to be open to American fishermen, as freely as the sea itself, to within three marine miles of the shore."—*Mr. Secretary Webster*, 6th July, 1852.

It is difficult to perceive in what sense the United States can be said to have made a "concession" to Great Britain. Without any such clause Americans, as foreigners, would be excluded from those waters and coasts within imperial and provincial jurisdiction. Three miles, at least, they were bound to keep off, whether they chose to renounce a "claim" to do otherwise or not. They might dispute the basis of exclusion, and pervert the ruling and practice of nations to a narrower significance than themselves or any other powers have assigned to the limits of maritime states; but that (and through an oversight) there was any concession to Great Britain, is simply impossible. The only question, therefore, that can arise out of the terms of this convention is, as to the general definition of marine limits applied to bays of a spacious character or peculiar configuration.

10.—DEFINITION OF BAYS AND INDENTS OF SEA COASTS WITH RESPECT TO MARITIME CONTROL AND EXCLUSIVE RIGHTS OF FISHERY.

Authorities cited at pages 16 to 21 clearly establish the *fauces terræ* to be bases of the bounds of national jurisdiction. Those citations also prove the European principle to have been adopted (and even freely applied) by American publicists. As between the federal and state governments of the American union, local and common rights of usufructuary privileges in the coast waters, are governed by a very free extension of old world principles. The federal authority has no power to regulate rights of piscary on the coasts of any state, nor to cede by treaty, or otherwise, the privilege of using fisheries to a foreign power. The local jurisdiction goes still further: each state defines piscarial rights as belonging to its inhabitants. Within certain limits all fishery privileges are held for the exclusive benefit of citizens of the state. The limits which constitute state piscary are the same as laid down by the Law of Nations.⁴⁴ And three marine miles in cases of bays and arms of the sea, and even oyster beds outside, are measured from headland to headland.⁴⁵ It would be surprising, therefore, if a sovereign power might not apply to foreigners a definition which respective states composing a confederacy maintain in relation to their own federal government.

It is contended in all American state papers on the fishery question, that the Bay of Fundy, in New Brunswick and Nova Scotia, and the Bay of Chaleur, in Canada and New Brunswick, are of such exceptional character as to render them part of the common sea, and not susceptible of definition in respect of fisheries as jurisdictional waters.

These two bays may be taken as criteria:

Mr. Lawrence, in his annotated edition of Wheaton's International Law (p. 326), presses into service the words ("small bays") used by Hautefeuille in defining maritime rights. Upon referring to this standard authority, the language is found to bear no such interpretation as accords with the American view that the Bays of Fundy and Chaleur are not bays definable by headland lines. The French author's words are: "This mode adopted by almost all nations, is only applicable to *small bays*⁴⁶ and not to gulfs" of a great extent, as "the *Gulf of Gascony*, or the *Gulf of Lyons*, which are in reality great parts of the completely open sea, and of which it is impossible to deny the complete assimilation with the "great ocean."⁴⁸

These examples are rather favourable to than against our view. No one can compare the Bays of Fundy and Chaleur with the Gulfs of Gascony and Lyons, without being convinced

⁴⁴ Wheaton, page 320.

⁴⁵ Schuller's *Aquatic Rights*.

Chancellor Kent.

Angell on *Tide Waters*.

Wait's *American State Papers*.

Attorney General of the United States, 14th May, 1793.

Award of Joint Commission under the *Reciprocity Treaty*, 1854.

⁴⁶ "An arm extending into the land not of any definite form; but smaller than a Gulf and larger than a Creek. The name, however, is not used with much precision, and is often applied to large tracts of water, around which the land forms a curve, as Hudson's Bay. Nor is the name restricted to tracts of water with a narrow entrance, but used for any recess or inlet between capes or headlands, as the Bay of Biscay."—*Webster's Dictionary*, verb Bay.

⁴⁷ "A recess in the Ocean from the general line of the shore into the land, or a tract of water extending from the Ocean, or a Sea, into the land between two points or promontories; a large Bay, as the Gulf of Mexico, the Gulf of Venice, the Gulf of Finland. A Gulf and Bay differ only in extent. We apply bay to a large or small recess of the sea, as the Bay of Biscay, the Bay of Fundy; but Gulf is applied only to a large extent of water."—*Webster's Dictionary*, verb Gulf.

⁴⁸ "A Bay, as is usually understood, is an arm or recess of the sea, entering from the Ocean between capes or headlands; and the term is applied equally to small and large tracts of water thus situated. It is common to speak of Hudson's Bay, or the Bay of Biscay, although they are very large tracts of water."—*Mr. Secretary Webster*.

⁴⁹ "A Gulf and a Bay differ only in extent; we apply Bay to a large or small recess of the sea, as the Bay of Biscay, the Bay of Fundy; but Gulf is applied only to a large extent of water."—*Imperial Dictionary*, verb Bay.

⁵⁰ *Droits des Nations Neutres*, 2me édition, tom. 1, p. 89.

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that they are comparatively "small bays" forming no part of open sea. In fact, the Bay of Chaleur is a bay within a gulf—the Gulf of St. Lawrence intervening between its entrance and the open sea;⁴⁹ and both of them are closed on three sides by land (British soil), itself quite inside of the great ocean.

The width of the Bay of Fundy enters largely into American arguments. Mr. Everett, in his despatch of the 25th May, 1844, speaks of the distance across the mouth as sixty miles, and argues therefrom against the claim to embrace its waters within British jurisdiction. Under article 3 of the Treaty of Ghent⁵⁰ Commissioners were appointed to determine the provincial boundaries in that part of the Bay of Fundy. Their decision placed the boundary along the midchannel inside of Campo Bello, and between Grand Manan Island and the coast of Maine. It would, therefore, be outside of this island and from furthest land that measurement should be made. From the light on Gannet Rock to that on Bryce's Island is about thirty miles; but if measured to Beatson's Ledges, the distance is somewhat less. Wheaton, on Rights of Property, page 321, says: "the term 'coasts' includes the natural appendages of the territory which rise out of the water, although those islands are not of sufficient firmness to be inhabited or fortified."⁵¹

Then, as regards the Bay of Chaleur,⁵² its full width does not exceed 15 miles, merely double the width of the mouth of the Potomac River, according to Brooke's "United States Gazetteer;" and its greatest depth is less than 80 miles. If it was possible to doubt the right of control over these bays on the ground of their spacious character, a reference to the relative sizes of United States bays must settle the doubt. Delaware Bay, which Chancellor Kent considers to be wholly within the "territorial jurisdiction"⁵³ of the United States, is 20 miles at the entrance, 30 miles across inside the mouth, and 70 miles long. Each of the States of New Jersey and Delaware exercises exclusive state authority to the centre of the bay, and for three nautical miles seawards from Capes May and Henlopen.⁵⁴

Chesapeake Bay is narrower, being about 12 miles at the entrance, but expands into the largest arm of the sea in the union, being 270 miles in length. It is famous for its extensive and lucrative fisheries, which are not only closed to foreigners, but are exclusively controlled by the citizens of the bordering states; and the state rule of Maryland extends for three marine miles outside of Capes Charles and Henry and the islands and bars along the coast.⁵⁵

Massachusetts Bay⁵⁶ is defined by lines drawn between the headlands of Cape Cod and Cape Ann, distant over 50 marine miles apart. Cape Cod Bay, within this limit, is itself about 20 miles wide from the Point to Plymouth Harbour. Let any unprejudiced person compare on a chart the situation of Massachusetts Bay with that of Fundy or Chaleur, and declare which is most plainly distinguishable from the open sea.

⁴⁹ Campeachy Bay, in the Gulf of Mexico, might as justly be reckoned part of the North Atlantic. So also is Panama Bay, cut off from the sea by the Gulf of Panama. But the difference in position and degree can be readily understood, which while it renders the Bay of Bengal, for example, distinguishable from the Indian Sea, assimilates the Bay of Tehuantepec to the Pacific Ocean. The "Scheldts" of Zealand form no part of the North Sea. The Gulfs of Finland and Riga are different only in degree from the Gulf of Bothnia: over the first named, Russia, exercises exclusive sway, although both are much more susceptible of being regarded as part of the Baltic Sea, than the Bay of Fundy as part of the Atlantic Ocean. The Northern Pacific is a "great ocean" (Art. 1, Convention between United States and Russia, 5th April, 1824), yet Russia claims and exercises exclusive jurisdiction there notwithstanding American and British remonstrances. She has quite recently turned the American whalers out of the Northern Pacific.

⁵⁰ "And whereas the several Islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Manan in the said Bay of Fundy, are claimed by the United States, &c."—Article 3, Treaty of Ghent.

⁵¹ "Whether they were composed of earth or solid rock, would not vary the right of dominion, for the right of dominion does not depend upon the texture of the soil."—Robinson's Amer. Rep., vol. 5, p. 385.

The little mud banks off the mouth of the Mississippi, are decided to be "shores of American territory."—Wheaton, p. 321.

⁵² The magnificent Bay of Chaleur is the largest in the Gulf of St. Lawrence, being 25 miles wide on a S.W. $\frac{1}{2}$ S. line across its entrance, from Cape Despair to Miscou Island; but the entrance is more generally considered to be at Point Maquereau, from which the North Point of Miscou Islands bears S.E. 14 $\frac{1}{2}$ miles. The depth of the bay from Miscou to the entrance of the Restigouche River, is about 75 miles, and its circumference, reckoning from Cape Despair round to Miscou, is 185 miles.—Admiral Bayfield.

⁵³ Kent's Commentaries.

⁵⁴ Angell on Tide Waters.

Why should not Nova Scotia and New Brunswick, on either side of the Bay of Fundy, and Canada and New Brunswick, on either side of the Bay of Chaleur, be entitled to similar jurisdiction?

⁵⁵ Angell on Wrecks. Wildman's Int. Law.

⁵⁶ "Massachusetts Bay, which gives its name to the State, extends between Cape Ann, which projects seaward about 18 miles, on the north, and Cape Cod on the south. It is about 70 miles in length and comprises Boston Bay and Cape Cod Bay. On the southern coast is Buzzard Bay, about 30 miles in length, and comprising a large number of fine and secure harbours."—United States Gazetteer.

11.—CONSTRUCTION of the CONVENTION of 1818.

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There remains but one point in this dispute to be now examined: whether the generally accepted definition of bays, &c., as embraced within territorial control, or a special limitation of customary bounds, be applicable to the fishery article of the convention of 1818.⁵⁷

Mr. Secretary Webster, 6th July, 1852, says: "It would appear by a *strict and rigid construction* of this article, fishing vessels of the United States are precluded from entering "into the bays or harbours of the British Provinces, except for the purposes of shelter, "repairing damages, and obtaining wood and water." Mr. (now Secretary) Seward, 14th August, 1852, describes this construction as forced and unjust. Mr. Secretary Marcy, 6th July, 1853, also pronounces it strained. American ministers have argued elaborately against such a construction as being never contemplated, as inconsistent with the object and intent and not justified by the phraseology of the convention. They claim an equitable construction, "since the United States had usually considered that those vast inlets or "recesses of the ocean ought to be opened to American fishermen as freely as the sea itself "to within three marine miles of the shore."

It is laid down in Vattel,⁵⁸ that, "in the interpretation of Treaties, compacts, and "promises, we ought not to deviate from the common use of the language, unless we have "very strong reasons for it."

The terms in which a common liberty to fish is couched describe the coasts, bays, &c., as in the clause of renunciation. Those excepted coasts, bays, &c., were not to be used "on or "within three marine miles." That such distance was not to be reckoned from the *ripa* is clear enough, because it was precisely on account of United States fishermen having fished within the entrances of the Bays of Fundy and Chaleur,⁵⁹ and other large indents, that the "differences" referred to in the preamble had arisen. All of the preceding negotiations had aimed at the same liberty. If anything less than the reservation of principal bays, &c.,⁶⁰ had been meant, there was no necessity for specifying those indentations,—a general designation of "coasts" would have been sufficient. In this word might seem to be comprehended all that Americans claimed but were denied in 1814, and again claimed (but failing to secure, renounced) in 1818.⁶¹

The Imperial Statute of the 14th June, 1819, confirming the convention of the previous year, was a public Act on the part of Great Britain quite in accord with the sense of the Convention.⁶¹ But so long as its provisions were not rigorously enforced, United States fishermen raised no question. And it was only when the Provinces employed vessels to guard their own waters that United States fishermen found any inconvenience from the convention, and American statesmen discovered the British construction of it to be strict and rigid.

12.—Are AMERICANS entitled under the CONVENTION of 1818, to fish at and land on the MAGDALEN ISLANDS?

Under the third article of the Treaty of 1783, United States fishermen had liberty to dry and cure (but not to catch) fish in the unsettled bays, harbours, and creeks of Magdalen Islands; but so soon as any of those places should become settled, the consent of the inhabitants; proprietors or possessors of the ground must first be obtained before curing or drying fish at such settlements. The first article of the convention of 1818 did not renew

⁵⁷ "Discussions as to the interpretation of the provisions respecting the fisheries in the Treaty of 1818, go back "as far as 1823; and Mr. Forsyth, in instructing Mr. Stevenson, Minister at London, February 20th, 1841, states "as the point of difference, that the provincial authorities assume a right to exclude American vessels from all "their bays, including the Bays of Fundy and Chaleur, and to prohibit their approach within three miles of a line "drawn from headland to headland, while the American fishermen believe they have a right to take fish anywhere "within three miles of land."—*Mr. Lawrence's (Wheaton, p. 325).*

"No United States fisherman has under that Convention (1818) the right to fish within three miles of the "entrance of such bays as are designated by a line drawn from headland to headland at their entrance."—*Lord Aberdeen's despatch to Mr. Everett, 10th March, 1845.*

⁵⁸ *Book 2, Cap. 17, sec. 271.*

⁵⁹ The idea of Americans being entitled to fish in the Bay of Chaleur, where for forty years before they ever visited it, the fisheries were preoccupied, is most preposterous.

⁶⁰ There is nothing in the Convention to justify any distinction between "outer" and "inner" bays, between "large indents" and "small inlets." By the first part of the article certain coasts, bays, &c., are made common to the subjects of both nations; and in the second part, United States citizens are excluded from certain coasts and bays. In both the word bays means the same. No qualification of the term is anywhere expressed or implied.

⁶¹ "When we evidently see what is the sense that agrees with the intention of the contracting parties, it is not "allowable to wrest their words to a contrary meaning."—*Vattel, lib. II. p. 284.*

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this liberty, but conveyed an express privilege of fishing only *on the shores* of Magdalen Islands.

Herring and mackarel are fished for here close inshore, the former mainly with seines.

Americans contend that by previous use under the treaty of 1783, and because these beaches are necessary to enjoyment of the liberty conveyed, they are entitled to use the seine grounds at different parts of the islands for hauling and drying their nets. They claim this privilege as an incident implied to the specific freedom described, without which the principal liberty would be nugatory.

