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CONFIDENTIAL.

CORRESPONDENCE

RESPECTING THE

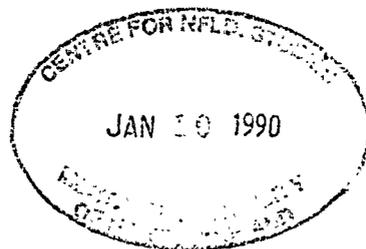
BRITISH NORTH AMERICAN FISHERIES,

AND THE

COMMERCIAL CONVENTION

WITH THE

UNITED STATES.



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Correspondence respecting the British North American Fisheries.

No. 1.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, June 9, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the accompanying copy of a letter which he has addressed to the Lords Commissioners of the Admiralty, on the subject of protecting the Colonial fisheries in British North America; and I am to request that you will move Lord Malmesbury to cause the substance of this letter to be communicated to the American Minister in this country.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure in No. 1.

Sir J. Pakington to the Lords Commissioners of the Admiralty.

My Lords,

Downing Street, June 2, 1852.

URGENT representations having been addressed to Her Majesty's Government by the Governors of the British North American Provinces, complaining of the encroachment of vessels belonging to citizens of the United States of America, on the fishing-grounds reserved to Great Britain by the Convention of 1818, whereby the Colonial fisheries are most seriously prejudiced, I have to signify Her Majesty's commands to your Lordships, to give directions for stationing off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing-vessels and steamers, as shall in the judgment of your Lordships be sufficient to prevent the infraction of the Treaty.

It is the command of the Queen, that the officers employed upon this service should be specially enjoined to avoid all interference with the vessels of friendly Powers, except when they are in the act of violating the provisions of the Treaty; and on all occasions to avoid giving ground of complaint, by the adoption of harsh or unnecessary proceedings when circumstances compel their arrest or seizure.

It is of importance that the cruizers in question should be stationed immediately on the fishing-grounds, as the fishing season has commenced and is of short duration.

I am, &c

(Signed) J. S. PAKINGTON.

No. 2.

The Earl of Malmesbury to Mr. Crampton.

(No. 59.)

Sir,

Foreign Office, June 15, 1852.

I TRANSMIT to you herewith a copy of a letter* which the Secretary of State for the Colonies has addressed to the Admiralty, signifying Her Majesty's commands that proper naval protection should be afforded to British fisheries, in order to prevent encroachments by citizens of the United States or other unauthorized persons; and I have to acquaint you at the same time, that I have also signified the Queen's commands to the Admiralty, that the British fisheries to the neighbourhood of which the French resort should also be efficiently protected.

You will take an opportunity of making this matter known to the Government of the United States, as a measure adopted by Her Majesty's Government to prevent a repetition of the complaints which have so frequently been made to Her Majesty's Government against encroachments on British rights by both American and French fishermen.

I am, &c.

(Signed) MALMESBURY.

No. 3.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, July 16, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the officer administering the Government of Nova Scotia, reporting the measures taken by the government of that province for the protection of the fisheries on the coasts; and I am to state that Sir John Pakington will be glad to receive any observations which his Lordship may have to offer upon the instructions which have been given to the Commanders of the colonial vessels to be employed on this service.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 3.

Colonel Bazalgette to Sir J. Pakington.

Sir,

Government House, Halifax, June 24, 1852.

REFERRING to your despatch of the 27th May, and to mine of the 9th instant, I have now the honour to transmit a copy of a despatch which I yesterday addressed to his Excellency Sir George Seymour, with copies of several documents therein inclosed.

These papers will put Her Majesty's Government in full possession of the measures taken by the Government of Nova Scotia for the protection of the fisheries, and show how deep an interest is felt in the subject in this maritime portion of Her Majesty's Dominions.

I have, &c.

(Signed) JOHN BAZALGETTE,
Administrator of the Government.

Inclosure 2 in No. 3.

Colonel Bazalgette to Vice-Admiral Sir G. Seymour.

Sir,

Government House, Halifax, June 23, 1852.

YOUR Excellency is aware that for some years past the importance of protecting the reserved fishing-grounds of North America from unauthorized intrusion, has engaged the attention of the Government and Legislature of this province.

Of late this subject has assumed a degree of importance from the growth of our commercial marine, of which the produce of the fisheries form the staple export, and from the refusal of the American Government, while its citizens annually swarm upon our reserved fishing-grounds, to reciprocate the commercial privileges conferred by Imperial legislation.

An agreement for mutual co-operation between the provinces in the protection of our fishing privileges was entered into by delegates from the provinces, who met at Toronto in June last, of which I have the honour to inclose your Excellency a copy.

During the last session of the Legislature, and under the administration of my predecessor, a very determined spirit was manifested, and very liberal provision was made to increase the force which under the Provincial Act 6 Wm. IV, chap. 8, has from time to time, with the knowledge and sanction of Her Majesty's Government, been employed in this service.

On assuming the Government, I found this provision made, and as the season for preparation was short, I deemed it my duty, acting on the advice of the Executive Council, to give the necessary instructions for fitting out as many cutters as the sum voted would maintain.

These vessels were advertised for prior to the receipt of Sir John Pakington's despatch of the 27th ultimo, announcing the determination of Her Majesty's Government to employ an additional force of steamers or other small vessels on the coasts of North America this season.

Though this announcement was received with extreme satisfaction by the Council, it was still thought desirable that the Provincial cruizers should be fitted out and commissioned.

They are the brigantines "Halifax" and "Belle," and the schooners "Daring" and "Responsible."

These vessels are now ready for sea, and I have the honour to inclose to your Excellency :

1st. A copy of the commissions given to the commanders.

2nd. A copy of their general instructions.

3rd. Copy of an official letter from the Provincial Secretary, conveying their sailing orders.

I shall feel very much obliged to your Excellency for any suggestions which may enable me to make these more complete, and I will most gladly avail myself of the aid of your Excellency's more thorough acquaintance with the subject and long professional experience.

The object which the Imperial and the Provincial Governments have in view I take to be the same efficient protection of a valuable national resource in a spirit of firmness and prudence which shall not endanger by any rash or ill-advised act, the peace between two kindred and friendly nations.

I have, &c.

(Signed) JOHN BAZALGETTE,
Administrator.

Inclosure 3 in No. 3.

Commission issued by Colonel Bazalgette.

Province of Nova Scotia.

(Signed) J. BAZALGETTE.

By his Honour Colonel John Bazalgette, Administrator of the Government and Commander-in-chief in and over Her Majesty's Province of Nova Scotia and its Dependencies, Deputy Quartermaster-General to Her Majesty's Forces serving in the said Province, &c.

———— Esquire, greeting.

By virtue of the authority in me vested by the Royal Commission and by the Law of the province, I do by these presents, by and with the advice and consent of Her Majesty's Executive Council for the said province, commission and appoint you to be during pleasure, an officer to enforce on the coasts and within the limits of the same province, the laws and regulations now in force or which may be established for the protection of the fisheries thereof and for the prevention of illicit trade; and I do by these presents give and grant unto you all the powers and authorities which by virtue of the Convention between the Governments of Great Britain and the United States, entered into in the year of our Lord one thousand eight hundred and eighteen, and the laws of the realm and of this province, are or may be established for enforcing the stipulations of the said Convention and protecting the fisheries of the said province.