In "Angell on Tide Waters,"⁶² an American authority, in defining "shore," "high-water mark," &c., it is laid down, that, in legal construction at both common and civil law, "the sea shore is that space of land which is alternately covered and left dry, by the rising and falling of the tide. In other words, it is the space which is between the high and low water marks, variously denominated 'shore,' 'strand,' and 'beach.'" The Supreme Court of the United States has always upheld the same definition: "The sea shore must be understood to be the margin of the sea, in its usual and ordinary state; and when the sea is full, the margin is high water mark. The sea shore is therefore the ground between the ordinary high water mark and low water mark."⁶³

If Americans are restricted to this definition of the word "shores" used in the convention, it is tantamount to a denial of fishery at the Magdalen Islands. Fishermen must use the land and sand bars above high water mark. And to deny United States citizens all access whatsoever even to these beaches would be perfectly consistent and just. In order to establish that the distinction made between these and other fishing grounds, meant precisely what the words of the convention express, it is sufficient to refer to the facts.⁶⁴

The liberty to take, dry, and cure fish at Magdalen Islands, enjoyed by virtue of the treaty of 1783, was subject to restriction in its extent and duration by the progress of settlement. In 1763, there were about 70 settlers in possession of the soil and carrying on the shore fisheries. The Islands were surveyed and deeded in 1789, at which time the settlements had increased to about 600 inhabitants. These settlers were located around the chief fishing stations, and had thus preoccupied most of the available shores and upland. At the time of the convention, in 1818, the population consisted of some 1300 souls. Every inch of the best fishing ground was at this date in the use and occupation of British subjects. Moreover, these settlers were the tenants of a grantee of the Crown, who held the Islands by peculiar title. The grant of 24th April, 1798, to Isaac Coffin, conveyed "*the beaches and shores* of the said premises," and "in the sea in the vicinity of the said premises so granted, to fish for, catch, take, and destroy all fish of the sea whatsoever, and all sea animals of whatsoever description, &c." The terms of such grant, even without existing settlement, must have early precluded Americans from using the shores. They never made any agreement with the inhabitants, proprietors, or possessors of the soil under the treaty of 1783, and it is well known that the defenceless position of the settlers was such that there was no choice between tacit permission and forcible usage. If there could be any doubt as regards the supervention of conditions which justified exclusion, the reservation made by the Letters Patent on behalf of "good and faithful subjects" of Great Britain, "employed in fishing in the vicinity of the said premises," to be permitted free ingress and egress, must prove that a private property was constituted over which foreigners could no longer exercise any common privilege. It therefore quite accords with the actual circumstances that the conditional liberty allowed under the former treaty should be withdrawn in form, as already it was in fact; and the privilege to take fish around the shores was given by the convention without any possibility of an incidental addition altogether inconsistent with the tenor of the instrument and subversive of proprietary rights.⁶⁵

The conclusion that Americans cannot claim to land on or fish from the shores of the Magdalen Islands, is fortified by high legal authority.⁶⁶ Notwithstanding the clear exclusion which these facts would sustain, Americans have been always suffered to enjoy the fisheries at Magdalen Islands. Their vessels to the number of from 150 to 200 every season frequent the bays and harbours, and hundreds of their fishermen fish from the Islands.

⁶² *A treatise on the right of property in Tide Waters and in the soil and shores thereof*, by Jos. K. Angell, Boston, 1857. *Vide sup.* III.

⁶³ 6 *Mass. R.* 435. 1 *Pick (Mass.) R.* 180.

⁶⁴ Attempts have been made to show that in adopting the term "coasts" where liberty to take, dry, and cure fish was granted, and the words "on the shores of the Magdalen Islands" to convey the privilege of merely taking fish, there was a specific use of terms applicable to the different nature and requirements of the respective fishings. And that here it was intended the principal liberty should draw after it the incidental use of means (such as landing) necessary to its enjoyment. Such is not the case. It is quite clear that, if the term "coasts" had not been used in describing the privilege conceded at these Islands, Americans would have been precluded from fishing in the bays and along the shores.

⁶⁵ "The subjects of each state shall not be disturbed in their fishing."—*Haggard's Adm. Rep.* vol. III. pp. 275, 290. *Wheaton*, p. 321, *Ed. note.*

⁶⁶ Opinion of Law Officers of the Crown, 30th August, 1841.—*At Appendices C and D.*

This indicates the neighbourly conduct of Canadians towards them. But there is a still stronger evidence of the extreme liberality of Canada. Even under the treaty of 1854, United States citizens could have been refused the use of these Islands,⁶⁷ on the several grounds of private proprietorship, preoccupation, and there being no liberty of *landing to fish* provided for. Strictly speaking, they might also under the convention of 1818, be in future refused access to the now settled parts of Labrador, where their best fares in that region are taken.

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APPENDIX A.

INSTRUCTIONS from the BRITISH GOVERNMENT to the GOVERNOR of NEWFOUNDLAND relative to the privilege enjoyed by citizens of the UNITED STATES to fish within BRITISH jurisdiction. London, 17th June, 1815.

SIR,

Downing Street, 17th June, 1815.

As the Treaty of Peace lately concluded with the United States contains no provisions with respect to the Fisheries, which the subjects of the United States enjoyed under the III. Article of the Peace of 1783, His Majesty's Government consider it not unnecessary, that you should be informed as to the extent to which those privileges are affected, by the omission of any stipulation in the present Treaty, and of the line of conduct which it is in consequence advisable for you to adopt.

You cannot but be aware, that the III. Article of the Treaty of Peace of 1783, contained two distinct stipulations, the one recognizing the rights which the United States had to take fish upon the high seas, and the other granting to the United States the privilege of fishing within the British jurisdiction, and of using, under certain conditions, the shores and territory of His Majesty for purposes connected with the fishery: of these, the former being considered permanent, cannot be altered or affected by any change of the relative situation of the two countries, but the other being a privilege derived from the Treaty of 1783 alone, was, as to its duration, necessarily limited to the duration of the Treaty itself. On the declaration of war by the American Government, and the consequent abrogation of the then existing treaties, the United States forfeited, with respect to the Fisheries, those privileges which are purely conventional, and (as they have not been renewed by stipulation in the present Treaty) the subjects of the United States can have no pretence to any right to fish within the British jurisdiction, or to use the British territory for purposes connected with the fishery.

Such being the view taken of the question of the Fisheries, as far as relates to the United States, I am commanded by his Royal Highness the Prince Regent, to instruct you to abstain most carefully from any interference with the fishery, in which the subjects of the United States may be engaged, either on the Grand Bank of Newfoundland, in the Gulf of St. Lawrence, or other places in the sea. At the same time you will prevent them, except under the circumstances hereinafter mentioned, from using the British territory for purposes connected with the fishery, and will exclude their fishing vessels from the bays, harbours, rivers, creeks, and inlets of all His Majesty's possessions. In case, however, it should have happened that the fishermen of the United States, through ignorance of the circumstances which affect this question, should previous to your arrival, have already commenced a fishery similar to that carried on by them previous to the late war, and should have occupied the British harbours, and formed establishments on the British territory, which could not be suddenly abandoned without very considerable loss; His Royal Highness the Prince Regent, willing to give every indulgence to the citizens of the United States, which is compatible with his Majesty's rights, has commanded me to instruct you to abstain from molesting such fishermen, or impeding the progress of their fishing during the present year;

⁶⁷ "With permission to land upon the coasts and shores of those Colonies, and the Islands thereof and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the rights of private property or with the British fishermen in the peaceable use of any part of the said coast in their occupancy for the same purpose."—Article I. *Reciprocity Treaty, 1854.*

Extract from report of P. Fortin, Esq.:

"Depradations by foreign fishermen on the coasts of that isolated group (Magdalen Islands) are of common occurrence. * * * While I was at Amherst Harbour a very serious affray took place on shore among American fishermen. Pistols were fired. The peaceable inhabitants were in dismay, and dared not go out of their houses. * * * Among the large numbers of strange fishermen resorting there must always be found lawless characters, to whom violence is favourite pastime. The masters on board whose vessels they are have no control over them. * * * Our quiet fishermen and settlers suffer frequent injury and insult, their houses are sometimes invaded, and their fishing often impeded."

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unless they should, by attempts to carry on a contraband trade, render themselves unworthy of protection or indulgence: you will however not fail to communicate to them the tenor of the instructions which you have received, and the view which His Majesty's Government take of the question of the fishery, and you will above all be careful to explain to them that they are not in any future season to expect a continuance of the same indulgence.

I have, &c.

BATHURST.

Vice-Admiral Sir Richard G. Keats.

APPENDIX B.

Imperial Act, 59 Geo. III. Cap. 38.

AN ACT to enable HIS MAJESTY to make regulations with respect to the taking and curing fish on certain parts of the coasts of NEWFOUNDLAND, LABRADOR, and HIS MAJESTY'S other possessions in NORTH AMERICA, according to a convention between HIS MAJESTY and the UNITED STATES of AMERICA. (14th June, 1819.)

Whereas a convention between His Majesty and the United States of America was made and signed at London, on the twentieth day of October one thousand eight hundred and eighteen; and by the first article of the said convention, reciting that differences had arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish in certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed that the inhabitants of the said United States shall have for ever in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coasts of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice however to any of the exclusive rights of the Hudson's Bay Company; and it was also by the said article of the said convention agreed, that the American fishermen should have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland above described, and of the coast of Labrador, but that so soon as the same, or any portion thereof, should be settled, it should not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground:—And whereas it is expedient that His Majesty should be enabled to carry into execution so much of the said convention as is above recited, and to make regulations for that purpose;

Be it therefore enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for His Majesty, by and with the advice of His Majesty's Privy Council, by any order or orders in council, to be from time to time made for that purpose, to make such regulations, and to give such directions, orders and instructions to the Governor of Newfoundland, or to any officer or officers on that station, or to any other person or persons whomsoever as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of the said convention, with relation to the taking, drying and curing of fish by inhabitants of the United States of America, in common with British subjects, within the limits set forth in the said article of the said convention, and hereinbefore recited; any act or acts of Parliament, or any law, custom, or usage to the contrary in anywise notwithstanding.

II. And be it further enacted, That from and after the passing of this Act it shall not be lawful for any person or persons, not being a natural born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry or cure any fish of any kind whatever, within three marine miles of any coasts, bays, creeks or harbours whatever, in any part of His Majesty's dominions in America, not included within the limits specified and described in the first article of said convention, and hereinbefore recited; and that if any such foreign ship, vessel, or boat, or any persons on board thereof, shall be found fishing, or to have been fishing, or

preparing to fish within such distance of such coasts, bays, creeks or harbours, within such parts of His Majesty's dominions in America out of the said limits as aforesaid, all such ships, vessels and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered and condemned by such and the like ways, means and methods, and in the same courts as ships, vessels or boats, may be forfeited, seized, prosecuted and condemned for any offence against any laws relating to the Revenue of Customs, or the laws of trade and navigation, under any act or acts of the Parliament of Great Britain or of the United Kingdom of Great Britain and Ireland; Provided that nothing in this Act contained shall apply, or be constructed to apply to the ships or subjects of any prince, power or state in amity with His Majesty, who are entitled by treaty with His Majesty to any privilege of taking, drying or curing fish on the coasts, bays, creeks or harbours, or within the limits in this Act described.

III. Provided always, and be it enacted, That it shall and may be lawful for any fishermen of the said United States to enter into any such bays or harbours of His Britannic Majesty's dominions in America, as are last mentioned, for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever; subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying or curing fish in the said bays or harbours, or in any other manner whatever abusing the said privileges by the said treaty and this Act reserved to them, and as shall for that purpose be imposed by any order or orders to be from time to time made by His Majesty in Council under the authority of this Act, and by any regulations which shall be issued by the Governor or person exercising the office of Governor in any such parts of His Majesty's dominions in America, under or in pursuance of any such Order in Council as aforesaid.

IV. And be it further enacted, That if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor, in any other parts of His Majesty's dominions in America as aforesaid; or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act; every such person so refusing or otherwise offending against this Act shall forfeit the sum of two hundred pounds, to be recovered in the Superior Court of Judicature of the Island of Newfoundland, or in the Superior Court of Judicature of the Colony or settlement within or near to which such offence shall be committed, or by bill, plaint or information in any of His Majesty's Courts of Record at Westminster; one moiety of such penalty to belong to His Majesty, his heirs and successors, and the other moiety to such person or persons as shall sue or prosecute for the same;—Provided always, that any such suit or prosecution, if the same be committed in Newfoundland, or in any other colony or settlement, shall be commenced within three calendar months; and, if commenced in any of His Majesty's Courts at Westminster, within twelve calendar months from the time of the commission of such offence.

APPENDIX C.

QUESTIONS proposed by the HOUSE of ASSEMBLY of NOVA SCOTIA, for consideration of HER MAJESTY'S Legal Advisers; 8th June, 1841:—

I. Whether the Treaty of 1783 was annulled by the War of 1812, and whether citizens of the United States possess any right of fishery in the waters of the lower provinces other than ceded to them by the convention of 1818; and if so, what right?

II. Have American citizens the right, under that convention, to enter any of the bays of this province to take fish, if, after they have so entered, they prosecute the fishery more than three marine miles from the shores of such bays; or should the prescribed distance of three marine miles be measured from the headlands, at the entrance of such bays, so as to exclude them?

III. Is the distance of three marine miles to be computed from the indents of the coasts of British America, or from the extreme headlands, and what is to be considered a headland?

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IV. Have American vessels, fitted out for a fishery, a right to pass through the Gut of Canso, which they cannot do without coming within the prescribed limits, or to anchor there or to fish there; and is casting bait to lure fish in the track of the vessel fishing within the meaning of the convention?

V. Have American citizens a right to land on the Magdalen Islands, and conduct the fishery from the shores thereof, by using nets and seines; or what right of fishery do they possess on the shores of those islands, and what is meant by the term shore?

VI. Have American fishermen the right to enter the bay and harbours of this province for the purpose of purchasing wood or obtaining water, having provided neither of these articles at the commencement of their voyages, in their own country; or have they the right only of entering such bays and harbours in cases of distress, or to purchase wood and obtain water, after the usual stock of those articles for the voyage of such fishing craft has been exhausted or destroyed?

VII. Under existing treaties, what rights of fishery are ceded to the citizens of the United States of America, and what reserved for the exclusive enjoyment of British subjects?

APPENDIX D.

OPINION OF THE QUEEN'S ADVOCATE GENERAL, and HER MAJESTY'S ATTORNEY GENERAL OF ENGLAND, upon a case submitted by the ASSEMBLY of NOVA SCOTIA, as to the construction of the CONVENTION of 1818, relative to the FISHERIES.

MY LORD,

Doctors' Commons, 30th Aug. 1841.

We are honoured with your Lordship's commands, signified in Mr. Backhouse's letter of the 26th March, stating that he was directed to transmit to us the accompanying letter from the Colonial Office, enclosing the copy of a Despatch from the Lieutenant Governor of Nova Scotia, enclosing an address to Her Majesty from the House of Assembly of that province, complaining of the continued encroachments of American fishermen on the fishing grounds of Nova Scotia, and the adjoining colonies, and praying that Her Majesty would establish, by an Order in Council, general regulations for the protection of the Fisheries, according to the code annexed to the address.

Mr. Backhouse is pleased to request that we would take these papers into consideration, and report to your Lordship our opinion, whether there is anything in the proposed regulations which would be inconsistent with the stipulations of the convention of the 20th October, 1818, between Great Britain and the United States of America.

We are also honoured with Mr. Backhouse's letter of the 19th April, stating that he was directed to transmit to us a further letter from the Colonial Office, dated the 16th instant, enclosing the copy of a Despatch from the Lieutenant Governor of Nova Scotia, covering a copy of an address from the Legislative Council of that province, objecting to one of the above-mentioned regulations proposed by the House of Assembly, in the session of 1838, and to request that we would take these matters into consideration, in addition to those referred to in his letter of the 26th March last, and that we would report to your Lordship, at our earliest convenience, our opinion thereon.