Given under my hand and the Great Seal of the said province, at Halifax, the 22nd day of June, in the sixteenth year of Her Majesty's reign, A.D. 1852.

By his Honour's command,

(Signed) JOSEPH HOWE.

 Inclosure 4 in No. 3.

Instructions for the Commanders of the Vessels employed by the Government of Nova Scotia for the Protection of the Fisheries.

1. TO keep a correct log, and particularly as to every circumstance connected with the fishery, noting carefully all foreign shipping-vessels, cargo, tonnage, crew, and voyage.

2. Seize all American fishing-vessels found fishing within three miles of the coast of Nova Scotia.

3. The rights of fishery ceded to the United States and retained by British subjects, depend on the Convention of 1818, and the Acts of this province passed in 1836 and the 59th George III, chap. 38, with copies of which you are furnished.

4. By the said Convention the United States renounce for ever any liberty previously enjoyed to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of Her Majesty's Dominions in America, and such vessels are liable to seizure for curing fish within the limit aforesaid; due caution must be observed not to interfere with vessels fishing at other places than the coast of Nova Scotia, as the Convention differs when treating with regard to the Labrador Coast, Newfoundland, Magdalen Islands, Bay of Fundy.

5. If a vessel be found fishing within the limit, and escape, she may be followed and seized, or be subsequently captured in the prosecution of the same voyage.

6. All seizures must be placed in custody of the nearest convenient custom or excise collector, and information, with a statement of the facts, and the depositions of the master and three of the crew, be sent to the Attorney-General through the Provincial Secretary.

7. If a vessel infringing the law will not heave-to, a round shot or two may be fired well before her bow; and if she cannot otherwise be brought to yield, she may be fired into; but resort to this measure can only be justified when every other prudent effort has failed.

8. On capture it will be advisable to take part of the foreign crew on board the cutter under your command, and place some of your own crew on board the foreign vessel as a measure of precaution.

9. When any of Her Majesty's ships are met with in port, you should go on board and confer with the naval commander, and receive any suggestions he may feel disposed to give which do not conflict with your general instructions.

10. You will report your proceedings briefly in a letter to the Provincial Secretary whenever you enter a port where there is a post office, always noting where instructions will reach you, by return of mail.

Inclosure 5 in No. 3.

The Provincial Secretary to the Officers commanding the Provincial Schooners.

Sir,

Halifax, June 23, 1852.

I HAVE it in command from the Administrator of the Government to transmit to you herewith a commission authorizing you to prevent foreign encroachment on the Provincial fishing-grounds, together with copies of the Imperial and Provincial Acts, the provisions of which you are hereby appointed to enforce for the protection of the fisheries of the Province, and the prevention of illicit traffic.

The privileges to which American fishermen are entitled, and your powers and duties as a seizing or as a protecting officer, are clearly stated in the Acts referred to.

Instructions for your guidance are also inclosed, by which, and the documents above stated, you will be careful to govern yourself in every particular, with that cautious consideration and deliberate firmness so essentially required from the officer to whom such important and responsible duties are entrusted.

I have, &c.
(Signed) JOSEPH HOWE.

No. 4.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, July 19, 1852.

I AM directed by the Earl of Malmesbury to transmit to you copies of a letter and its inclosures from the Colonial Office, respecting the protection of the British fisheries off the coasts of British North America; and I am to request that you will move the Lords Commissioners of the Admiralty to favour Lord Malmesbury with copies of the instructions which have been given to Her Majesty's officers who have been sent to watch these fisheries; and to acquaint him whether their Lordships' approve of the instructions given by the Nova Scotian Government to the Commanders of the colonial vessels which are to be employed on the same service.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 5.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, July 19, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you the copy of a memorandum of legal points relative to the due execution of the Convention of 1818 for the North American fisheries, transmitted by Vice-Admiral Sir George Seymour, by letter 8th July; and to acquaint you, for the information of the Earl of Malmesbury, that my Lords would be glad to be furnished with the necessary instructions to forward to Sir George Seymour.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure in No. 5.

*Memorandum of Legal Questions relative to the North American Fisheries.**“Cumberland,” Halifax, July 8, 1852.*

WHETHER under the Act 59 Geo. III, cap. 38, the commanding officers of Her Majesty's ships or vessels require any commission from the Governors, or officers administering the government of the Colonies, to carry out the stipulations of the Convention of 1818 with the United States, relative to the fisheries on their respective coasts, either in seizing fishing-vessels infringing the regulations, or in compelling them to quit any port or harbour, when they are not there for the purposes defined by the Convention; or whether the orders under which such commanding officers are acting under competent authority from the Imperial Government, are sufficient to enable them to enforce the terms of the Convention?

2. The fishing-vessels of the United States are found in great numbers at Port Hood, and adjacent harbours in Cape Breton, New Brunswick, and those of Prince Edward Island, where they pass their Sundays, and the men land in great numbers, which leads to illegal traffic and to an undue influence over the inhabitants, and from their numbers, are beyond control. Such entry not being included under the causes admitted by the 3rd clause of 59 George III, cap. 38, can a vessel so offending be seized by Her Majesty's ships for a contravention of the Act (or if she remains or returns after receiving due notice of the illegality of the practice), or is the offence only punishable under the 4th clause by the colonial authorities, after notice has been given, by the imposition of penalty, recoverable in the Supreme Court of the colony? and how are offenders to be detained in the latter case?

3. It being agreed in the Convention of 1818, that the inhabitants of the United States may take fish of every kind on the shores of the Magdalen Islands, Sir John Dodson and Mr. Wilde gave an opinion in their letter to Viscount Palmerston, in August 1841, that American citizens have no right to land on those islands, or to conduct the fishery from its shores.

Nevertheless, I find that an instruction has been issued on the North American station, by successive Commanders-in-chief, commencing in 1828, that practical interference with the United States' fishermen on the Magdalen Islands should be avoided, although their right to fish from the shores, or to dry and cure their fish there, should not be acknowledged. It is now reported that the crews of the United States' vessels interrupt the fisheries of Her Majesty's subjects at the Magdalen Islands.

I have to request instructions whether United States' vessels so fishing from the shores of the Magdalen Islands, or in drying and curing fish on the said islands, shall be seized, and whether with or without warning, for infraction of the Treaty?

The Magdalen Islands are under the Government of Canada, and considered to make part of the County of Gaspé, but I understand there are at present no means whatever of enforcing measures by civil power.

(Signed) G. F. SEYMOUR,
Vice-Admiral and Commander-in-chief.

I subjoin some queries on points respecting the construction of the Convention, which were held doubtful in this province when the late instructions to their vessels were framed.

1. Has an American fishing-vessel a right to enter a harbour of Nova Scotia in severe weather, and afterwards proceed to sea without purchasing wood and water, or is she liable to seizure under existing laws?

2. If an American fishing-vessel should approach within the limit, and thus violate the terms of the Convention and the existing laws, and escape beyond three miles, can she be seized by a provincial cutter on the high seas beyond the three marine miles?