We are also honoured with Mr. Backhouse's letter of the 8th June, stating that he was directed to transmit to us the accompanying letter from the Colonial Office, together with the copy of a Despatch from the Lieutenant Governor of Nova Scotia, enclosing a copy of a Report of the House of Assembly, on the subject of the Fisheries of that province, and also enclosing a case for opinion, as to what rights have been ceded to the citizens of the United States of America, and as to what rights have been exclusively reserved to Her Majesty's subjects, and to request that we would take the papers into consideration, and report to your Lordship our opinion on the several questions stated in the case above mentioned.

We are also honoured with Mr. Backhouse's letter of the 5th ult., stating that he was directed to transmit to us a correspondence, as marked in the margin, which has passed between the Foreign Office and Mr. Stevenson, the American Minister at this court, and the Colonial Department, on the subject of a remonstrance addressed by Mr. Stevenson, against the proceedings of authorities in Nova Scotia, towards American fishing vessels, encroaching on the Fisheries of that coast, and to request that we would take these papers into consideration, and to report to your Lordship our opinion thereupon.

1st Query.—In obedience to your Lordship's commands, we have taken these papers into consideration, and have the honour to report, that we are of opinion, that the treaty of 1783 was annulled by the war of 1812; and we are also of opinion that the rights of Fishery of

the citizens of the United States, must now be considered as defined and regulated by the convention of 1818; and with respect to the general question "if so, what right" we can only refer to terms of the convention, as explained and elucidated by the observations which will occur in answering the other specific queries.

2nd and 3rd Queries.—Except within certain defined limits, to which the query put to us does not apply, we are of opinion, that by the terms of the convention, American citizens are excluded from any right of fishing within three miles of the coast of British America, and that the prescribed distance of three miles is to be measured from the headlands, or extreme points of land next the sea, or the coast, or of the entrance of bays, or indents of the coast, and consequently that no right exists, on the part of American citizens, to enter the bays of Nova Scotia, there to take fish, although the fishing being within the bay, may be at a greater distance than three miles from the shore of the bay, as we are of opinion that the term "headland" is used in the treaty to express the part of the land we have before mentioned, including the interiors of the bays, and the indents of the coast.

4th Query.—By the convention of 1818, it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence, and within certain defined limits, in common with British subjects; and such convention does not contain any words negating the right to navigate the Passage or Strait of Canso, and therefore it may be conceded, that such right of navigation is not taken away by that convention: but we have now attentively considered the course of navigation to the gulf by Cape Breton, and likewise the capacity and situation of the passage of Canso, and of the British possessions on either side; and we are of opinion that independently of treaty, no foreign country has the right to use or navigate the passage of Canso; and attending to the terms of the convention, relating to the liberty of fishing to be enjoyed by the American citizens, we are also of opinion, that that convention did not, either expressly or by necessary implication, concede any such right of using or navigating the passage in question. We are also of opinion that casting bait, to lure fish in the track of any American vessel navigating the passage, would constitute a fishing within the negative terms of the convention.

5th Query.—With reference to the claim of a right to land on the Magdalen Islands, and to fish from the shores thereof, it must be observed, that by the convention, the liberty of drying and curing fish (purposes which could only be accomplished by landing) in any of the unsettled bays, &c., of the southern part of Newfoundland, and of the Coast of Labrador, is specifically provided for; but such liberty is distinctly negated in any settled bays, &c., and it must therefore be inferred, that if the liberty of landing on the shores of the Magdalen Islands had been intended to be conceded, such an important concession would have been the subject of express stipulation, and would necessarily have been accompanied with a description of the inland extent of the shore over which such liberty was to be exercised, and whether in settled or unsettled parts, but neither of these important particulars are provided for, even by implication, and that, among other considerations, leads us to the conclusion, that American citizens have no right to land, or conduct the fishery, from the shores of the Magdalen Islands. The word "shores" does not appear to have been used in the convention in any other than the general or ordinary sense of the word, and must be construed with reference to the liberty to be exercised upon it, and would, therefore, comprise the land covered with water, as far as could be available, for the due enjoyment of the liberty granted.

6th Query.—By the convention, the liberty of entering the bays and harbours of Nova Scotia, for the purpose of purchasing wood and obtaining water is conceded in general terms, unrestricted by any condition expressed or implied, limiting the enjoyment to vessels duly provided with those articles at the commencement of their voyage; and we are of opinion that no such condition could be attached to the enjoyment of the liberty.

7th Query.—The rights of fishing ceded to the citizens of the United States, and those reserved for the exclusive enjoyment of British subjects, depend altogether upon the convention of 1818, the only existing treaty on this subject between the two countries, and the material points arising thereon have been specifically answered in our replies to the preceding queries.

We have, &c.,

(Signed) J. DODSON,
THOS. WILDE.

Viscount Palmerston, K.C.B., &c. &c.

APPENDIX.

CANADA.

APPENDIX II.

ANNO TRICESIMO-PRIMO.

VICTORIÆ REGINÆ.

CAP. LX.

AN ACT FOR THE REGULATION OF FISHING AND PROTECTION OF FISHERIES.

[Assented to 22nd May, 1868.]

Preamble. HER Majesty, by and with the advice and consent of the Senate and Commons of Canada, enacts as follows :

FISHERY OFFICERS.

Fishery Officers to be appointed. Powers and duties. 1. The Governor may appoint Fishery Officers, whose powers and duties shall be defined by this Act and the Regulations made under it, and by instructions from the Department of Marine and Fisheries; and every officer so appointed under oath of office and instructed to exercise magisterial powers shall be *ex officio* a justice of the peace for all the purposes of this Act and the Regulations made under it, within the limits for which he is appointed to act as such Fishery Officer :

Oath of office.

2. Each Fishery Officer shall take and subscribe the following oath :

Form.

" I, A. B., a Fishery Officer in and for the district described in my appointment, do solemnly swear, that to the best of my judgment I will faithfully, honestly, and impartially fulfil, execute, and perform the office and duty of such officer according to the true intent and meaning of the Fisheries Act and Regulations, and in accordance with my instructions. So help me God."

FISHERY LEASES AND LICENCES.

Fishery leases and licences.

2. The Minister of Marine and Fisheries may, where the exclusive right of fishing does not already exist by law, issue or authorize to be issued fishery leases or licences for fisheries and fishing wheresoever situated or carried on; but leases or licences for any term exceeding nine years shall be issued only under authority of an Order of the Governor in Council.

If for more than nine years.

DEEP-SEA FISHERIES.

As to right to use vacant public property for fishing purposes, and as to taking bait, &c.

3. Every subject of Her Majesty may use vacant public property, such as by law is common and accessory to public rights of fishery and navigation, for the purposes of landing, salting, curing, and drying fish, and may cut wood thereon for such purposes, and no other person shall occupy the same station unless it has been abandoned by the first occupant for twelve consecutive months; and at the expiration of that period any new occupier shall pay the value of flakes and stages and other property thereon of which he may take possession, or the buildings and improvements may be removed by the original owner; and all subjects of Her Majesty may take bait or fish in any of the harbours or roadsteads, creeks or rivers; subject always, and in every case, to the provisions of this Act as affects the leasing or licensing of fisheries and fishing stations; but no property leased or licensed shall be deemed vacant.

Proviso.

COD FISHERY.

Nets for taking cod.

4. No one shall use mackerel, herring, nor caplin seines for taking codfish, and no codfish seine shall be of a less-sized mesh than four inches in extension in the arms, and three inches in the bunt or bottom of the seine.

WHALE FISHERY.

Whales, &c., not to be killed by rockets or shells. Penalty.

5. Whales, seals, and porpoises shall not be hunted or killed by means of rockets, explosive instruments, or shells, under a penalty not exceeding three hundred dollars, or at least three months', and not exceeding six months', imprisonment in default of payment.

SEAL FISHERY.

6. During the time of fishing for seals, no one shall, with boat or vessel, knowingly or wilfully disturb, impede, or injure any sedentary seal fishery, nor prevent, hinder, or frighten the shoals of seals coming into such fishery, under a penalty not to exceed sixty dollars for each offence, or imprisonment in default of payment not exceeding one month; the defendant being also liable for damages, to be adjudged by any Fishery Officer or other magistrate before whom the injured party may complain :

Sedentary fisheries not to be disturbed.
Penalty.

2. Disputes between occupiers of seal fisheries concerning limits and the mode of fishing or setting nets, shall be decided summarily by any Fishery Officer or other magistrate, on the report of arbitrators, and any damages assessed or accrued, or that may afterwards arise out of a repetition or continuance of the difficulty ordered to be remedied, may be levied under the warrant of any Fishery Officer or other magistrate.

Disputes as to seal fisheries, how settled.

SALMON FISHERY.

7. Salmon shall not be fished for, caught, or killed, between the thirty-first day of July and the first day of May, in the Provinces of Ontario and Quebec, and in the River Restigouche, and between the fifteenth day of August and the first day of March, in the Province of New Brunswick; provided always, that it shall be lawful to fish for, catch, and kill salmon with a rod or line, in the manner known as fly surface-fishing, between the thirtieth day of April and the thirty-first day of August, in the Provinces of Ontario and Quebec, and between the first day of March and the fifteenth day of September, in the Province of New Brunswick;

Close season for salmon.

Proviso as to fly surface fishing.

2. Salmon shall not be fished for, caught, or killed in the Province of Nova Scotia, save as provided and authorized by the laws now in force in that Province;

In Nova Scotia.

3. Foul or unclean salmon shall not be at any time caught or killed;

Foul salmon.

4. Salmon fry, parr, and smolt shall not be at any time fished for, caught, or killed, and no salmon or grilse of less weight than three pounds shall be caught or killed; but where caught by accident in nets lawfully used for other fish, they shall be liberated alive at the cost and risk of the owner of the fishery, on whom shall in every case devolve the proof of such actual liberation;

Fry, parr, or smolt not to be killed.

5. Meshes of nets used for capturing salmon shall be at least five inches in extension, and nothing shall be done to practically diminish or nullify their size;

Size of meshes of salmon nets.

6. The use of nets or other apparatus which capture salmon shall, except in the Provinces of Nova Scotia and New Brunswick, be confined to tidal waters; and any Fishery Officer may determine the length and place of each net or other apparatus used in any of the waters of the Dominion; provided, that nothing contained in this section shall prevent the use of nets for catching salmon in the lakes of the Province of Ontario, nor preclude the Minister from authorizing, by special fishery licences or leases, the capture of salmon by nets in fresh-water streams;

Use of nets regulated.

Proviso as to Ontario, &c.

7. The Minister, or any Fishery Officer authorized to such effect, shall have power to define the tidal boundary of estuary fishing for the purposes of this Act; and above the actual limit so to be laid down, it shall be unlawful, without the special fishery lease or licence above provided for, to fish for salmon except with a rod and line, in the manner known as fly-surface-fishing, under a penalty not to exceed one hundred dollars, and imprisonment in default of payment for any term not exceeding two months;

Boundaries of estuary to be defined.

Penalty for fishing above limits, except with a rod and line, &c.

8. All nets, or other lawful appliances which capture salmon, shall be placed at distances of not less than two hundred and fifty yards apart, without intermediate fishing materials of any kind being set or used in and about any other part of the stream, and drifting for salmon shall be illegal;

Distance of nets apart, &c.

9. Any Fishery Officer may prescribe either in writing or orally on sight if deemed necessary, a further distance apart to be left between salmon nets, or other fishing apparatus, and their dimensions and extension; but gill or float nets shall not be used to lengthen, extend, or enlarge any other kind of fishery;

Further distance may be prescribed.

Proviso.

10. No salmon shall be captured within two hundred yards of the mouth of any tributary, creek, or stream which salmon frequent to spawn;

As to spawning rivers.

11. Except in the manner known as fly-surface-fishing with a rod and line, salmon shall not be fished for, caught, or killed at any artificial pass or salmon leap, nor in any pool where salmon spawn;

Mode of killing at certain places.

12. Except under the authority and for the special purpose provided for in this Act, no one shall take, buy, sell, destroy, use, or possess any salmon roe, nor injure any spawning bed.

Salmon spawn.

APPENDIX.

LAKE AND RIVER TROUT FISHERY.

CANADA.

Not to be killed in certain ways and at certain seasons.

Proviso. Speckled trout.

Exceptions as to fish used for bait, &c.

8. It shall not be lawful to fish for, catch, or kill any kind of trout (or "lunge") in any way whatever between the first day of October and the first day of January; and no one shall at any time fish for, catch, or kill trout by other means than angling by hand with hook and line, in any inland lake, river, or stream, except in tidal waters; Provided always, that as affecting the waters of the Province of Ontario, such prohibition shall apply only to the kind known as "speckled trout."

2. Nothing in the above clause shall prevent the use of small-sized trout for the *bonâ fide* purpose of baiting traps, nor affect the taking and using the same by fishermen as bait for codfishing in tidal waters, nor subject them to penalty if by accident in *bonâ fide* fishing for herrings or white-fish by means of nets, trout shall become enclosed or taken.

WHITE-FISH AND SALMON TROUT FISHERY.

Close season for white fish.

9. It shall not be lawful to fish for or catch white-fish in any manner between the nineteenth day of November and the first day of December, nor by means of any kind of seine, between the thirtieth day of May and the first day of August, in the Province of Ontario, or between the thirty-first day of July and first day of December in the Province of Quebec, nor shall the fry of the same be at any time destroyed.

Gill nets.

2. Gill nets for catching salmon trout or white-fish shall have meshes of at least five inches extension measure: and gill nets shall not be set within two miles of any seining ground.

Sesines.

3. Sesines for catching white-fish shall have meshes of not less than four inches extension measure.

BASS AND PICKEREL FISHERY.

Close season.

10. Close-seasons for bass, pike, pickerel (*dorée*), maskinongé, and other fish, may be fixed by the Governor in Council to suit different localities.

POSSESSION OF FISH.

Prohibition to buy, sell, or have in close season.

11. No one shall, without lawful excuse, the proof of which shall devolve wholly on the party charged, buy, sell, or possess any fish named in this Act, or parts thereof, caught or killed during seasons when and by means whereof catching or killing the same is prohibited by law:

Certain officers to seize fish exposed for sale in close season. And report the same.

2. It shall be the duty of every customs officer, excise officer, police officer or constable clerk of a market or other party in charge of any market-place in any village, town or city, to seize and forfeit on view to his own proper use, or gift, any fish enumerated in this Act, caught or killed during prohibited seasons, or which appears to have been killed by unlawful means; but every such seizure and appropriation, with the date, place and circumstances thereof, shall be duly reported together with the name, residence and calling of the person in whose possession such fish was found, to the Fishery Officer having jurisdiction over the district within which such seizure, forfeiture and appropriation have taken place.

CONSTRUCTION OF FISHWAYS.

To be made where and in such manner as fishery officer may determine.

12. Every dam, slide, or other obstruction across or in any stream where the Minister may determine it to be necessary for the public interest that a fish-pass should exist, shall be provided by the owner or occupier with a durable and efficient fishway, to be maintained in practical and effective condition, in whatever place and of whatever form and capacity will admit of the passage of fish through the same (which place, form and capacity any Fishery Officer may by written notice determine) under a penalty of four dollars for each day during which any such obstruction remains unprovided with a fishway, after three days' notice in writing to the owner or occupier thereof:

Penalty for contravention.

2. Fishways shall be kept open and unobstructed and be supplied with a sufficient quantity of water to fulfil the purposes of this enactment, during such times as may be required by any Fishery Officer;

To be kept open, &c.

3. The Minister may authorize the payment of one half of the expense incurred by such owner or occupier in constructing and maintaining any fishway;

Minister may pay one-half the cost.