3. How far do the regulations passed by His Majesty in Council in 1836 extend? Can a vessel commissioned by the Province of Nova Scotia enforce the observance of these regulations in the waters around the Provinces of Nova Scotia, New Brunswick, or Prince Edward Island? Can a cutter commissioned by the Government of Nova Scotia enforce the 59 George III, cap. 38?

(Signed) G. F. SEYMOUR.

No. 6.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, July 28, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the consideration of the Earl of Malmesbury, copy of a despatch from the officer administering the Government of New Brunswick, reporting the seizure by Lieutenant Kynaston, R.N., of an American schooner, for taking fish within the limits prescribed by the Treaty of 1818.

I am to add that, unless the Earl of Malmesbury sees any objection to such a course, Sir John Pakington proposes to approve the steps taken by the Acting Governor on this occasion.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 6.

Lieutenant-Colonel Murray to Sir J. Pakington.

Sir,

Government House, Fredericton, N. B., July 1, 1852.

I HAVE the honour to report that Lieutenant Kynaston, R.N., who has been stationed by the Admiral on this command, in the Bay of Fundy, for the protection of the fisheries, has seized an American schooner for taking fish within the limits prescribed by the Treaty of 1818.

Lieutenant Kynaston, in announcing this capture to me, has requested directions with regard to the usage of the American fishermen, namely, to resort to our shores for procuring bait. This, he believes, to be unlawful. I have referred the matter to the Attorney-General of this province, who concurs with Mr. Kynaston in considering this practice as an infraction of the Convention of 1818, and not warranted by any subsequent Act.

The terms of the Treaty are very explicit. They limit the privilege of the American fishermen to entering our bays and harbours "for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever."

It further lays down, "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 abusing the privileges hereby reserved to them."

Lieutenant Kynaston points out that an impetus is giving to smuggling and other illicit barter by the American fishermen thus procuring bait on our coasts, and I have therefore instructed him to put a stop to the practice.

I inclose, for your further information, copies of the correspondence which has taken place on this subject.

I have, &c.
(Signed) FREEMAN MURRAY.

Inclosure 2 in No. 6.

Lieutenant Kynaston to Lieutenant-Colonel Murray.

Sir,

"Netley," St. John's, N. B., June 23, 1852.

I HAVE the honour to inform you that I have seized and delivered over in charge to the custom-house authorities at this port, the fishing schooner "Coral," belonging to the Port of Machias in the United States, for an infraction of the Treaty of 1818, by taking fish on the 16th instant off the north head of Grand Manan, almost within musket-shot of the shore.

I have been unwilling to deal more leniently with this case, from the fact that three out of five composing the "Coral's" crew (the master included) are actually British subjects and natives of Grand Manan, and, as such, their intru-

sion on the fishing-grounds of their countrymen under a forbidden flag, I can only view as a gross act of trespass, which since it appears not to be confined to one solitary instance, I have thought proper to visit according to the discretionary powers vested in me by the Commander-in-chief, with the extreme penalty awarded by the Act, by sending her in for trial.

Moreover, I find there is a notion existing among some few of the Grand Manan islanders—among too many, perhaps, for the interest of our fisheries in general, and the encouragement of British industry—that the fact alone of sailing under the American flag entitles the parties to the same privileges they are allowed to enjoy under their own. Many, therefore, prefer to take the pay, to share the fortunes of the American fishermen in their better-found vessels, and to reap the benefit of the bounty awarded to the latter, to the endeavour by energy and perseverance to work out an independent livelihood under their own national colours.

To this propensity I cannot but attribute in a considerable measure the superiority of American vessels in size, number, and equipments over our own; and to this falling off of many of the most youthful and active of our fishermen, a proportionate decline of our fishing interests may sooner or later be traced. And although I am informed that there is no actual penalty awarded to British subjects caught in an act of trespass, as in the case of the “Coral,” any check tending to discourage such a course I conceive to be a source of benefit to the cause in view.

There is another point to which I would beg to call your attention; it is this: That foreign vessels (of course I allude to those of the United States who frequent this bay) are in the habit of making periodical visits to our harbours where there are herring-weirs, for the purpose of procuring bait by barter or otherwise. Now, however much the interests of certain parties, and the desire of conciliating the neighbouring Powers, may have allowed this practice to remain so long unchecked as to become an habitual custom, it seems to me totally at variance with the terms of the Imperial Act, which sanctions the entering of foreign vessels into our ports for the purpose of replenishing the supply of wood and water, of shelter and of repairs, and which distinctly states, “for no other purpose whatever.”

It is certain that this privilege of procuring bait out of the weirs *ad libitum*, not only tends to seal the advantages enjoyed by American fishermen over our own, but in some places it gives an impetus to smuggling and other illicit barter, while at Grand Manan, where the shares of the weirs are almost exclusively held by Americans, the more lawful mode of purchase can be no source of benefit to our own countrymen. And while at the same time I would join with the inhabitants of this province in any step to conciliate and concede every privilege to the industrious fishermen of the United States, compatible with justice to our own, as a British officer I cannot shut my eyes, after it has once come under my notice, to what appears to me at present to be an abuse of the Convention under which it has my duty to act.

I am therefore anxious to learn whether there is any Act of the Provincial Legislature of New Brunswick which tends to sanction the practice to which I now refer, that I may be better able to regulate my future movements.

I have, &c.

(Signed) A. F. KYNASTON.

Inclosure 3 in No. 6.

Lieutenant-Colonel Murray to Lieutenant Kynaston.

Sir,

Government House, Fredericton, N. B., June 29, 1852.

I HAVE to acknowledge your letter of the 23rd instant, acquainting me with the seizure by you of the American fishing-schooner “Coral,” for infringing the Convention of 1818. Your letter also contains a request for instructions as to the privileges to be allowed to the United States’ fishermen in regard of procuring bait on our coasts.

I have to convey to you my approval of the course pursued by you respecting the “Coral.”

Touching the latter part of your communication, I have submitted the case to the Attorney-General of this province, and have received from him a written opinion, of which I inclose a copy for your guidance.

You will see by this opinion, that there is no Provincial Act authorizing foreign fishermen to procure by purchase or otherwise, bait within the limits prescribed by the Convention of 1818.

I have therefore to instruct you to prevent this illegal practice, as being an infringement of the Treaty.

I have, &c.
(Signed) **FREEMAN MURRAY.**

Inclosure 4 in No. 6

Mr. Street to Lieutenant-Colonel Murray.

Sir,

Fredericton, June 28, 1852.

I BEG to state for the information of your Honour, that after examining the letter of Lieutenant Kynaston, commanding Her Majesty's ship "Netley," for the protection of the fisheries in the Bay of Fundy, under date of the 23rd instant, there is no Provincial Law or Imperial Statute that I am aware of, authorizing American or other foreign vessels to enter into our ports and harbours, or within the distance prescribed by the Treaty of 1818, to take bait or make fish-weirs. On the contrary, I conceive such to be as much an infringement of the Treaty of 1818, as to come within the three marine miles of the shore and take fish.

The words of the Treaty are plain and explicit, and are as follows: after stating that the United States thereby "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 limits therein mentioned," provides that the "American fishermen shall be permitted 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 thereon, or in any other manner abusing the privileges hereby reserved to them." Lieutenant Kynaston's construction of the Treaty is therefore quite correct, and he has, I think, acted quite right and in accordance with the letter and spirit of the Treaty, in seizing the vessel in question.

The American vessels have no right to make weirs or to do any other act inconsistent with the terms of the Treaty, and if they do they must take the consequences, and Lieutenant Kynaston will act accordingly; he evidently understands his duty.

Respectfully submitted,
(Signed) **J. A. STREET,**
Attorney-General.

No. 7.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, July 28, 1852.

WITH reference to my letter of the 16th instant, I am directed by Secretary Sir John Pakington to transmit to you, for the consideration of the Earl of Malmesbury, copy of a further despatch from the officer administering the Government of Nova Scotia, inclosing copy of the amended instructions which at the suggestion of the Vice-Admiral Sir G. Seymour have been issued to the commanders of the Colonial vessels employed in the protection of the fisheries in British North America.

I have, &c.
(Signed) **HERMAN MERIVALE.**

Inclosure 1 in No. 7.

Colonel Bazalgette to Sir J. Pakington.

Sir,

Government House, Halifax, July 8, 1852.

ON the 24th of June I had the honour to report the steps taken by the Provincial Government for the protection of the fisheries.

I have now the honour to inclose a copy of the amended instructions which, at the suggestion of Vice-Admiral Sir George Seymour, have been issued to the captains of the cutters, those a copy of which was forwarded in my despatch No. 25 having been cancelled.

I also beg to inclose the copy of a despatch which the Vice-Admiral did me the honour to address to me on the 1st of July, with a copy of my reply; and also a copy of a despatch addressed by me on the 7th of July, to his Excellency the Governor-General.

I trust that Her Majesty's Government will perceive that in availing myself of the extensive knowledge and experience of Sir George Seymour, a sound discretion has been exercised, and that while the intentions of the Legislature have been zealously carried out, due care has been taken to avoid anything which might hazard the continuance of the friendly policy and mutual good understanding which at present exist between Her Majesty's Government and that of the United States.

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

Inclosure 2 in No. 7.

Instructions for the Commanders of the Vessels employed by the Government of Nova Scotia for the Protection of the Fisheries.

1. TO keep a correct log, and particularly as to every circumstance connected with the fishery, noting with as much accuracy as convenient, all foreign fishing-vessels, tonnage, cargo, crews, and voyage.

2. When you find foreign vessels, fishing contrary to the Treaty, within three marine miles of the coast of Nova Scotia, you are to take means to secure and send them in for trial, with the necessary witnesses, when the infraction admits of clear proof.

3. The rights of fishery ceded to the United States and retained by British subjects, depend on the Convention of 1818, and the Acts of this province passed in 1836, and the 59 George III, with copies of which you are furnished.

4. By the said Convention the United States renounce for ever any liberty previously enjoyed, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of Her Majesty's Dominions in America, and such vessels are liable to seizure for curing fish within the limit aforesaid. Due caution must be observed not to interfere with vessels fishing at other places than the coast of Nova Scotia, as the Convention differs when treating with regard to the Labrador coast, Newfoundland, Magdalen Islands, and Bay of Fundy.

5. If a vessel be found violating the Treaty and effect her escape, she is still liable to detention for trial during the same voyage.

6. All seizures must be placed in custody of the nearest convenient customs or excise collector; and information, with a statement of the facts, and the deposition of the master and three of the crew, be sent to the Attorney-General through the Provincial Secretary.

7. When a vessel is found clearly infringing the Treaty, compulsory means must be used if necessary, to detain her for trial, but resort to force can only be justified after every other prudent effort has failed.

8. On capture it will be prudent to take part of the crew on board the cutter under your command, and place some of your own crew on board the foreign vessel, as a measure of precaution.

9. When any of Her Majesty's ships are met with in port you should, when 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 your general instructions.

10. You will report your proceedings briefly in a letter to the Provincial Secretary, whenever you enter a port where there is a post-office, always noting where instructions will reach you by return of mail.

(Signed) H. BELL,
Chairman, Board of Works.

Inclosure 3 in No. 7.

Vice-Admiral Sir George Seymour to Colonel Bazalgette.

Sir,

"Cumberland," Halifax, July 1, 1852.

HAVING received your letter of the 23rd ultimo, inclosing copies of instructions intended for the Commanders of the vessels employed by the Colonial Government for the important object of protecting the fisheries on the coast of Nova Scotia from foreign encroachment, and in which you requested me to offer any suggestions which may enable you to make the instructions more complete; I now do myself the honour of adding some observations to those which I have had a personal opportunity of offering for your consideration. I am well aware of the value of the object to which they refer; and in any remarks which I have already offered, or now do offer, I beg you will believe that I am actuated by a hearty desire that the instructions and conduct of Her Majesty's vessels, and those employed by the Colony, should equally conduce to its accomplishment.

In the interview which took place at the Government House on the 26th June, when the Attorney-General, the Provincial Secretary, and the Honourable Mr. Bell, Chairman of the Board of Works, were present, I had an opportunity of urging that the instructions to the Provincial vessels, and those of Her Majesty's ships employed on the same service—which enjoin moderation as well as firmness—should be in corresponding language and spirit; and as my observations were received and noted with the utmost attention, I do not consider it necessary to repeat the recommendations I offered on that part of the subject.

I stated at the same time the opinion I entertained, that the number of men assigned to the vessels was insufficient. The complement appears to have been dependent on the sum granted by the Legislature; and it was intimated that as Her Majesty's Government had now stated their determination to provide additional means for the protection of the fisheries, a smaller number of Provincial vessels might be applied, and those better manned and equipped.

With that view, I undertook, if the transfer of one or two of the vessels could be arranged, to hire them for Her Majesty's service for the same object, and manned from the flag-ship; and on the 29th ultimo I signified my readiness to employ the brigantine "Halifax," if the Government thought fit.

This proposal has not been carried into effect, as it was out of my power to assign the master, as it was proposed, if employed as a pilot in Her Majesty's service, the same proportion of the produce of any seizures to which he will be entitled under the appointment he holds from the Colonial Government, Her Majesty's Order in Council and Proclamation of the 30th July, 1849, prescribing the scale of distribution in such cases among the officers and crews of Her Majesty's ships.

Having, whilst the proposed transfer was in abeyance, visited the three vessels, "Halifax," "Belle," and "Responsible," which have been engaged by the Colonial Government, I consider it my duty to state my opinion of the insufficiency of their general equipment, when applied to control encroachments on the part of foreign fishing-vessels, said to be well fitted, and to be manned in many instances by a greater number of seamen than those engaged for the Provincial vessels (fifteen), which I consider about one half what is requisite. At present they are only

equipped and manned as the merchant-vessels employed on the coast, and were then armed with a few muskets, though it is proposed, as I understand, to procure a piece of ordnance for each vessel.

It is not unworthy of remark, that the crews of the American fishing-vessels are frequently on shares, and that the crews of the protecting vessel, under the existing Colonial law, which assigns the penalty to the seizing officer, have not the personal interest in the seizure which the crews of the vessel encroaching have in defending their property.