4. Should it be expedient to procure the construction of any fishway pending proceedings against any owner or occupier for the penalty imposed by this Act, the Minister may give directions to make and complete the same forthwith, and to enter upon the premises with the necessary workmen, means and materials, and may recover from the owner or occupier the whole expense so incurred by action before any competent tribunal;

May construct and recover the cost in certain cases.

5. No person shall injure or obstruct any fishway, nor do anything to deter or hinder fish from entering and ascending or descending the same, nor injure or obstruct any authorized barrier.

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CANADA.

GENERAL PROHIBITIONS.

13. Whosoever fishes for, takes, catches or kills fish in any water, or along any beach, or within any fishery limits described in any lease or licence, or places, uses, draws or sets therein any fishing gear or apparatus, except by permission of the occupant under such lease or licence for the time being, or disturbs or injures any fishery, shall incur a penalty not exceeding one hundred dollars with costs, or imprisonment not exceeding two months, and the forfeiture of fishing apparatus so used, and all fish taken or caught; and any Fishery Officer or any such lessee or licensee may, upon his own view, forthwith seize and remove any net or apparatus so used in trespass, to be afterwards dealt with according to law; provided always, that the occupation of any fishing station or waters so leased or licensed for the express purpose of net fishing shall not interfere with the taking of bait used for codfishing, nor prevent angling for other purposes than those of trade and commerce;

Not to be obstructed or injured.

Penalty for fishing in limits leased to another.

Right of lessee, &c.

Proviso: as to taking bait or angling.

2. Seines, nets or other fishing apparatus shall not be set in such a manner, or in such places as to obstruct the navigation with boats and vessels, and no boats or vessels shall be permitted to destroy or wantonly injure in any way, any seines, nets or other fishing apparatus lawfully set;

Navigation not to be obstructed.

3. Stakes or other timber placed for fishing purposes in any water shall be removed by the user within forty-eight hours after last using the same, or at the expiry of the fishing season;

Stakes to be removed.

4. The main channel or course of any stream shall not be obstructed by any nets or other fishing apparatus; and one-third of the course of any river or stream, and not less than two-thirds of the main channel at low tide, in every tidal stream, shall be always left open, and no kind of fishing apparatus or material shall be used or placed therein; provided that weirs used exclusively for catching eels, and the usage of mill-dams for catching eels, shall be subject to interference only in cases where, and at times when, they injure other fisheries, or by completely barring any passage, shall deprive other weirs of a share in the run of eels, and such place, time, and circumstances may be determined by any Fishery Officer;

Main channels not to be obstructed.

Proviso: as to eel fishing.

5. No net or other device shall be so used as entirely to obstruct the passage of fish to and from any of the waters of the Dominion by any of the ordinary channels connecting such waters, or debar their passage to and from accustomed resorts for spawning and increasing their species;

No net, &c., to obstruct entirely the passage of fish.

6. The catching, killing or molesting of fish when passing or attempting to pass through any fishway, or fishpass, or in surmounting any obstacle or leaps—the use of any invention to catch, kill or molest fish in the mill-dams, fishways, mill-heads and water-courses appurtenant thereto, are hereby forbidden;

Killing fish at certain places forbidden.

7. Bag-nets and trap-nets and fish-pounds are prohibited, except under special licences for capturing deep-sea fishes other than salmon;

Certain nets forbidden.

8. It shall not be lawful to fish for, catch or kill salmon, trout (or "lunge") of any kind, maskinongé, winnoniche, bass, bar-fish, pickerel, white-fish, herring, or shad, by means of spear, grapnel hooks, negog, or nishagans; provided, the Minister may appropriate and licence or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in and at whatever manner and time are specified in the licence or lease, and may permit spearing in certain localities;

Fish not to be killed in certain ways.

Proviso: as to Indians.

9. No person shall fish for, catch, kill, buy, sell or possess the young of any of the fish named in this Act, or in any Regulation or Regulations under it;

Young of fish not to be taken.

10. Seines for bar-fish shall have meshes of not less than three inches extension measure;

Seines for bar-fish.

11. Fishery Officers may determine or prescribe the distance between each and every fishery, and shall forthwith remove any fishery which the owner neglects or refuses to remove, and such owner shall be moreover liable for a breach of this Act, and for the cost and damages of removing the same;

Distance between fisheries.

12. Every fascine fishery with a box-trap (*coffre*), instead of pound, shall have across the outside end of such box (*coffre*) a wire covering or a net work, the meshes of which shall be at least one inch square; but this shall not apply to eel weirs during autumn;

Fascine fisheries with box-traps.

13. Nets or other fishing apparatus shall not be so used as to impede or divert the course of fish in any small rivers.

Nets, &c., in small rivers.

14. From the time of low water nearest six of the clock in the evening on every Saturday, to the time of low water nearest six of the clock in the morning on every Monday, in tidal

Fish to be allowed free

APPENDIX.

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passage on
Sunday.

And forfeited
if then taken.

waters, and from six of the clock in the evening on every Saturday to six of the clock in the morning of the following Monday, in fresh water,—seines, nets or other apparatus used for catching fish shall be so raised or adapted as to admit of the free passage of fish through, past or out of the same, for the purpose of affording a free pass from six of the clock on every Saturday evening to six of the clock on every following Monday morning; and during this close time it shall be unlawful to catch fish by such means; and any fish so taken, caught or killed, together with the nets or other apparatus used, shall be forfeited, in addition to the penalties imposed by this Act.

INJURIES TO FISHING GROUNDS AND POLLUTION OF RIVERS.

Penalty for
throwing
overboard
certain sub-
stances pre-
judicial to
fisheries.

Proviso; as
to the disposal
of offal.

14. Whoever throws overboard ballast, coal, ashes, stones, or other prejudicial or deleterious substances, in any river, harbour or roadstead, or any water where fishing is carried on, or throws overboard or lets fall upon any fishing bank or ground, or leaves, or deposits, or causes to be thrown, left, or deposited upon the shore, beach, or bank of any water, or upon the beach between high or low water mark, inside of any tidal estuary, or within two hundred yards of the mouth of any salmon river, remains or offals of fish, or of marine animals, or leaves decayed or decaying fish in any net or other fishing apparatus, shall incur for any such offence a fine not exceeding one hundred dollars, or imprisonment for not more than two months; and every person so doing, whether master or servant, and the master or owner of any vessel or boat from which such ballast, or offals, or other prejudicial substance are thrown, shall severally become liable for each offence; provided always, that it shall be lawful to bury such remains, or offals ashore, beyond high water mark, and at establishments situated inside of the mouths of rivers, for carrying on deep-sea fisheries, to drop the same into perforated boxes or inclosures built upon the beach, or under stage-heads, in such a manner as to prevent the same from being floated or drifted into the streams, or to dispose of them in such other manner as may be prescribed by any Fishery Officer:

Poisonous
substances not
to be used.

Mill rubbish.
Saw-dust.

Proviso:
Minister may
exempt any
stream, &c.

2. Lime, chemical substances or drugs, poisonous matter (liquid or solid), dead or decaying fish, or any other deleterious substance, shall not be drawn into, or allowed to pass into, be left or remain in any water frequented by any of the kinds of fish mentioned in this Act; and saw-dust or mill-rubbish shall not be drifted or thrown into any stream frequented by fish, under a penalty not exceeding one hundred dollars: Provided always that the Minister shall have power to exempt from the operation of this subsection, wholly or from any portion of the same, any stream or streams in which he considers that its enforcement is not requisite for the public interest;

Penalty for
kindling fires
in certain
places at
certain times.

Proviso: as
to burning for
clearance.

3. Whoever at any time between the first day of June and the thirtieth day of September, of any year, kindles, makes or places any fire in or near any wood, trees, brushwood, or any wild or uncultivated land, at any place north of the River or Gulf of St. Lawrence, to the east or north of the Saguenay River, or on any of the islands below or to the eastward of Red Island, within the said river or gulf, whereby the fire spreads or extends through standing trees, brushwood or scrub, to a distance exceeding one arpent, shall for such offence incur a penalty not exceeding fifty dollars, and shall besides be responsible to the Crown, or whoever may be the owner of the land, for all damages occasioned by such fire; provided, that nothing herein contained shall prevent proprietors or those having licences to cut timber or wood from burning the wood, trees or brushwood on their own land, or otherwise using fire to clear their lands, without injury or prejudice to their neighbours.

MISCELLANEOUS PROVISIONS.

Waters may
be set apart
for the pro-
pagation of
fish.

Penalty for
trespass.

Licences to
take spawn,
&c.

Fishery
licences in
arrears.

15. The Minister may authorize to be set apart, and to be leased, any river or other water for the natural or artificial propagation of fish; and any person who wilfully destroys or injures any place set apart or used for the propagation of fish, or fishes therein without written permission from a Fishery Officer, or from the holder under lease or licence, or uses therein any fishing light or other implement for fishing, during the period for which such waters are so set apart, shall incur a fine not exceeding two hundred dollars, or in default of payment, shall be imprisoned for not more than four months:—

2. Nothing contained in this Act shall preclude the granting by the Minister of written permission to obtain fish and fish spawn, for purposes of stocking or artificial breeding, or for scientific purposes;

3. Lessees or licensees of fisheries shall have no claim to renewal of leases or licences if in arrears of rent or percentage, during four months after the same is due, and any lessee or licensee convicted of an infraction of this Act, or any Regulation or Regulations under it, shall be liable to forfeit his lease or licence;

4. Special licences and leases for any term of years may be granted to any party or parties who may wish to plant or form oyster beds in any of the bays, inlets, harbours, creeks or rivers, or between any of the islands on the coast of Canada; and the holder of any such lease or licence shall have the exclusive right to oysters produced or found on the beds, within the limits of such licence, for the term of such lease;

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CANADA.

Special licences for oyster-beds.

5. The Minister may authorize to be expended annually any sum appropriated by Parliament, for the formation of oyster beds in various waters and places found adapted for that purpose, and transplanting oysters, and towards re-stocking exhausted fisheries by natural or artificial means, and to improve streams where natural obstructions exist, and may authorize the construction, erection or placing of any artificial barrier or grating in any stream or river, or in any watercourse, and in the channels or beds thereof;

Minister may expend Parliamentary grant for making or re-stocking oyster-beds.

6. With a view to protect the oyster beds in different parts of the bays and coasts of the Dominion, it shall not be lawful for any person to take oysters, or in any way to injure or disturb such oyster beds, except during times and on terms permitted by Regulation or Regulations under this Act, under a penalty of not more than one hundred dollars nor less than forty dollars together with the forfeiture of the vessel and all the apparatus employed therein; and, in default of payment, the party convicted shall be imprisoned for not less than one month, nor more than two months;

Protection of oyster-beds.

Penalty for injuring them.

7. Shell-fish fisheries shall be subject to the provisions of this Act, and any Regulation or Regulations to be made under it.

Shell-fish fisheries.

FINES AND FORFEITURES.

16. Except for offences to which penalties are already attached, each and every offender against the provisions of this Act, or the Regulations under it, shall for each offence incur a fine of not more than twenty dollars, besides all costs; and in default of payment of each fine, shall be imprisoned in each case for not less than eight days, and not exceeding one month; provided, whenever it shall appear to the satisfaction of the convicting magistrate, that the offence has been committed in ignorance of the law, and that because of the poverty of the defendant the penalty imposed would be oppressive, a discretionary power may be exercised; and any Fishery Officer or other magistrate may grant a warrant of distress for the amount of fine and costs imposed in any case:

Penalty in cases where no other is provided.

Proviso: discretionary power in certain cases.

2. The contravention on any day of any of the provisions of this Act, or of any Regulation made under it, shall constitute a separate offence, and may be punished accordingly;

Separate offence on each day.

3. Should any defendant have goods and chattels whereon the costs may be levied, the complainant may distrain for the amount under warrant by any Fishery Officer or other magistrate, notwithstanding the imprisonment of the party convicted and fined;

Distress for penalty, &c.

4. All materials, implements or appliances used, and all fish had in contravention to this Act or any Regulation or Regulations under it, shall be confiscated to Her Majesty, and may be seized and confiscated on view by any Fishery Officer, or taken and removed by any person for delivery to any magistrate, and the proceeds of disposal thereof may be applied towards defraying expenses under this Act;

Forfeiture of articles used in contravention of this Act.

5. One moiety of every fine or penalty levied by virtue of this Act shall belong to Her Majesty, and the remaining half thereof shall be paid to the prosecutor, together with costs taxed to him for attendance as a witness or otherwise;

Appropriation of pecuniary penalties.

6. Her Majesty's share of each fine or penalty, and all proceeds derived from the sale of confiscated articles under this Act, shall be paid to the Receiver General through the Department of Marine and Fisheries, and be applied towards the expenses incurred for the protection of fisheries; and persons aggrieved by any such conviction may appeal by petition to the Minister, who shall have power to remit fines and restore forfeitures under this Act.

How to be applied.

Appeal to Minister.

MODE OF RECOVERY.

17. Each penalty or forfeiture imposed by this Act, or Regulations made under it, may be recovered, on parole complaint, before any Fishery Officer, stipendiary or other magistrate, in a summary manner on the oath of one credible witness:

Before whom to be sued for.

2. Three days shall elapse between the service and the return of summons to any defendant for the first five leagues, and one day more for each additional five leagues of the distance between the place at which the summons is dated and the place of service; Provided that, when it is expedient to proceed against a defendant without delay, any Fishery Officer or other magistrate may issue a summons, returnable immediately, to compel the

Service of summons, &c.

Proviso: for cases not admitting delay.

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Limitation of suits.

Who shall be liable.

No quashing for want of form, &c.

Fishery officer may convict on view.

May cause search to be made.

In what locality to be prosecuted.

Right of fishery officer to pass over lands.

Disputes as to boundaries.

Gurry-grounds.

Certain officers in the Canadian or British Navy to have magisterial powers under this Act.

Seizures how to be dealt with.

Powers of fishery officer, &c., for the detention of prisoners when he cannot convey them to gaol.

Where the offence shall be held to have been committed.

defendant to appear before him forthwith, or may issue a warrant for the apprehension of such defendant simultaneously with the summons ;

3. Penalties incurred under this Act, or the Regulations made under it, shall be sued for within two years from the commission of the offence ;

4. When not otherwise specified, every proprietor or proprietress, owner, agent, tenant, occupier, partner, or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for penalties or moneys recoverable under any of the provisions of this Act or any Regulation or Regulations under it ;

5. No proceeding under this Act or under any Regulation or Regulations made under it shall be dismissed, and no conviction thereunder shall be quashed for want of form ; nor shall any warrant of arrest or commitment be held void by reason of any defect therein, provided it is therein alleged that party has been convicted, and there is a good and valid conviction to sustain the same.

POWERS OF FISHERY OFFICERS AND OTHER MAGISTRATES.