I should therefore recommend that as opportunities offer, means be taken to man the vessels more suitably for the important duties they have to perform, for if their present weakness should induce resistance, circumstances affecting the public honour and interests might occur, and the task of future protection by the vessels employed in the Colonial service would be rendered more difficult.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 4 in No. 7.

Colonel Bazalgette to Vice-Admiral Sir G. Seymour.

Sir, *Government House, Halifax, July 2, 1852.*

I HAVE had the honour to receive and thank your Excellency for your letter of yesterday's date.

I herewith inclose for your Excellency's information, as likewise to meet the objection expressed in your letter, a copy of the amended instructions given to the commanders of the Provincial cruizers, which you will find to embody all the suggestions you were kind enough to offer at the interview to which you refer.

I am not without the hope as the season approaches when the mackerel fisheries from the United States congregate in the Gulf of St. Lawrence, that it may be in my power so to strengthen the crews of the Provincial vessels as to render any unlawful attempt of trespassers to resist their authority abortive.

I have, &c.
(Signed) JOHN BAZALGETTE,
Administrator.

Inclosure 5 in No. 7.

Colonel Bazalgette to the Earl of Elgin and Kineardine.

My Lord, *Government House, Halifax, July 7, 1852.*

I HAVE the honour to report, that this Government, acting on the spirit of the memorandum signed at Toronto on the 31st June, 1851, but going far beyond its requirements, has fitted out four vessels for the protection of the fisheries during the present season.

I transmit copies of the commissions issued to the commanders, the instructions given to them, the sailing orders, and of an official letter which I have deemed it prudent and respectful to address to his Excellency the Naval Commander-in-chief.

I will be very much obliged to your Lordship for any information which you may be pleased to transmit, showing the nature of the arrangements made by the Government of Canada for the protection of the fisheries.

Your Lordship will judge how far it may be proper to forward copies of this despatch, with its inclosures, to Her Majesty's Minister at Washington.

I have, &c.
(Signed) JOHN BAZALGETTE,
Administrator.

No. 8.

The Secretary to the Admiralty to Mr. Addington.—(Received July 30.)

Sir,

Admiralty, July 28, 1852.

IN reply to your letter of the 19th instant, requesting to be furnished with copies of the instructions which have been given to Her Majesty's officers for the protection of the fisheries on the coasts of British North America; and to be informed if my Lords Commissioners of the Admiralty approve of the instructions given by the Nova Scotia Government to the Commanders of the Colonial vessels employed on this service; I am commanded by their Lordships to state, for the information of the Earl of Malmesbury, that they have not yet received copies of Vice-Admiral Sir George Seymour's instructions to our cruizers on this service; and that they are not prepared to offer any observations on the instructions issued by the Government of Nova Scotia to the Colonial cruizers, until they have heard from Sir George Seymour.

I am, &c.

(Signed) J. H. HAY, *Pro Sec.*

No. 9.

The Queen's Advocate to the Earl of Malmesbury.—(Received August 3.)

My Lord,

Doctors' Commons, July 30, 1852.

I AM honoured with your Lordship's commands signified in Lord Stanley's letter of the 26th instant, addressed to the Law Officers, stating that he was directed to transmit the copy of a memorandum which has been received from Vice-Admiral Sir George Seymour, requesting information upon points connected with the execution of instructions issued by Her Majesty's Government in regard to the North American Fisheries under the Convention of London of the 20th of October, 1818, and the Act 59 Geo. III, cap. 38, for carrying that Convention into effect; and to request that the Law Officers would take this paper into consideration, and report to your Lordship their opinion as to the answer which should be returned to Sir George Seymour's questions.

I obedience to your Lordship's commands I have the honour to report:

That in order to enable the Law Officers of the Crown to advise upon this case, it will be necessary that they should be furnished with copies of all the Regulations, Instructions, and Orders in Council, which have been issued with respect to the fisheries in question, since the passing of the Statute 59 Geo. III, cap. 38 (14th June, 1819), and especially of the "orders under which Her Majesty's naval officers are acting under a competent authority from Her Majesty's Government;" and also of "the Regulations passed by Her Majesty in Council in 1836," expressly referred to by Vice-Admiral Seymour.

If any instructions have been issued or laws enacted with respect to these fisheries in the North American Colonies, it would also be desirable that the Law Officers should be informed thereof, and furnished with copies.

I have, &c.

(Signed) J. D. HARDING.

No. 10.

The Secretary to the Admiralty to Mr. Addington.—(Received August 4.)

Sir,

Admiralty, August 2, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Earl of Malmesbury, the copy of a letter from Vice-Admiral Sir George Seymour, dated 16th ultimo, reporting his having sailed for Newfoundland, and the measures he has adopted for the protection of the North American fisheries.

I am, &c.

(Signed) W. A. B. HAMILTON.

Inclosure in No. 10.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, July 16, 1852.

I HAVE the honour to report, for the information of the Lords Commissioners of the Admiralty, that I sail this day, in my flag-ship, for Newfoundland, in compliance with their Lordships' order, conveyed to me in your letter of the 1st of June, and in order that I may communicate with the authorities of that island, with regard to the increased protection to the British fisheries, directed by Her Majesty's Government.

The hired tenders "Telegraph" and "Arrow," alluded to in my letter of the 8th instant, have both sailed to be employed under Commander Campbell, of the "Devastation," in the Gulf of St. Lawrence and south-west coast of Labrador. The yare officered and manned, as well as the "Netley," from the complement of the "Cumberland," the "Buzzard" not having yet arrived.

I have, &c.
(Signed) G. F. SEYMOUR.

No. 11.

Mr. Crampton to the Earl of Malmesbury.—(Received August 4.)

(No. 105. Confidential.)

My Lord,

Washington, July 20, 1852.

I HAVE the honour to inclose the copy of a private letter which I this morning received from Mr. Webster, who is now in New Hampshire, upon the subject of the measures lately taken by Her Majesty's Government for the better protection of the British fisheries on the coast of North America.

I also inclose an extract from a newspaper containing a copy of the official publication in regard to this subject, which has been made by Mr. Webster, and which is alluded to in his letter.

Your Lordship will perceive from a perusal of these documents, that Mr. Webster feels a good deal of apprehension as to the effects which may arise from the sudden interruption of the enjoyment by American fishermen of certain privileges in regard to the British fisheries, which, he states, have long been tacitly permitted without molestation on the part of the British authorities; and secondly (as he remarks in the latter part of his official publication), from the different construction which he seems to give to the provisions of the Convention of 1818, from that adopted by Her Majesty's Government, in regard to the conditions by which the privilege of fishing is limited by that Treaty; which difference, he thinks, may give rise not only to collision between the British provincial authorities and American citizens, but involve the two Governments in questions of a serious nature.

With regard to Mr. Webster's suggestion, that I should prevail upon the provincial authorities not to institute what he denominates "hostile proceedings" against American fishing-vessels, till longer notice be given, I do not of course consider myself competent to recommend to the Governors of Her Majesty's North American Colonies, the suspension of measures which have been taken under instructions from Her Majesty's Government, and the adoption of which I had myself duly announced to the Government of the United States. I thought it right, however, to address a letter, a copy of which I have the honour to inclose, to the Governor-General of Canada, to the Lieutenant-Governors of the other North American Provinces, and to Vice-Admiral Sir George Seymour, informing them of the view taken of the matter by the United States' Government, in order that they might be prepared to take such precautions as, in their judgment might seem fit, to prevent the occurrence of those collisions and difficulties which the United States' Government apprehends.

The intention expressed by Mr. Webster of recommending to the President

that the whole subject of the fisheries and of reciprocity of trade between the United States and the North American Colonies should be taken up with a view to its definitive settlement by negotiation, has rendered me still more desirous that none of those difficulties or collisions should occur; for the question of reciprocity of trade, the decision of which has so long been desired both by the Imperial and the Provincial Governments, and which is now under the consideration of Congress, with, I fear, very little prospect of being speedily decided, might, by such a negotiation (which the Government of the United States has hitherto declined to enter upon), be now brought to a prompt and satisfactory conclusion.

I have informed Mr. Webster, in reply to his invitation, that I will immediately repair to Boston, and I propose to leave Washington for that purpose to-morrow morning.

In the meantime I have had this day, at his own request, a conversation upon this subject with the President of the United States.

Mr. Fillmore urged me strongly to proceed to Boston with a view of devising with Mr. Webster some means by which collision between our respective citizens and subjects, or misunderstanding between our Governments, might be avoided until such time as the point in regard to which such collisions might arise should be settled.

We had been examining the Convention of 1818, he said; and although he contested the construction put by the British Law Officers upon the clause regarding the limits assigned within which American fishermen could not legally carry on their operations, he nevertheless admitted that the wording of the passage, which he thought somewhat obscure, countenanced to a certain degree that construction. With regard to the opinion of the Law Officers of the Crown, by which this construction was maintained, he remarked, however, that it seemed to him singular that they adverted to expressions as being used in the Treaty, which were nowhere to be found in it: he alluded to that part of the opinion where it is said, "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 interior of the bays and indents of the coast." Now, said Mr. Fillmore, there is no such term as "headland" in the Treaty at all, which would look as if the opinion had been drawn up without reference being made to the text of the Convention of 1818. He also remarked that as well as he had been able to ascertain the fact, the Government of the United States had on various previous occasions contested the construction maintained by the opinion in question.

Mr. Fillmore concluded by saying that he had been strongly urged to send some vessels of war to the fishing-grounds in question, for the purpose of protecting American interests there, but that he had hitherto declined doing so, from his apprehension of the consequences of such a measure, so long as the two Governments were not agreed as to the rights which each sought to define and to assert. What he would propose was, that Mr. Webster and myself should make some temporary arrangement of the matter until the true sense of the Treaty should be determined by the two Governments between themselves, or if necessary, be referred to the decision of some friendly Power; and he suggested that such an arrangement might be effected by each party's abstaining for the present to take any measures in assertion of their supposed right; that is to say, that the British authorities on the sea-board should refrain from molesting any American fishing-vessel which might be found to be carrying on its operations within the prescribed distance of three miles, as this is understood by the British construction of the Treaty, but at the same time without the prescribed distance, as understood by the American construction; while the United States' Government, on the other hand, should take every means in their power to prevent their own citizens from fishing within the prescribed distance as understood by the British construction, until such time as the question as to which construction ought to prevail, should be determined on, or until the question should be otherwise disposed of by treaty or mutual legislation.

I have, &c.

(Signed) JOHN F. CRAMPTON.

P.S. *New York, July 22, 1852.*—I open this despatch to inclose the copy of a publication which has been made by Mr. Webster of a despatch from Mr.

Everett to Mr. Buchanan, dated London, 26th April, 1845, which bears upon the point in question in regard to the fisheries. It would appear from this, that the United States' Government did not, at the time that despatch was written, demand as a right the privileges they now contend for, and that consequently they did not contest the construction of the Treaty then and now held by Her Majesty's Government.

J. F. C.

Inclosure 1 in No. 11.

Mr. Webster to Mr. Crampton.

My dear Mr. Crampton,

Franklin, July 17, 1852.

THE threatened interruption by force of that enjoyment of the fisheries which the fishing-vessels of the United States have so long practised and possessed, without interruption or molestation, is a serious affair, and, I fear, full of danger.

I wish to see you as soon as you can possibly come north. If I am not in Boston at the Revere House, please proceed immediately to Marshfield, bringing with you as many of your adjuncts as you please.

I have recommended to the President that we take up the whole subject of the fisheries and the Canada trade at once as matter of negotiation.

You will see in the Boston papers of Monday an official publication by me: is it not possible for you to prevail with the provincial authorities to institute no hostile proceedings against American fishing-vessels till longer notice be given, and until you and I may have conferred together on the subject.

I am anxious to see you at once.

On receipt of this inform me by telegraph when you can be in Boston.

I am, &c.

(Signed) DANIEL WEBSTER.

Inclosure 2 in No. 11.

Extract from the "Boston Courier."

Department of State, Washington, July 6, 1852.

INFORMATION of an official character has been received at this Department, to the following effect:

"The late Ministry of England was opposed to the granting of bounties on principle, and in consequence it steadily refused to give the necessary assent to Acts of the Colonial Legislatures granting bounties to the fisheries. The colonies complained severally of this interference with their local affairs; and they further complained that the Government declined to enforce the provisions of the Fishery Convention of 1818, and thereby permitted American fishermen to encroach upon the best fishing-grounds, from which, under the legal construction of the Treaty, they ought to be excluded.

"With the recent change of Ministry in England has occurred an entire change of policy. The present Secretary of State for the Colonies, Sir John Pakington, has addressed a circular letter to the Governors of the several North American Colonies, an extract from which is as follows:

' Downing Street, May 28, 1852.

' Among the many pressing subjects which have engaged the attention of Her Majesty's Ministers since their assumption of office, few have been more important in their estimation than the questions relating to the protection solicited for the fisheries on the coasts of British North America.

' Her Majesty's Government have taken into their serious consideration the representations upon this subject contained in your despatches noted in the margin, and have not failed to observe that whilst active measures have been taken by certain colonies for the purpose of encouraging their fisheries, and of repelling the intrusion of foreign vessels, it has been a subject of complaint, that

impediments should have been offered by the policy of the Imperial Government to the enactment of bounties, considered by the local Legislatures essential for the protection of this trade. Her Majesty's Ministers are desirous of removing all grounds of complaint on the part of the colonies, in consequence of the encroachments of the fishing-vessels of the United States upon those waters from which they are excluded by the terms of the Convention of 1818; *and they therefore intend to dispatch as soon as possible, a small naval force of steamers or other small vessels to enforce the observance of that Convention.*'

"This announcement is accompanied by the following, as to the bounties :

'With regard to the question of promoting the fisheries of the British Colonies by the means of bounties, Her Majesty's Government, although desirous not to sanction any unnecessary deviation from that policy which regulates the commerce of this country, are still disinclined to prevent those colonies, by the interposition of Imperial authority—and especially pending the negotiation with the United States of America for the settlement of the principles on which the commerce with the British North American Colonies is hereafter to be carried on—from adopting the policy which they may deem most conducive to their own prosperity and welfare.'

"The vessels of war mentioned in the above circular despatches are expected to be upon the coasts of British North America during the present month (July), when, no doubt, seizures will begin to be made of American fishing-vessels, which in the autumn pursue their business in indents of the coast, from which it is contended they are excluded by the Convention of 1818.