18. Any Fishery Officer or other magistrate may convict upon his own view of any of the offences, both as infractions and for non-compliance, punishable under the provisions of this Act ; and shall remove or cause to be removed instantly and detain any materials illegally in use :

2. Any Fishery Officer or other magistrate may search, or shall grant a warrant to have searched, any vessel or place where there is cause to believe that any fish taken in contravention of this Act, or anything used in violation thereof may be concealed ;

3. Where any offence under this Act is committed in, upon or near any waters forming the boundary between different counties or districts, or fishery districts, such offence may be prosecuted before any magistrate in either of such counties or districts, or before the Fishery Officer for either contiguous fishery district ;

4. In the discharge of his duties any Fishery Officer, or other person or persons by him accompanied or authorized to such effect, may enter upon and pass through or over private property without being liable for trespass ;

5. Disputes between parties relative to fishing limits or claims to fishery stations, or position and usage of nets and other fishing apparatus, shall be settled by the local Fishery Officer ;

6. Gurry-grounds may be designated or defined by any Fishery Officer ;

7. Any Fishery Officer, stipendiary magistrate, or commissioned officer of Her Majesty's Navy, on board of any vessel belonging to or chartered by the Canadian Government, employed in the service of protecting fisheries, and each commissioned officer of Her Majesty's Navy serving on board of any vessel cruising and being in the waters, harbours or ports of Canada, for the purposes of affording protection to Her Majesty's subjects engaged in the fisheries, and to enforce any laws relating to such fisheries, shall exercise magisterial powers in all the waters, harbours or ports, and on all the coasts of the Dominion of Canada where for the time being and for the purposes above described they are so engaged, without property qualification and without taking any oath of office ;

8. Seizures made by any Fishery Officer, stipendiary magistrate or Naval officer, so acting as aforesaid, may be taken for disposal to the nearest or most convenient port where there shall reside any revenue officer or other public officer empowered to dispose of the case ;

9. Whenever it may be impracticable for any Fishery Officer, stipendiary magistrate or naval officer, acting in such capacity, to cause any prisoner or prisoners to be conveyed to, and committed to the nearest Common Gaol, he shall have power to detain him or them on board of the vessel, or transfer him or them to another vessel for conveyance and delivery at the most convenient place, and with all convenient despatch, where he or they can be duly committed into the custody of the sheriff or other officer of the county or district in which the Common Gaol is situated to which he or they shall be ordered to be committed ; and until such prisoner or prisoners shall be so delivered into the immediate custody of any sheriff or gaoler, the fishery officer, stipendiary magistrate or naval officer having him or them in charge, shall have in all parts through which it may be necessary to convey any prisoner or prisoners, the same authority and power over and in regard to such person or persons, and to command the aid of any of Her Majesty's subjects in preventing his or their escape, or in retaking him or them in case of escape, as any county or district sheriff or peace officer would have while lawfully conveying a prisoner from one part to another of his own district ;

10. The offence for which any person or persons may be so committed to any Common Gaol shall always be held to have taken place in the county or district to the Common Gaol of which the commitment has been actually made.

FISHERY REGULATIONS.

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19. The Governor in Council may from time to time make, and from time to time vary, amend or alter, all and every Regulation or Regulations as shall be found necessary or deemed expedient for the better management and regulation of the sea-coast and inland fisheries, to prevent or remedy the obstruction and pollution of streams, to regulate and prevent fishing, to prohibit the destruction of fish and to forbid fishing except under authority of leases or licences, every of which Regulations shall have the same force and effect as if herein contained and enacted, notwithstanding that such Regulations may extend, vary or alter any of the provisions of this Act respecting the places or modes of fishing or the terms specified as prohibited or close seasons, and may fix such other modes, times or places as may be deemed by the Governor in Council to be adapted to different localities or may be thought otherwise expedient:

Governor in Council may make fishery regulations.

And may thereby vary certain provisions of this Act.

2. The publication of such Regulations in the "Canada Gazette," shall be sufficient notice to give legal effect to the same; and the production of a copy of a paper purporting to be the "Canada Gazette," and containing any such Regulation or Regulations, shall be admitted as full and sufficient evidence of the same in all courts of law or equity in Canada;

Publication and proof of regulations.

3. Every offence against any Regulation or Regulations made under this Act may be stated as in contravention of the "Fisheries Act."

Stating offences against this Act.

PROVINCIAL ACTS AND REGULATIONS REPEALED OR CONTINUED.

20. The following Acts and parts of Acts are hereby repealed:

Acts and parts of Acts repealed.

The Act passed by the Legislature of the late Province of Canada (29 Vic. Cap. 11), intituled, "An Act to amend chapter sixty-two of the Consolidated Statutes of Canada, and to provide for the better regulation of Fishing and protection of Fisheries," and also the several sections of the said sixty-second chapter of the Consolidated Statutes of Canada therein excepted from repeal: Provided always, that the Regulations of 7th May, 1859, adopted under chapter 62 of the said Consolidated Statutes of Canada, and relating to fisheries at and around the Magdalen Islands, and the Regulations of 4th August, 1866, 9th August, 1866, and 26th April, 1867, adopted under the Statute 29 Victoria, Cap. 11, shall continue in force in the Provinces of Quebec and Ontario, until amended or superseded by other regulations under this Act:

Can., 29 Vic., c. 11.

Proviso: as to certain regulations.

The Act passed by the Legislature of the Province of New Brunswick (23 Vic. Cap. 52), intituled, "An Act relating to the Fisheries of the County of Restigouche;"

N. B., 23 Vic., c. 52.

The Act passed by the said Legislature (26 Vic. Cap. 6) intituled, "An Act relating to the Coast and River Fisheries;"

N. B., 26 Vic., c. 6.

The Act passed by the said Legislature (30 Vic. Cap. 14), intituled, "An Act to encourage the formation of Oyster Beds;" but any Regulation or Regulations made under either of the three last mentioned Acts, and not inconsistent with the provisions of the present Act, shall remain in force in the Province of New Brunswick until amended or superseded by Regulation or Regulations to be made under this Act, and shall be subject in every respect to the authority by this Act vested in the respective Fishery Officers appointed under this Act, who are hereby empowered to enforce the same.

N. B., 30 Vic., c. 14.

Proviso: as to regulations under it.

21. The following Acts shall continue in force in the Provinces of New Brunswick and Nova Scotia:

Acts continued in N. B. and N.S. N. B., 16 Vic., c. 69.

An Act passed by the Legislature of the Province of New Brunswick (16 Vic. Cap. 69) intituled "An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade;"

Chapter 94, revised Statutes, third series, "Of the Coast and Deep Sea Fisheries," as amended by subsequent Acts of the Legislature of Nova Scotia: Provided always, that such Fishery Officers as may be especially empowered in that behalf by the Governor in Council shall also exercise the powers by the said recited Act and chapter of Acts vested in Revenue and other officers, sheriffs, magistrates, and all penalties and forfeitures imposed under the same shall be paid over to the Receiver-General through the Department of Marine and Fisheries to be applied towards the Fisheries Protection Service, in like manner as other fines and confiscations under the present Act:

N. S., Revised Stat., c. 94.

Proviso: certain powers under that Act may be exercised by fishery officers.

Chapter 95 of the revised Statutes of Nova Scotia, third series "Of River Fisheries." The Act (28 Vic. Cap. 35) intituled "An Act to amend Chapter 95 of the revised Statutes "Of River Fisheries;"

Same, c. 95. N. S., 28 Vic., c. 35.

The Act (29 Vic. Cap. 35) intituled "An Act to amend Chapter 94 of the revised Statutes, "Of the Coast and Deep Sea Fisheries;"

N. S., 29 Vic., c. 35.

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N. S., 29 Vic.,
c. 86.

And regula-
tions under
them.

Provide: us
to the exercise
of powers
under the said
Acts.

Fishery offi-
cers may per-
form certain
duties.

Fishery offi-
cers to exer-
cise powers
under Rev.
Stat., N.S.,
c. 103.

As to penalties
under the said
Acts.

The Act (29 Vic. Cap. 36) intituled "An Act to amend Chapter 95 of the revised Statutes, 'Of River Fisheries;'"

And all Regulations adopted in pursuance of the said chapter of the said revised Statutes or of the said Acts amending the same shall remain in force until amended or superseded by any Regulation or Regulations under this Act;

Provided always, that the powers and duties in the above-named chapters and Acts devolving on the Governor in Council under the said Acts, shall vest in the Governor of Canada in Council, and the powers and duties belonging to the General or Special Sessions; and the Grand Jury shall, as affects the making of any Regulation or Regulations, order or orders, be vested in the Governor-General in Council, and as affecting the appointment and control of Fishery Inspectors or Wardens, and the declaring of exemptions, shall vest in the Minister; and any Fishery Officer or Officers appointed under this Act shall fulfil the duties of Fishery Inspectors or Wardens, and exercise the functions which by the said above recited chapters and Acts attach to justices and sheriffs, for all the purposes of the aforesaid chapters and Acts, or any such Regulation or Regulations;

Each and every Fishery Officer shall also exercise the power and perform the duty assigned to Commissioners or Overseers of River Fisheries by the second section of Chapter 103 of the revised Statutes (*third series*) of the Province of Nova Scotia;

22. All fines and penalties levied under the several chapters and Acts recited, or under any Regulation or Regulations referred to in the two next preceding sections, shall be disposable in the same manner as if imposed and levied under the present Act.

FORMS OF PROCEDURE.

Forms of pro-
ceedings
under this
Act.

23. Forms of proceedings, Orders, and Notices used under this Act and Regulations may, for respective processes, be in the forms prescribed in the Schedule hereunto annexed, or in any other form; and in other respects the laws relating to summary convictions and orders shall apply to cases under this Act.

Short title.

24. This Act shall be known and cited as "The Fisheries Act."

SCHEDULE A.

Form of Complaint.

Province of
County (*or* District) of }
This day of , 18
To J. S., a Justice of the Peace
for the said County (*or* District).

A. B., of , complains C. D. of , hath
(*state the offence briefly in any intelligible terms with the time and place at which it was committed*), in contravention of the Fisheries Act; Wherefore the complainant prays that judgment may be given against the said C. D., as by the said Act provided.

(*Signature*) A. B.

SCHEDULE B.

Summons to Defendant.

Province of
County (*or* District) of } 18. }
To C. D., of , &c.

Whereas complaint has (*this day*) been made before me that you (*state the offence in the words of the complaint, or to the like effect*) in contravention of the Fisheries Act: Therefore you are hereby commanded to come before me at on the day of , at o'clock in the , to answer the said complaint and to be dealt with according to law.

Witness my hand and seal, this day of 18 .
Justice of the Peace for

[L. S.]

SCHEDULE C.

Subpœna to a Witness.

Province of _____ }
 County (or District) of _____ }
 To E. F., of _____ &c

Whereas complaint has been made before me that C. D. did (*state the offence as in the Summons*): and I am informed that you can give material evidence in the case: Therefore, you are commanded to appear before me at _____, on the _____ day of _____, at _____ o'clock in the _____, to testify what you know concerning the matter of the said complaint.

Witness my hand and seal this _____ day of _____ 18 .
 J. S.,
 (as in Summons.) [L. S.]

SCHEDULE D.

Form of Conviction.

Province of _____ }
 County (or District) of _____ }

Be it remembered, that on this _____ day of _____ 18 , at _____ in the said County (or District), C. D., of _____ is convicted before me, for that he did, &c. (*stating the offence briefly and the time and place where committed*), in contravention of the Fisheries Act; and I adjudge the said C. D. to forfeit (and pay) the sum of _____ (*or mention the thing forfeited under this Act*), to be applied according to law, and also to pay to A. B. (*the complainant*) the sum of _____ for costs: (*If the penalty be not forthwith paid, add*), and the said C. D. having failed to pay the said penalty and costs forthwith after the said conviction, I adjudge him to be committed to and imprisoned in the Common Gaol of the County (or District) of _____ for the period of _____

Witness my hand and seal, this _____ day of _____ 18 .
 J. S.,
 (as in Summons.) [L. S.]

SCHEDULE E.

Form of Warrant of Commitment for non-payment of penalty or forfeiture and costs.

Province of _____ }
 County (or District) of _____ }

To the Constable and Peace Officers of the County (or District) of _____ and the Keeper of the Common Gaol of the said County (or District), at _____

Whereas C. D., of _____, was on the _____ day of _____ 18 , convicted before me, for that he, &c. (*as in Conviction*), and I did thereupon adjudge the said C. D. to forfeit and pay to A. B., &c. (*as in Conviction*); And whereas the said C. D. hath not paid the said penalty or forfeiture and costs: Therefore, I command you, the said Constables and Peace Officers, or any of you, to convey the said C. D. to the Common Gaol for the _____ of _____, at _____, and deliver him to the keeper thereof with this warrant; and I command you, the said keeper of the said Gaol, to receive the said C. D. into your custody, and keep him safely imprisoned in the said Gaol for the space of _____, and for so doing this shall be your sufficient warrant.

Witness my hand and seal, this _____ day of _____, 18 .
 J. S.,
 (as in Summons.) [L. S.]

APPENDIX.

CAP. LXI.

CANADA.

AN ACT RESPECTING FISHING BY FOREIGN VESSELS.

[Assented to 22nd May, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Governor may grant licences to foreign vessels, &c., to fish in British waters within three miles of the coasts of Canada.

1. The Governor may, from time to time, grant to any foreign ship, vessel or boat, or to any ship, vessel or boat not navigated according to the laws of the United Kingdom, or of Canada, at such rate, and for such period not exceeding one year, as he may deem expedient, a licence to fish for or take, dry or cure any fish of any kind whatever, in British waters, within three marine miles of any of the coasts, bays, creeks or harbours whatever, of Canada, not included within the limits specified and described in the first article of the convention between his late Majesty King George the Third and the United States of America, made and signed at London on the twentieth day of October, 1818.

Certain British and Canadian officers may board vessels hovering in British waters within the said limits.

2. Any commissioned officer of Her Majesty's Navy serving on board of any vessel of Her Majesty's Navy cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, fishery officer, or stipendiary magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, sheriff, magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel or boat within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours in Canada, and stay on board so long as she may remain within such place or distance.

Such vessels refusing to depart may be brought into port, &c.

3. If such ship, vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the Master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel or boat into port and search her cargo, and may also examine the Master upon oath touching the cargo and voyage; and if the Master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks or harbours of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last licence granted to such ship, vessel or boat under the first section of this Act, such ship, vessel or boat and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited.

And forfeited in certain cases.

Vessels, &c., forfeited may be seized.

Penalty for resisting seizure.

4. All goods, ships, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanour, and upon conviction be liable to imprisonment for a term not exceeding two years.

How such vessels, &c., shall be secured and kept.

5. Goods, ships, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo, seized as liable to forfeiture under this Act, shall be forthwith delivered into the custody of the Collector or other principal officer of the Customs at the port nearest to the place where seized, to be secured and kept as other goods, ships, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo seized are directed by the laws in force in the province in which such port is situate to be secured and kept, or into such other custody and keeping as the Governor in Council, or a court of Vice-Admiralty shall order.

When condemned to be sold by auction.

Application of proceeds of sale.

Proviso: vessels, &c., may

6. All goods, vessels and boats and the tackle, rigging, apparel, furniture, stores and cargo, condemned as forfeited under this Act shall, by the direction of the Collector or other principal officer of the Customs at the port where the seizure has been secured be sold at public auction; and the proceeds of such sale shall be applied as follows: The amount chargeable for the custody of the property seized shall first be deducted and paid over for that service; one half of the remainder shall be paid without deduction to the officer or person seizing the same; and the other half, after first deducting therefrom all costs incurred, shall be paid to the Receiver-General of Canada through the Department of

Marine and Fisheries; but the Governor in Council may, nevertheless, direct that any ship, vessel, boat or goods and the tackle, rigging, apparel, furniture, stores and cargo seized and forfeited shall be destroyed, or be reserved for the public service.

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7. Any penalty or forfeiture under this Act may be prosecuted and recovered in any court of Vice-Admiralty within Canada.

be reserved for public service.
Forfeiture how enforced.
Vessel, &c., may be released on security being given.
Value to be distributed in case of condemnation.

8. The Judge of the court of Vice-Admiralty may, with the consent of the person seizing any goods, ship, vessel or boat and the tackle, rigging, apparel, furniture, stores and cargo, as forfeited under this Act, order the re-delivery thereof, on security by bond to be given by the party, with two sureties, to the use of Her Majesty: and in case any goods, ship, vessel or boat or the tackle, rigging, apparel, furniture, stores, and cargo so re-delivered is condemned as forfeited, the value thereof shall be paid into court and distributed as above directed.

9. Her Majesty's Attorney-General for Canada may sue for and recover in Her Majesty's name any penalty or forfeiture incurred under this Act.

Attorney-General for Canada to sue.

10. In case a dispute arises as to whether any seizure has or has not been legally made or as to whether the person seizing was or was not authorised to seize under this Act, oral evidence may be heard thereupon, and the burden of proving the illegality of the seizure shall be upon the owner or claimant.

As to proof of illegality of seizure.

11. No claim to any thing seized under this Act and returned into any court of Vice-Admiralty for adjudication shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed: which oath shall be made by the owner, his attorney or agent, and to the best of his knowledge and belief.

Claims must be made on oath.

12. No person shall enter a claim to anything seized under this Act until security has been given in a penalty not exceeding two hundred and forty dollars to answer and pay costs occasioned by such claim; and in default of such security the things seized shall be adjudged forfeited, and shall be condemned.

And security must be given.

13. No Writ shall be sued out against any officer or other person authorised to seize under this Act for any thing done under this Act, until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such Writ, his attorney or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his Attorney or Agent; and no evidence of any cause of action shall be produced except such as shall be contained in such notice.

Protection of officers, &c., acting under this Act.

14. Every such action shall be brought within three months after the cause thereof has arisen.

Limitation of suits.

15. If on any information or suit brought to trial under this Act on account of any seizure, judgment shall be given for the claimant, and the Judge or court shall certify on the record that there was probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof; and if any suit or prosecution be brought against any person on account of any seizure under this Act and judgment be given against him, and the Court or Judge shall certify that there was probable cause for the seizure, then the Plaintiff, besides the thing seized or its value, shall not recover more than three and a half cents damages, nor any costs of suit, nor shall the Defendant be fined more than twenty cents.

If judgment be for the claimant, but there was probable cause of seizure, no costs allowed.

16. Any officer or person who has made a seizure under this Act may, within one month after notice of action received tender amends to the party complaining, or to his Attorney or Agent, and may plead such tender.

Tender of amends.

17. All actions for the recovery of penalties or forfeitures imposed by this Act must be commenced within three years after the offence committed.

Limitation for penalties.

18. No appeal shall be prosecuted from any decree, or sentence of any Court touching any penalty or forfeiture imposed by this Act, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

As to appeals from decrees under this Act.

19. In cases of seizure under this Act, the Governor in Council may, by order, direct a stay of proceedings; and in cases of condemnation may relieve from the penalty in whole or in part, and on such terms as may be deemed right.

Governor in Council may relieve from penalty.

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Act to apply to inland waters; and other Courts substituted for Vice-Admiralty in such case.

Certain enact- of N.S. and N.B. not to apply to cases provided for by this Act.

20. The several provisions of this Act shall apply to any foreign ship, vessel or boat in or upon the inland waters of Canada; and the provisions hereinbefore contained in respect to any proceedings in a court of Vice-Admiralty shall, in the case of any foreign ship, vessel or boat, in or upon the inland waters of Canada, apply to, and any penalty or forfeiture in respect thereof shall be prosecuted and recovered in one of the Superior Courts of the Province within which such cause of prosecution may arise.

21. Neither the ninety-fourth chapter of the Revised Statutes of Nova Scotia (third series) "Of the Coast and Deep Sea Fisheries," nor the Act of the Legislature of the Province of Nova Scotia, passed in the twenty-ninth year of Her Majesty's reign, chapter thirty-five, amending the same, nor the Act of the Legislature of the Province of New Brunswick, passed in the sixteenth year of Her Majesty's reign, chapter sixty-nine, intituled, "An Act relating to the Coasts Fisheries, and for the prevention of Illicit Trade," shall apply to any case to which this Act applies; and so much of the said chapter and of each of the said Acts as makes provision for cases provided for by this Act, is hereby declared to be inapplicable to such cases.

CAP. XV.

An Act to amend the Act respecting FISHING by FOREIGN VESSELS.

[Assented to 12th May, 1870.]

WHEREAS it is expedient, for the more effectual protection of the in-shore Fisheries of Canada against intrusion by foreigners, to amend the act intituled "*An Act respecting Fishing by Foreign Vessels*," passed in the Thirty-first year of Her Majesty's Reign; therefore, Her Majesty, by and with the advice and consent of the Senate, and House of Commons of Canada, enacts as follows:

1. The Third Section of the above cited Act shall be, and is hereby repealed, and the following section is enacted in its stead:

"3. Any one of such officers, or persons, as are above-mentioned, may bring any ship, vessel, or boat, being within any harbour in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, into port, and search her cargo, and may also examine the Master upon oath touching the cargo and voyage; and if the Master, or person in command, shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom, or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat, under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

2. This Act shall be construed as one with the said Act "*respecting Fishing by Foreign Vessels*."

TITLE XXV.

OF THE FISHERIES.

Nova Scotia.

CAP. XCIV.

OF THE COAST AND DEEP SEA FISHERIES.

Revenue officers may board vessels hovering within three miles of the coast.

1. OFFICERS of the colonial revenue, sheriffs, magistrates, and any other person duly commissioned for that purpose, may go on board any vessel or boat within any harbour in the province, or hovering within three marine miles of any of the coasts or harbours thereof, and stay on board so long as they may remain within such place or distance.

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2. If such vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the master shall have been required to depart, any one of the officers above-mentioned may bring such vessel or boat into port and search her cargo, and also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions demanded of him in such examination he shall forfeit four hundred dollars; and if there be any prohibited goods on board, then such vessel or boat, and the cargo thereof, shall be forfeited.

Proceedings where the Master bound elsewhere refuses on notice to depart.

3. If the vessel or boat shall be foreign, and not navigated according to the laws of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing, within three marine miles of such coasts or harbours, such vessel or boat and the cargo shall be forfeited.

Foreign vessels fishing or preparing to fish, and their cargoes, forfeited.

4. All goods, vessels, and boats liable to forfeiture may be seized and secured by any of such officers or persons so commissioned; and every person opposing them, or any one aiding such opposition, shall forfeit eight hundred dollars.

Vessels and goods forfeited liable to seizure: penalty for obstructing officers.

5. Goods, vessels, and boats seized as liable to forfeiture under this chapter shall be forthwith delivered into the custody of the officers of the colonial revenue next to the place where seized, to be secured and kept as other vessels, boats, and goods seized, are directed to be secured and kept by law.

Custody of vessels and goods seized.

6. All goods, vessels, and boats condemned as forfeited under this Act shall, by direction of the principal officer of the colonial revenue where the seizure shall have been secured, be sold at public auction, and the proceeds of such sale shall be applied as follows: the amount chargeable for the custody of the property seized shall first be deducted and paid over for that service; one-half of the remainder shall be paid to the officer or person seizing the same without deduction; and the other half, after first deducting therefrom all costs incurred, shall be paid into the Treasury of the province; but the Board of Revenue may nevertheless direct that any vessel, boat, or goods seized and forfeited shall be destroyed or reserved for the public service.

Condemned vessels and goods, how disposed of, and the proceeds, how applied.

7. All penalties or forfeitures hereunder shall be prosecuted and recovered in the Court of Vice-Admiralty.

Penalties and forfeitures, &c.

8. If any goods, vessel or boat shall be seized as forfeited under this chapter, the Judge of the Vice-Admiralty, with the consent of the person seizing the same, may order redelivery thereof, on security by bond to be made by the party, with two sureties to the use of Her Majesty. In case the property shall be condemned, the value thereof shall be paid into the court and distributed as above directed.

Vessels and goods to be redelivered on security.

9. All suits for the recovery of penalties or forfeitures shall be in the name of Her Majesty, and shall be prosecuted by the Advocate-General, or in case of his absence by the Solicitor-General. If a dispute arise whether any person is authorised to seize under this chapter, oral evidence may be heard thereupon.

Suits, how brought and prosecuted, &c.

10. If any seizure take place under this chapter and a dispute arise, the proof touching the illegality thereof shall be upon the owner or claimant.

Burden of proof in cases of seizure, &c.

11. No claim to anything seized under this chapter and returned into the Court of Vice-Admiralty for adjudication shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed; which oath shall be made by the owner, his attorney or agent, and to the best of his knowledge and belief.

Claims of property seized to be under oath.

12. No person shall enter a claim to anything seized under this chapter until security shall have been given in a penalty not exceeding two hundred and forty dollars to answer and pay costs occasioned by such claim; and in default of such security the things seized shall be adjudged forfeited and shall be condemned.

Security to be given before claim entered.

13. No writ shall be sued out against any officer or other person authorised to seize under this chapter for anything done thereunder until one month after notice in writing, delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney or agent; and no evidence of any cause of action shall be produced except such as shall be contained in such notice.

Month's notice to officer before action.

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Limitation of
action, &c.
Certificate of
probable cause
of seizure
shall prevent
the recovery
of costs.

Amends may
be tendered,
&c.

Limitation of
actions, &c.

Appeals,
within what
time to be pro-
secuted.

Coasting ves-
sels to have a
narrow piece
of plank or
iron extending
aft of the
stern-post.

Forfeiture for
destroying
nets where
coasters are
not so pro-
vided.

Definition of
terms.

Suspension of
the first
eighteen sec-
tions.

Agreement to
be entered
into between
master and
crew.

Terms of
agreement.

Penalties for
desertion.

14. Every such action shall be brought within three months after the cause thereof has arisen;

15. If on any information or suit brought to trial under this chapter on account of any seizure, judgment shall be given for the claimant, and the judge or court shall certify on the record that there was a probable cause of seizure, the claimant shall not recover costs, nor shall the person who made the seizure be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the judge or court shall certify that there was probable cause for the seizure, then the plaintiff besides the thing seized, or its value, shall not recover more than three and a half cents damages, nor any costs of suit, nor shall the defendant be fined more than twenty cents.

16. The seizing officer may within one month after notice of action received, tender amends to the party complaining, or his attorney or agent, and plead such tender.

17. All actions for the recovery of penalties or forfeitures imposed by this chapter must be commenced within three years after the offence committed.

18. No appeal shall be prosecuted from any decree or sentence of any court in this province, touching any penalty or forfeiture imposed hereby, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

19. All coasting vessels under sixty tons burthen owned in this province and engaged in the coasting trade thereof, shall be furnished with a narrow piece of plank or iron affixed to the bottom of the keel and level therewith, extending aft at least six inches beyond the aperture between the stern-post and rudder, and well secured on the keel. But this section shall not extend to vessels in which the main or false keel extends six inches beyond the aperture between the stern post and rudder.

20. Any owner or master of a coasting vessel not so furnished or built, running foul of any net set off the harbours, bays and rivers of the coast shall upon due proof thereof forfeit twenty dollars, to be recovered by the party injured to his own use as a private debt; leaving to the party aggrieved, nevertheless, his rights at common law for any further damage.

21. In this chapter "vessels" shall include ships; and "harbours" shall include ports, bays and creeks.

22. The first eighteen sections are suspended as regards citizens and inhabitants of the United States of America, and shall continue so suspended and not in force so long as the Treaty between Her Majesty and that country, signed on the 5th day of June, 1854, shall continue and be in force.

23. The master of any vessel registered and belonging to this province, and bound from any port therein, to be employed in the deep sea fishery, shall before proceeding on such fishing voyage enter into an agreement in writing with every person on board, apprentices excepted, which agreement shall express whether the same is to continue for one voyage or for the fishing season; and shall also express that the fish or the proceeds of such fishing voyage or voyages which may appertain to the crew of such vessel, shall be divided among them in proportion to the quantity or number of fish which they may respectively have caught; which agreement, in addition to the signatures of the master and crew, shall be countersigned by the owner of such fishing vessel, or his agent, and shall be as nearly as possible in the form given in the annexed schedule.

24. Any person having engaged for a voyage or for the fishing season, as before provided, who shall while the agreement therefor continues in force, desert or absent himself from the vessel in which he shipped, without leave of the master, shall be liable to the same penalties and forfeitures imposed on the like offences under chapter seventy-five; and every master of a fishing vessel taking any person on a deep sea voyage without entering into the before required agreement, shall be liable to the penalty imposed on that offence by the same chapter.

SCHEDULE IN THIS CHAPTER REFERRED TO.

Form of
agreement.

An agreement made in pursuance of chapter ninety-four of an Act of the General Assembly of Nova Scotia, passed in the twenty-seventh year of the reign of Her Majesty Queen Victoria, entitled "An Act for revising and consolidating the general statutes of

“ Nova Scotia,” between —, master of the ship —, of the port of —, of the burthen of — tons, and the several persons whose names are subscribed hereto.

It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board said ship in the capacities set opposite their respective names, on a fishing voyage from the port — to — [*here the intended voyage is to be described, and the duration of the same, and the nature of the same as nearly as can be done, and if the same is to continue for the fishing season*], and back to the port of —; and the said crew agree to conduct themselves in an orderly, faithful, honest, careful and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master in everything relating to the said ship, and the materials, stores and cargo thereof; in consideration of which services, to be duly, honestly, faithfully and carefully performed, the said master doth hereby promise and agree with the said crew [*here insert the particular agreement with reference to the division of the fish among the sharesmen at end of voyage*]. In witness whereof the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

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Place and Time of Entry.			Men's Name.	Age.	Place of Birth.	Quality.	Amount of Shares.	Sureties.	Witness to Execution.
Day.	Month.	Year.							

29th VICTORIA, CHAPTER 35.

AN Act to amend Chapter ninety-four of the revised Statutes of Nova Scotia “Of the Coast and Deep Sea Fisheries.”

Be it enacted by the Governor, Council, and Assembly, as follows :

1. Section four of chapter ninety-four of the revised statutes is hereby amended as follows: “And shall be guilty of a misdemeanour, and upon conviction be liable to imprisonment for a term not exceeding two years.”

Sec. 4, cap. 94, Revised Statutes amended, &c.

2. Section five of the said chapter is hereby amended by the addition of the following words: “Or into such other custody and keeping as the Governor in Council or Court of Vice-Admiralty shall order.”

Sec. 5 amended.

3. In case of seizure under the said Act, the Governor in Council may, by order, direct a stay of proceedings; and, in case of condemnation, may relieve from the penalty, in whole or in part, and on such terms as may be deemed right.

In cases of seizure, Governor in Council may, &c.

ARTICLE I. OF CONVENTION BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA, SIGNED AT LONDON, OCTOBER 20, 1818.

Article 1. WHEREAS differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company. And that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said

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fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, for ever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits. Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

TITLE XXV.

Nova Scotia.

CAP. XCV.

OF RIVER FISHERIES.

Time for
taking salmon.

1. Hereafter no salmon shall be taken in any of the rivers of this province westward of the harbour of Halifax between the thirty-first day of July and the first day of March; nor in any river running into the Bay of Fundy, nor in any river in the Island of Cape Breton, nor in any river to the eastward of Halifax harbour, between the fifteenth day of August and the first day of March, except in salt water below low water mark and in salt water not later than the twentieth of October. Any person taking any salmon in any of the rivers of this province within the time specified shall be liable to a penalty not exceeding forty dollars for every salmon taken by him.

Penalty.

Fisheries on
rivers running
through private
lands, &c.

2. The sessions shall annually appoint such and so many places on the rivers and streams as may be attended with the least inconvenience to the owners of the soil, or the rivers, as resorts for the purpose of taking fish; but the same and the enactments herein contained shall not extend to any species of fish taken from the sea except salmon, bass, shad, alewives, gaspereaux, trout, and small mackerel.