"Meantime, and within the last ten days, an American fishing-vessel, called the 'Coral,' belonging to Machias, in Maine, has been seized in the Bay of Fundy, near Grand Manan, by the officer commanding Her Majesty's cutter 'Netley,' already arrived in that bay, for an alleged infraction of the Fishing Convention; and the fishing-vessel has been carried to the Port of St. John, New Brunswick, where proceedings have been taken in the Admiralty Court, with a view to her condemnation and absolute forfeiture.

"Besides the small naval force to be sent out by the Imperial Government, the colonies are bestirring themselves also for the protection of their fisheries. Canada has fitted out an armed vessel to be stationed in the Gulf; and this vessel has proceeded to the fishing-grounds, having on board not only a naval Commander and crew, with power to seize vessels within limits, but also a stipendiary magistrate and civil police, to make prisoners of all who are found transgressing the laws of Canada, in order to their being committed to jail in that colony for trial.

"The Colony of Newfoundland has fitted out an armed vessel for the purpose of resisting the encroachments of French fishing-vessels on the coast of Labrador; but, when ready to sail from their port, the Governor of that colony, acting under Imperial instructions, refused to give the Commander of this colonial vessel the necessary authority for making prize of French vessels found trespassing. This is an extraordinary circumstance, especially when taken in connexion with the fact that the like authority to seize *American* fishing-vessels, under similar circumstances, has never been refused to the cruisers of any of the North American Colonies.

"The Colony of Nova Scotia has now four armed cruisers, well manned, on its coasts, ready to pounce upon any American vessels which may, accidentally or otherwise, be found fishing within the limits defined by the Crown Officers of England.

"New Brunswick has agreed with Canada and Nova Scotia to place a cutter in the Bay of Fundy, to look after American fishermen there; and at Prince Edward Island, Her Majesty's steam-frigate 'Devastation' has been placed under the instructions of the Governor of that colony."

The 1st Article of the Convention between the United States and Great Britain of the 20th October, 1818, is in these words :

"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 said 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, here above 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."

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 recesses of the Ocean ought to be open to American fishermen, as freely as the sea itself, to within three marine miles of the shore.

In 1841 the Legislature of Nova Scotia prepared a case for the consideration of the Advocate-General and Attorney-General of England, upon the true construction of this Article of the Convention. The opinion delivered by those officers of the Crown was :

"That by the terms of the Convention, American citizens were excluded from any right of fishing within three miles from 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, of 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 interior of the bays and the indents of the coast.*"

It is this construction of the intent and meaning of the Convention of 1818 for which the colonies have contended since 1841, and which they have desired should be enforced. This the English Government has now, it would appear, consented to do, and the immediate effect will be, the loss of the valuable fall-fishing to American fishermen; a complete interruption of the extensive fishing business of New England, attended by constant collisions of the most unpleasant and exciting character, which may end in the destruction of human life, in the involvement of the Government in questions of a very serious nature, threatening

the peace of the two countries. Not agreeing that the construction thus put upon the Treaty is conformable to the intentions of the Contracting Parties, this information is, however, made public, to the end that those concerned in the American fisheries may perceive how the case at present stands, and be upon their guard. The whole subject will engage the immediate attention of the Government.
(Signed) DANIEL WEBSTER, *Secretary of State.*

Inclosure 3 in No. 11.

Mr. Crampton to the Earl of Elgin.

(Confidential.)

My Lord,

Washington, July 20, 1852.

I HAVE the honour to inclose, for your Excellency's information confidentially, the copy of a private letter which I have just received from Mr. Webster, in regard to the measures lately adopted by Her Majesty's Government and the provincial authorities, for the protection of the British fisheries.

It is not for me to suggest to your Excellency a suspension of the proceedings which may have been adopted by order of Her Majesty's Government, against American fishing-vessels which have trespassed upon British rights, and which proceedings I have already officially assured the Government of the United States were taken in no hostile spirit, but were purely defensive, and rendered necessary by the serious injury inflicted upon an important British interest which the United States had, by treaty stipulations, engaged themselves to respect.

Your Excellency will perceive, however, that it is now contemplated by Mr. Webster to take up by negotiation the whole subject of the fisheries and of reciprocal trade with the British North American Colonies, with the exception of Newfoundland, a question, as your Excellency is aware, now under the consideration of Congress, though as yet with little prospect of its immediate decision. A definitive solution of this question has long been an object much desired by the Imperial as well as by the Provincial Governments, and it would evidently be conducive to the success of its negotiation, that it should be undisturbed by the occurrence of any hostile collision between Her Majesty's subjects and American citizens, and that all means should be taken, consistently with the proper assertion of our rights, to evince a conciliatory spirit on the part of Her Majesty's Government in regard to the matter in question.

I am about, in compliance with Mr. Webster's request, to proceed to Boston in order to confer with him in regard to this important matter.

I have, &c.

(Signed) JOHN F. CRAMPTON.

P S.—I have the honour to inclose an extract from an American newspaper, containing a copy of a publication made by the United States' Government in regard to this subject.

J. F. C.

[A similar letter addressed to the Governor of Newfoundland, the Lieutenant-Governors of New Brunswick, of Prince Edward Island, and of Nova Scotia, and to Vice-Admiral Sir George Seymour.]

Inclosure 4 in No. 11.

More about the Fisheries.

To the Editor of the "Boston Courier."

Sir,

Boston, July 20, 1852.

SINCE my return to the city this morning, I have received a copy of a despatch from Mr. Everett, then United States' Minister in London, to Mr. Buchanan, Secretary of State, which adds a very important feature to the subject of the fisheries, and which I send to you for immediate publication.

Yours, &c.

(Signed) DANIEL WEBSTER.

Sir,

London, April 26, 1845.

With my despatch No. 278, of 25th March, I transmitted the note of Lord Aberdeen, of the 10th March, communicating the important information that this Government had come to the determination to concede to American fishermen the right of pursuing their occupation within the Bay of Fundy. It was left somewhat uncertain by Lord Aberdeen's note, whether this concession was intended to be confined to the Bay of Fundy, or to extend to other portions of the coasts of the Anglo-American Possessions to which the principles contended for by the Government of the United States equally apply, and particularly to the waters on the north-eastern shores of Cape Breton, where the "Argus" was captured. In my notes of the 25th ultimo and 2nd instant, on the subject of the "Washington" and the "Argus," I was careful to point out to Lord Aberdeen that all the reasons for admitting the right of Americans to fish in the Bay of Fundy, apply to those waters, and with superior force, inasmuch as they are less land-locked than the Bay of Fundy, and to express the hope that the concession was meant to extend to them, which there was some reason to think, from the mode in which Lord Aberdeen expressed himself, was the case.

I received last evening the answer of his Lordship, informing me that my two notes had been referred to the Colonial Office, and that a final reply could not be returned till he should be made acquainted with the result of that reference; and that, in the meantime, the concession must be understood to be limited to the Bay of Fundy.