Sessions' orders
to extend
to centre, &c.

3. In cases where a river shall be the dividing line between two counties the orders and regulations of the sessions in each county shall have force and effect only to the centre of the channel of the river being such dividing line.

Sessions to
make orders
for setting of
nets, &c.

4. The sessions shall from time to time make orders for the setting and drifting of nets, the erecting and place of weirs, and generally for the conducting of fisheries in all the bays, harbours, rivers, streams, or creeks, or on the shores thereof, to be enforced by penalties not exceeding forty dollars for the breach of any such order.

Penalties.
Bag nets not
allowed.
Time when
nets shall not
be set.
Spearing or
sweeping for-
bidden.
Nets, how set.

5. No bag nets shall be used for the purpose of taking salmon within any river or harbour, nor within a mile from the mouth of any river, and no nets shall be set or placed or allowed to remain set or placed from one hour before sunset on Saturday night until an hour after sunrise on Monday morning.

6. No person shall by spearing or sweeping with net or seine take or attempt to take any salmon in any river, stream, lake, or watercourse; and nets for the taking of salmon or any other fish shall be set and placed only on one side of such river, stream, lake, or watercourse.

Not to be
within one-
eighth of a
mile, &c.

7. No stake, seine, weir, net, or other contrivance for taking fish shall be set or placed within one-eighth of a mile from where some other stake, seine, weir, net, or other contrivance for taking fish is previously set or placed, nor within one-eighth of a mile next below or above any mill or dam erected across or partially across any such river, stream, or watercourse; and no seine, net, or other contrivance for taking fish shall extend more than one-third of the distance in a straight line across such river, stream, or watercourse.

Not to extend
more than one-
third across
river.Penalty for
violation of
last three
sections.
Forfeiture;
trial of offen-
ders; appeal.

8. Any person who shall violate any provision of the three last sections shall forfeit a sum not exceeding forty dollars; and all spears, implements, canoes, boats, nets, seines, weirs, and other contrivances used or employed in, about, or preparatory to the taking of salmon or any other fish contrary to the preceding sections, or to any order of sessions

made or to be made thereunder, shall be liable to forfeiture, and may be seized by any person and detained until the trial of the offender, when they may be declared forfeited and become the property of the person prosecuting; if, however, upon appeal from the judgment of the justices, the owner or possessor of the articles so declared forfeited shall give sufficient security by bond with sureties to pay the prosecutor the value thereof and the amount of any penalty that may have been imposed with the costs then incurred and thereafter to be incurred in case the judgment appealed from shall be confirmed, then such owner or possessor shall be entitled to their immediate restoration.

9. Any person finding a net, seine, or weir set or placed contrary to the provisions of this chapter or of such order of sessions may destroy the same—provided, nevertheless, that no person shall be allowed in any action, indictment, or other proceeding against him to justify the destruction of or injury to any net, seine, or weir, under the authority of this section, unless such person shall within one week after he shall have done any such act post up in a conspicuous place in the neighbourhood, and also file in the office of a neighbouring justice of the peace, a notice signed by him acknowledging the act and stating the time and place of doing the same, and also the address, addition, and place of residence of the party subscribing the same.

Nets illegally set may be destroyed.

10. Every person discovered at night with a spear and torch or a torch only in or about any river, stream, lake, or watercourse above the rise and fall of the tide, either in a boat or canoe or otherwise, and apparently equipped for taking or spearing salmon, shall be considered in the act of spearing salmon, and the burthen of disproving the same shall be on the party so discovered.

Persons equipped by night for fishing to be considered in the act of fishing.

11. The owner or the occupier of any mill to which any dam, lock, or obstruction made or to be made on or across any river resorted to by salmon or gaspereaux is appurtenant who shall not during such periods while the fish are passing up from and returning to the sea, as shall be prescribed by the regulations of sessions, or in case there are no regulations on the subject as shall be fixed by the river inspector, when no such regulation shall be made by the sessions or river inspector, then within the period prescribed in the first section of this chapter, have and keep open a waste gate or slope sufficient to allow such fish to pass and repass, shall be liable to a penalty not exceeding forty dollars.

Owner of mill to keep open waste gate, &c.

12. When such owner or occupier having a sufficient waste gate or slope shall keep the same shut or otherwise impede the passage of such fish during such periods, he shall be liable to a penalty not exceeding forty dollars for every time he shall close the said passage.

Penalty.

Penalty for closing passage.

13. When such owner shall have had ten days' notice in writing from the river inspector or any justice of the peace of the want or insufficiency of such waste gate or slope, and shall have for that space of time neglected or refused to construct such waste gate or slope, he shall be liable to a penalty of one hundred dollars; and if he shall neglect or refuse to construct such waste gate or slope for ten days after such penalty shall have been inflicted, the justices inflicting such penalty, or any judge of the supreme court may, upon sufficient proof of such neglect or refusal, order the sheriff of the county to prostrate and wholly destroy the said mill-dam, and the expenses attendant upon such application and of the removal of the said dam shall be taxed by the said justices or by a judge who may direct an execution to issue therefore against the said owner.

Penalty for refusing to construct gates, &c. Upon continued refusal mill-dam may be destroyed.

14. The sessions of each county shall at the first meeting after the passing of this chapter by a memorandum in writing declare specifically the rivers and streams within the county to which the provisions of this chapter shall not apply.

Sessions may declare what rivers exempt.

15. The grand jury in each county shall present and the sessions shall appoint in the same manner as county and township officers are appointed, for each river or part of a river which the sessions shall make into a separate district or jurisdiction, an officer to be called inspector of river fisheries, to be paid such salary as the grand jury and sessions may allow, who shall be sworn into office as other township officers are sworn, and who shall be liable and bound to protect the fisheries and carry out the provisions of this chapter on the river or stream for which he is so appointed.

Sessions to appoint inspectors.

Salary.

To be sworn. Duties of, &c.

16. Any river inspector neglecting to be sworn into office on receiving notice of his appointment shall be liable to a penalty of ten dollars; and any such river inspector neglecting his duty after being sworn into office shall be liable to a penalty of forty dollars.

Penalty for neglecting to be sworn, &c.

17. For the protection of the young fish coming down the rivers of the province in the fall of the year, sufficient stop gates shall be made in all dams and obstructions across the rivers sufficient for such young fish to pass through.

Stop gates to be made in dams.

18. All prosecutions for penalties under this chapter shall be had either before two justices of the peace or before a judge of the supreme court as a summary suit, and any

Prosecutions for penalties how had, &c.

APPENDIX.

NOVA
SCOTIA.Process to
state com-
plaint.

person may prosecute for any violation of this chapter or of any order of sessions made thereunder, and the penalties when recovered shall go to the prosecutor.

19. Where proceedings are before two justices the following form of summons may be used, but any process which shall substantially state the violation complained of shall be sufficient.

Form of Summons.

To any of the constables

Summons.

You are hereby commanded to summons A. B. of _____, in the county of _____ to appear before us at _____, on the _____ day of _____ next, to answer to the suit of C. D., who says that the said A. B. hath violated the provisions of the Acts made for the protection of the river fisheries in not providing a sufficient waste gate or slope in his mill-dam, or in not keeping the waste gate of his mill-dam open, or in allowing the waste gate or slope of his mill-dam to be so obstructed as to prevent the free passage of fish in unlawfully setting nets, weirs, or seines, or in spearing salmon.

Witness our hands this _____ day of _____, A.D. 18 _____.

E. F. (seal.)

G. H. (seal.)

Conviction.

The conviction may be in the following form:—"The within named A. B. having been duly summoned under the annexed writ, and having been duly convicted of having violated the chapter of the revised Statutes "Of River Fisheries," as therein mentioned, we hereby give judgment for the plaintiff for the sum of _____ with his costs.

E. F. (seal.)

G. H. (seal.)

CAP. XXXV.

AN ACT TO AMEND CHAPTER 95 OF THE REVISED STATUTES, "OF RIVER FISHERIES."

Nova Scotia.

(Passed the 2nd day of May, A.D. 1865.)

Be it enacted by the Governor, Council, and Assembly, as follows:

Fish-way re-
quired in all
dams.

1. In all dams or obstructions now erected, or hereafter to be erected, across any river or stream frequented by salmon or gaspereaux, either one-third of the main channel shall be left open, or a fish ladder shall be placed and kept therein.

Fish ladder,
description of,
and how
placed.

2. Such fish ladder shall have a slope of not more than one foot in seven, shall have an opening of not less than three feet in width at the top of the dam, and shall be so placed that there shall at all times be at least one foot in depth of water running over the mouth thereof; the bottom of such ladder to be water-tight and to be covered with stone, and at every six feet pieces of wood or stone to be fastened at right angles to the sides thereof, and to be secured to each side alternately, so as to make the current of water flow from side to side—the openings to be not less than one foot in width, and the pieces of wood or stone so jutting out from the sides to be not less than two feet in height; the lower end of such fish ladder to be secured to the bottom of the main channel of the river, or otherwise shall be conformable to the model of the fish ladder now deposited in the office of the Provincial Secretary.

Definition of
terms.

3. Whenever the words "waste-gate" or "slopes" occur in the chapter hereby amended, the same shall be construed to mean the fish ladder described in the second section of this Act.

Penalty for
taking fish,
&c.

4. No fish shall be taken within such fish ladder, nor within the locks of the Shubenacadie Canal, nor within sixty yards therefrom, under a penalty of forty dollars for every offence.

Sec. 11, cap.
95, repealed.

5. Section 11 of chapter 95 of the Revised Statutes, third series, "Of River Fisheries," is hereby repealed.

Penalty for
not providing
fish-way.

6. Every mill owner who shall not erect and maintain a suitable and efficient fish-way as hereinbefore provided, or shall not leave the channel open, on or before the 30th day of September next, shall be liable to a penalty of one hundred dollars; and if any dam now existing, or hereafter to be erected, shall be kept up contrary to this Act, the same may be prostrated under the terms and provisions of section 13 of said chapter.

CAP. XXXVI.

NOVA
SCOTIA.

AN ACT TO AMEND CHAPTER 95 OF THE REVISED STATUTES, "OF RIVER FISHERIES."

Nova Scotia.

(Passed the 7th day of May, A.D., 1866.)

BE it enacted by the Governor, Council, and Assembly, as follows :

1. Section 4 of the said chapter is amended as follows :—" The sessions shall have power to make orders for the prevention of traps, or such other contrivances as they may consider objectionable, being set for catching or destroying fish in any of the bays, harbours, rivers, streams, or creeks in this province, or on the shores thereof, to be enforced by penalties not exceeding forty dollars for each breach thereof." Sessions may make order for prevention of traps, &c.
2. Section 7 of the said chapter is hereby amended, by making the distance mentioned in said section between contrivances for catching fish one hundred yards, instead of one-eighth of a mile. Distance between contrivances.
3. The grand jury and sessions shall appoint officers to be inspectors of bays, harbours, creeks, and streams, set off into districts, or of either of them, in the same mode as inspectors of river fisheries are provided to be appointed by section 15 of the chapter hereby amended. Grand Jury and Sessions shall appoint inspectors.
4. Chapter 35 of the Acts of 1865, except as regards the county of Halifax and the Clyde River, in the county of Shelburne, and so much of chapter 95 of the Revised Statutes, "Of River Fisheries," as is hereby amended are repealed. Chap. 35, Act 1865, in part repealed.
5. All proceedings in law now pending under the provisions of the Act of 1865 shall determine on the passage of this Act by the defendant paying costs, otherwise such proceedings shall not be affected by this Act. Proceedings at law.
6. Section 11 of the chapter hereby amended is hereby revived and re-enacted, except as regards the county of Halifax. Sec. 11, cap. 95, revived.
7. The General or Special Sessions of the county of Halifax shall make such regulations for the passing of fish through the dams and locks of the Shubenacadie Canal as they shall deem proper, to be enforced by penalties not exceeding forty dollars for each breach thereof. Halifax County Sessions to make regulations.
8. All regulations made by the various sessions throughout the province relative to the fisheries for the present year shall be effective for such year, notwithstanding anything under this Act to the contrary; and all proceedings taken by the sessions in relation to the appointment of wardens are hereby declared legal and valid, although not made in strict accordance with the provisions of the Act hereby amended. Regulations made for present year to remain in force, &c.

16th VICTORIA, CHAPTER 69.

AN ACT RELATING TO THE COAST FISHERIES, AND FOR THE PREVENTION OF ILLICIT TRADE.

NEW
BRUNSWICK.

New Brunswick.

[Passed 3rd May, 1853.]

- Be it enacted, &c, as follows:—*1. Officers of the Provincial Treasury, and any other person duly appointed by the Lieutenant Governor in Council for that purpose, may go on board any vessel or boat within any harbour in this province, or hovering within three marine miles of any of the coasts or harbours thereof, and stay on board so long as she may remain within such place or distance. Vessels hovering within three miles of the coast may be boarded.
2. If such vessel or boat be bound elsewhere, and shall continue within such harbour, or so hovering for twenty-four hours after the master shall have been required to depart, any one of the officers or persons above-mentioned may bring such vessel or boat into port, and search her cargo, and also examine the master upon oath; and if the master or person in command shall not truly answer the questions demanded of him in such examination, he shall forfeit one hundred pounds, and if there be any prohibited goods on board, then such vessel or boat and the cargo thereof shall be forfeited. Proceedings when master refuses to depart.
3. If the vessel or boat shall be foreign, and not navigated according to the laws of Great Britain and Ireland, and shall be found fishing, or to have been fishing, or preparing to fish, within three marine miles of such coasts or harbours, such vessel or boat and the cargo shall be forfeited. Foreign vessels fishing, &c.

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Vessels and
goods may be
seized, &c.
Custody of
vessels and
goods seized.
Proceeds of
condemned
vessels and
goods, how
applied and
distributed.

Penalties and
forfeitures, &c.

Vessels and
goods deli-
vered on
security.

Suits, how
brought.

Proof to rest
with claimant.

Claim for
property seized
to be under
oath.

Security.

Month's
notice to
officer before
action.

Limitation.

If Judge cer-
tifies probable
cause for
seizure, no
costs allowed.

Amends may
be tendered.

4. All goods, vessels, and boats liable to forfeiture may be seized and secured by any of such officers or persons so appointed; and every person opposing them, or any one aiding such oppositions, shall forfeit two hundred pounds.
5. Goods, vessels, and boats seized as liable to forfeiture under this Act, shall be forthwith delivered into the custody of the officers of the Provincial Revenue next to the place where seized, to be secured and kept as other vessels, boats, and goods seized, are directed to be secured and kept by law.
6. All goods, vessels, and boats condemned as forfeited under this Act shall, by direction of the principal officer of the Provincial Revenue, where the seizure shall have been secured, be sold at public auction, and the produce of such sale shall be applied as follows: the amount chargeable for the custody of the property seized shall first be deducted, and paid over for that service; one half of the remainder shall be paid to the officer or person seizing the same, without deduction; and the other half, after first deducting therefrom all costs incurred, shall be paid into the Treasury of this province; but the Lieutenant Governor in Council may, nevertheless, direct that any vessel, boat, or goods seized and forfeited, shall be reserved for the public service, or destroyed.
7. All penalties and forfeitures imposed by this Act shall be prosecuted and recovered in the Supreme Court.
8. If any goods, vessel, or boat shall be seized as forfeited under this Act, the Judge of the said Court, with the consent of the persons seizing the same, may order re-delivery thereof, on security by bond to Her Majesty, to be made by the party claiming the same with two sureties. In case the property is condemned, the value thereof shall be paid into the Court, and distributed as above directed.
9. All suits for recovery of penalties, or forfeitures, shall be in the name of Her Majesty, and shall be prosecuted by the Attorney-General, or in his absence by the Solicitor-General. If a dispute arise whether any person is authorized to seize under this Act oral evidence may be heard thereupon.
10. If any seizure take place under this Act, and a dispute arise, the proof touching the illegality shall be upon the owner or claimant.
11. No claim to anything seized under this Act, and returned into said Court for adjudication, shall be admitted unless the claim be entered under oath, with the name of the owner, his residence and occupation, and the description of the property claimed, which oath shall be made by the owner, his attorney, or agent, and to the best of his knowledge and belief, before any Justice of the Peace.
12. No person shall enter a claim to anything seized under this Act until security shall have been given, in a penalty not exceeding sixty pounds, to answer and pay costs occasioned by such claim, and in default of such security the things seized shall be adjudged forfeited, and shall be condemned.
13. No writ shall be sued out against any officer or other person authorized to seize under this Act, for anything done thereunder, until one month after notice in writing delivered to him or left at his usual place of abode by the person intending to sue out such writ, his attorney, or agent; in which notice shall be contained the cause of action, the name and place of abode of the person who is to bring the action, and of his attorney, or agent; and no evidence of any cause of action shall be admitted, except such as shall be contained in the notice.
14. Every such action shall be brought within three months after the cause thereof has arisen.
15. If on any information or suit brought to trial under this Act, on account of any seizure, judgment shall be given for the claimant, and the Judge or Court shall certify on the Record that there was probable cause of seizure, the claimant shall not recover costs, and the person who made the seizure shall not be liable to any indictment or suit on account thereof. And if any suit or prosecution be brought against any person on account of such seizure, and judgment shall be given against him, and the Judge or Court shall certify there was probable cause for the seizure, then the plaintiff, besides the thing seized, or its value, shall not recover more than two pence damages, and no costs of suit; and the defendant shall not be fined more than one shilling.
16. The seizing officer may within one month after notice of action received tender amends to the party complaining, or his attorney, or his agent, and plead such tender.

17. All actions for the recovery of penalties or forfeitures imposed by this Act must be commenced within three years after the offence committed.

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18. No appeal shall be prosecuted from any decree or sentence of any Court in this Province, touching any penalty or forfeiture hereby imposed, unless the inhibition be applied for and decreed within twelve months from the decree or sentence being pronounced.

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Limitation of actions.
Appeals.

19. All coasting vessels under sixty tons burthen, owned in this Province, and engaged in the coasting trade thereof, shall be furnished with a narrow piece of plank, or iron, affixed to the bottom of the keel, and level therewith, extending aft at least six inches beyond the aperture between the sternpost and rudder, and well secured on the keel; but this section shall not extend to vessels in which the main or false keel extends six inches beyond the aperture between the sternpost and rudder.

Coasting vessels.

20. Any owner or master of a coasting vessel not so furnished or built, running foul of any net set within or off the harbours, bays, or rivers of the coast of this Province, shall, upon due proof thereof, forfeit five pounds, to be recovered by the party injured to his own use as a private debt, leaving to such party grieved, nevertheless, his rights at common law for any further damages.

Forfeiture for destroying nets.

21. The owner of every vessel or boat under the burthen of fifteen tons belonging to this Province, and employed in fishing, coasting, or piloting, shall furnish a written description of the same, together with his own name, place of abode, and occupation, to the chief officer of the Provincial Treasury of the district wherein the owner resides; such officer shall thereupon grant to the owner a certificate, that the requisite description has been filed with him, and that a certain number has been fixed thereto; which number shall thereafter be painted conspicuously on both bows in figures not less than nine inches in length, and on the mainsail of such vessel or boat in figures not less than three feet in length.

Vessel or boat under fifteen tons to have distinguishing number.

22. Vessels or boats belonging to owners residing within the Bay of Fundy shall be distinguished by numerals in red on the bows and mainsail; and vessels or boats belonging to owners residing on the Gulf coast of this Province shall be distinguished by numerals in black upon a white patch on each bow, and in black upon the mainsail of such boat or vessel.

Colour of numbers.

23. Every vessel or boat under the burthen of fifteen tons belonging to this Province, and found fishing, coasting, or piloting near its shores, without bearing a distinguishing number on the bows and mainsail, as above provided, shall be seized and detained until properly numbered, and until the payment of a fine not exceeding five pounds.

Vessel or boat to be seized and forfeited.

24. If the owner of any vessel or boat under the burthen of fifteen tons shall make any false or fraudulent description of the same, or any misrepresentation whatsoever, in order to obtain a certificate and number therefor, he shall forfeit twenty pounds.

Penalty.

25. If any person shall make a false or fraudulent declaration, oath, or representation with reference to the sale, transfer, registry, or re-registry of any ship or vessel above the burthen of fifteen tons, or shall conspire or collude with a foreigner in any false or fraudulent transfer of a foreign ship or vessel, either to obtain a British register therefor, or for any false, fraudulent, or deceptive purpose, or shall wilfully and knowingly aid in giving to the master or owner of a foreign vessel, being a foreigner, the character of a British subject, or to a foreign vessel the character of a British vessel, he shall forfeit one hundred pounds.

Penalty for false or fraudulent proceedings, &c.

26. The Lieutenant-Governor may by Commission under the Great Seal appoint the officer in command of any of Her Majesty's vessels of war, employed on the coasts of this Province in the protection of the Fisheries, to be a justice of the peace in any or every county of this Province; such Commission to be in force while such officer is employed on the coast in the protection of the Fisheries, and in command of one of Her Majesty's vessels.

Lieutenant Governor may grant Commission of the Peace, &c.

27. In this chapter, "vessels" shall include ships, and "harbours" shall include ports, bays, and creeks.

Definition of terms.

28. This Act shall not come into operation until Her Majesty's approbation is thereunto had and declared.

Suspending clause.

[This Act was specially confirmed, ratified, and finally enacted by an Order of Her Majesty in Council, dated 24th October, 1853, and published and declared in the Province 16th November, 1853.]

APPENDIX.

PRINCE EDWARD
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PRINCE EDWARD ISLAND ACT, 6 VICTORIA, CAP. 14.

AN ACT relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward Island, and the Coasts and Harbours thereof.

(Passed April 15th, 1843.)

For Acts for prevention of illicit trade, &c., see 3 Vict., c. 15, and 10 Vict., c. 8.

Officers of Customs &c., authorised to board vessels, &c., within three marine miles of this island.

Power of such officers, &c.

Prohibited goods on board such vessel to be forfeited, and vessel, &c., if foreign, found fishing within limits, to be forfeited.

WHEREAS by the Convention made between his late Majesty King George the Third and the United States of America, signed at London on the twentieth day of October, in the year of Our Lord One thousand eight hundred and eighteen, and the statute made and passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of His late Majesty King George the Third, all foreign ships, vessels, or boats, or any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks, or harbours whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first Article of the said Convention, are liable to seizure: and whereas the United States did, by the said Convention, renounce for ever any liberty enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: provided however that the American fishermen should be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them: and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this Island are materially impaired: and whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens that persons found within the distances of the coasts aforesaid, infringing the Articles of the Convention aforesaid, and the enactments of the statute aforesaid, on being taken possession of, profess to have come within said limits for the purpose of shelter and repairing damages therein, or to purchase wood or obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this Island, and the fishery carried on contrary to the said Convention and Statute: Be it therefore enacted by the Lieutenant-Governor, Council, and Assembly, that from and after the passing of this Act, it shall be lawful for the officers of Her Majesty's Customs, the officers of Impost and Excise, the Sheriffs and Magistrates throughout this Island, and any person holding a commission for that purpose from His Excellency the Lieutenant-Governor, for the time being, to go on board of any ship, vessel, or boat within any bay, port, creek, or harbour in this Island, and also to go on board any ship, vessel, or boat hovering within three marine miles of any of the coasts, bays, creeks, or harbours thereof, and in either case freely to stay on board such ship, vessel, or boat, as long as she shall remain within such port or distance, and if any such ship, vessel, or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel, or boat into port, and to search and examine her cargo, and to examine the master upon oath, touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this Island, such ship, vessel, or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel, or boat shall be foreign, and not navigated according to the law of Great Britain and Ireland, and shall have been found fishing, or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creeks, or harbours of this Island, such ship, vessel, or boat, and their respective cargoes, shall be forfeited; and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

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II. And be it further enacted, that all goods, ships, vessels, and boats, liable to forfeiture under this Act, shall and may be seized and secured by any such officer of Her Majesty's Customs, officer of Impost and Excise, Sheriffs, Magistrates, or other person holding such commission as aforesaid, and every person who shall in any way oppose, molest, or obstruct any officer of the Customs, officer of Impost and Excise, Sheriff, Magistrate, or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall in any way oppose, molest, or obstruct any person acting in aid or assistance of such officer of Customs, officer of Impost and Excise, Sheriff, Magistrate, or other person so commissioned and employed as aforesaid, shall, for every such offence, forfeit the sum of two hundred pounds.

Further powers of officers of Customs, &c. Penalty on persons molesting or obstructing officers, &c.

III. And be it further enacted, that all goods, ships, vessels and boats, which shall be seized as being liable to forfeiture under this Act, shall be taken forthwith and delivered into the custody of the Collector of Customs, at the Custom-house next to the place where the same were seized, who shall secure and keep the same in such manner as other vessels and goods seized are directed to be secured by the Commissioners of Her Majesty's Customs.

Goods, vessels, &c., seized to be delivered to nearest collector of Customs, who shall secure the same, &c.

IV. And be it further enacted, that all goods, ships, vessels, boats, or other things, which shall have been condemned as forfeited under this Act, shall, under the direction of the principal officer of the Customs or Excise, where such seizure shall have been secured, be sold by public auction to the best bidder, and the produce of such sale to be applied as follows, that is to say: the amount chargeable for the custody of said goods, ship, vessel, boat, or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties—one of which shall be paid to the officer or other person or persons legally seizing the same, without deduction, and the other moiety to the Government, and paid into the Treasury of this Island—all costs incurred having been first deducted therefrom: provided always, that it shall be lawful for the Lieutenant-Governor in Council to direct that any of such things shall be destroyed, or reserved for the public service.

Goods, vessels, &c., condemned to be sold at public auction.

Appropriation of proceeds of such sale.

V. And be it further enacted, that all penalties and forfeitures which may be hereafter incurred under this Act, shall and may be prosecuted, sued for, and recovered, in the Court of Vice-Admiralty having jurisdiction in this island.

Proviso.

Mode of recovery of penalty.

VI. And be it further enacted, that if any goods, or any ship, vessel, or boat shall be seized, as forfeited under this Act, it shall be lawful for the Judge or Judges of any Court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security, by bond, with two sufficient sureties, to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation, and such bond shall be taken to the use of Her Majesty, in the name of the Collector of the Customs, in whose custody the goods, or ship, vessel, or boat may be lodged, and such bond shall be delivered and kept in the custody of such Collector; and in case the goods, or ship, vessel, or boat shall be condemned, the value thereof shall be paid into the hands of such Collector, who shall cancel such bond, and distribute the money paid in such manner as is above directed.

Judge of Court having jurisdiction in case of goods, vessels, &c., seized, may release the same on security being given therefor. Bond to be taken for same.

Collectors to distribute amount of bond if goods, vessel, &c., be condemned.

VII. And be it further enacted, that no suit shall be commenced for the recovery of any penalty or forfeiture under this Act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's Advocate or Attorney-General, or in his absence, by the Solicitor-General, for this Island; and if any question shall arise, whether any person is an officer of the Customs, Excise, Sheriff, Magistrate, or other person authorized to seize as aforesaid, *vis a vis* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

Regulates the mode of prosecuting suits for penalties under this Act.

VIII. And be it further enacted, that if any goods, ship, vessel, or boat shall be seized for any cause or forfeiture under this Act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof shall be on the owner or claimant of such goods, ship, vessel, or boat, and not on the officer or person who shall seize and stop the same.

Onus of proof of illegality of seizure to be on claimant.

IX. And be it further enacted, that no claim to anything seized under this Act and returned into Her Majesty's Court of Vice-Admiralty for adjudication, shall be

No claim to anything seized under this Act to be admitted until

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Certain requisites be
compil'd with.

No claim to be
admitted until
security be given,
Amount of security
and condition thereof.

Defences made of pro-
ceeding against any
officer of Customs,
Excise, Magistrate,
&c., for anything
done under this Act.

Limits time for
bringing any action
against any officer of
Customs, &c., for any
thing done under this
Act.
Mode of proceeding
in such actions.

If verdict be found
for any claimant on
certificate of Judge or
Court, &c., no costs
to be allowed to
claimant, nor seizing
officer liable to any
action, &c.

Seizing officer, &c.,
may tender amends
within one month
after notice of action,
to I plead such tender,
&c.

Officer, &c., may pay
money into Court.

admitted, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, and every person making a false oath thereto shall be deemed guilty of a misdemeanour, and shall be liable to the pains and penalties to which persons are liable for a misdemeanour.

X. And be it farther enacted, that no person shall be admitted to enter a claim to anything seized in pursuance of this Act, and prosecuted in this island, until sufficient security shall have been given in the Court where such seizure is prosecuted, in a penalty not exceeding sixty pounds, to answer and pay the costs occasioned by such claim, and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

XI. And be it further enacted, that no writ shall be sued out against, nor a copy of any process served upon, any officer of the Customs, Excise, Sheriff, Magistrate, or other person authorized to seize as aforesaid, for anything done in the exercise of this office, until one calendar month after notice, in writing, shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given, and, in default of such proof, the defendant shall receive in such action a verdict and costs, or judgment of nonsuit shall be awarded against the plaintiff, as the Court shall direct.

XII. And be it further enacted, that every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in Her Majesty's Supreme Court of Judicature for this island, and the defendant may plead the general issue, and give the special matter in evidence: and if the plaintiff shall become nonsuited, or shall discontinue the action, or if, upon a verdict of demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

XIII. And be it further enacted, that in case any information or suit shall be brought to trial, on account of any seizure made under this Act, and a verdict shall be found for the claimant therefore, and the Judge or Court before whom the cause shall have been tried, shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of any such seizure; and if any such action, indictment, or other suit or prosecution shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the things seized or the value thereof, shall be entitled to no more than two pence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

XIV. And be it further enacted, that it shall be lawful for any such officer of the Customs, Excise, or Sheriff, or Magistrate, or other person authorized to seize as aforesaid, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas, and if the jury shall find the amends sufficient, they shall give a verdict for the defendant, and in such case, or in case the plaintiff shall become nonsuit, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only; provided always, that it shall be lawful for such defendant, by leave of the Court where such action shall be brought, at any time before or after issue joined, to pay money into Court as in other actions.

XV. And be it further enacted, that in any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than two pence damages, nor to any costs of suit.

XVI. And be it further enacted, that all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act may be commenced or prosecuted at any time within three years after the offence was committed by reason whereof such penalties or forfeitures shall be incurred, any law, usage, or custom to the contrary notwithstanding.

XVII. And be it further enacted, that no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's Courts in this island, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

XVIII. And be it further enacted, that this Act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto, and an order made by Her Majesty in Council, that the clauses and provisions of this Act shall be the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbours of the Island of Prince Edward.

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If Judge or Court certifies probable cause of seizure, plaintiff only to be entitled to 2d. damages and to no costs.

All penalties or forfeitures under this Act may be recovered within three years after the offence committed or forfeiture incurred.

No appeal allowed from sentence of any Court under this Act, unless applied for within twelve months after.

Suspending clause.