The merits of the question are so clear that I cannot but anticipate that the decision of the Colonial Office will be in favour of the literal construction of the Convention. In the meantime, I beg leave to suggest that in any public notice which may be given, that the Bay of Fundy is henceforth open to American fishermen, it should be carefully stated that the extension of the same privilege to the other great bays on the coast of the Anglo-American dependencies is a matter of negotiation between the two Governments. My notes of the 25th of March and 2nd instant will suggest the reason for presenting the actual state of the controversy in this form.

I am, &c.

(Signed)

EDWARD EVERETT.

James Buchanan, Esq., Secretary of State.

No. 12.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, August 5, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 28th ultimo, respecting the seizure by Lieutenant Kynaston, R.N., of an American schooner, for trespassing within the limits prescribed by the Fishery Convention of 1818; and I am directed by his Lordship to state to you, for the information of Secretary Sir John Pakington, that he entirely approves of Lieutenant Kynaston's conduct, and concurs in opinion with Sir John Pakington, that the proceedings of the officer administering the Government of New Brunswick should be approved.

I am, &c.

(Signed)

H. U. ADDINGTON.

No. 13.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, August 5, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the consideration of the Earl of Malmesbury, the copy of a letter with its inclosures from the Board of Admiralty, respecting the fisheries on the coasts of British North America; and to state that Sir John Pakington presumes that it will be

necessary to consult the Law Officers of the Crown on some of the queries contained in the report of Vice-Admiral Sir George Seymour, but that as others appear to involve questions of political expediency, he has thought it best to transmit the whole to Lord Malmesbury to be dealt with by him.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 13.

The Secretary to the Admiralty to Mr. Merivale.

Sir,

Admiralty, July 21, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Secretary Sir John Pakington, the copy of a letter from Vice-Admiral Sir George Seymour, dated 8th instant, and of its inclosures, respecting the North American fisheries.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 2 in No. 13.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, July 8, 1852.

I BEG to acquaint you, for the information of the Lords Commissioners of the Admiralty, that having communicated with the Governor of Newfoundland on the subject of their Lordships' orders No. 108 and 112, of the 1st and 5th ultimo, for affording increased protection to the fisheries of that colony, especially in the Straits of Belleisle, I have been acquainted by Sir Gaspard Le Marchant, that the intelligence of the measures proposed by Her Majesty's Government has been received with the most lively satisfaction.

2. Sir Gaspard having consulted with the Chamber of Commerce of St. John's, further informs me, that although schooners may be procured at St. John's, he is of opinion it would be preferable to hire such vessels at Halifax.

3. As this opinion concurs with the result of other inquiries, and the communications with Labrador are more easily carried on from this port than from St. John's, as well as that the return of the tenders' crews can be more easily arranged at Halifax at the conclusion of the fishing season, I have hired two schooners here, and they will sail immediately under the command of Lieutenant C. Malcolm and the Honourable H. W. Chetwynd, of the flag-ship, the former for Labrador by the western route, and the other to be under the orders of Commander Campbell, of the "Devastation," to afford the means of entering the shallow harbours of Prince Edward's Island, and the surrounding coasts in which the United States' fishing-vessels congregate.

4. A small steam-vessel would have better answered the purpose, but the "Mohawk" had been sold before my electric telegraph reached Kingston.

5. The "Janus" is ordered, on her arrival at St. John's, to join the "Sappho" at Belleisle, where a Provincial vessel has been sent under the direction of a stipendiary magistrate, with boats in the Straits and at Blanc Sablon.

6. It is therefore considered that no more vessels will be required in that quarter during this season.

7. The "Buzzard" steam-sloop has not yet arrived; and the packet from England, which came in yesterday, reports a strong continuance of westerly winds upon her passage.

8. Two brigantines and a schooner have been engaged by the Government of this province to protect the fisheries on the coasts of Nova Scotia and Cape Breton. They are only merchant-vessels hired with their crews, each fifteen in number, the masters acting under the commissions from the Colonial Government. The Administrator, Colonel Bazalgette, sent me a copy of the proposed instructions to the masters, and requested any suggestions I deemed necessary. I considered it my duty to recommend that they should be drawn up as much

possible in accordance with those under which I act, as I thought them less cautious than was desirable, and they were modified.

9. On inspecting the Colonial vessels, the equipment and crews appeared deficient, which was a motive for my offering to take one of the brigantines into Her Majesty's service, to enable more of the sum voted by the Provincial Legislature to be applied to render the others more efficient; but the proposed arrangement failed from my being unable to give the master the same advantages if I employed him as a pilot, which he derives in case of making seizures when holding a Colonial commission; and the vessels have sailed in less satisfactory preparation and order than is desirable for vessels employed in public service; but the Administrator informs me that he will endeavour to have their crews increased later in the fishing season.

10. The "Netley," tender to the "Cumberland," has seized and sent into St. John's, New Brunswick, the United States' schooner "Coral," of Machias. She is commanded and partly manned by British subjects, whose inducement to sail under United States' colours has probably been to avoid the duty imposed in America on importations in British vessels. Lieutenant Kynaston found her fishing nearly within musket-shot of the Grand Manan Island; and I consider the example her condemnation may afford will be very useful.

11. Her Majesty's sloop "Sappho" had arrived at St. John's, Newfoundland, on the 29th ultimo, and was to have sailed on the 3rd instant for the Straits of Belleisle.

12. I propose to sail for St. John's, Newfoundland, in consequence of their Lordships' order contained in your letter of the 1st ultimo, as soon as I have made the necessary arrangements here for the employment of the tenders and vessels in the Gulf of St. Lawrence.

13. I beg to inclose a memorandum of legal points relative to the due execution of the Convention of 1818, on which it is very desirable that the officers employed in carrying its provisions into effect should receive further instructions.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 3 in No. 13.

Memorandum of Legal Questions.

[See Inclosure in No. 5.]

No. 14.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, August 7, 1852.

THE Earl of Malmesbury having referred to the Queen's Advocate the questions put by Vice-Admiral Sir George Seymour, as alluded to in your letter of the 19th July, respecting the North American fisheries, and the interpretation to be put upon the Convention of London of the 20th October, 1818, and the Act 59 Geo. III, cap. 38, I am directed by his Lordship to transmit to you a copy of a letter from the Queen's Advocate, requesting to be furnished with certain documents relating to this matter; and I am to request that you will move the Lords Commissioners of the Admiralty to favour Lord Malmesbury with copies of the papers required by the Queen's Advocate in so far as the Admiralty is concerned.

I have, &c.
(Signed) H. U. ADDINGTON.

No. 15.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, August 7, 1852.

I AM directed by the Earl of Malmesbury to transmit to you a copy of a memorandum* drawn up by Vice-Admiral Sir George Seymour, requesting information in regard to the North American Fishery Convention of the 20th October, 1818, and the Act 59 Geo. III, cap. 38; and I am to state to you, that his Lordship, having referred this matter to the Law Officers of the Crown, has been requested by the Queen's Advocate to furnish the Law Officers with certain documents enumerated in the accompanying letter; and I am to request that you will move Secretary Sir John Pakington to favour Lord Malmesbury with copies of the papers in question.

I have, &c.
(Signed) H. U. ADDINGTON.

No. 16.

Mr. Crampton to the Earl of Malmesbury.—(Received August 8.)

(No. 106. Confidential.)

My Lord,

Boston, July 26, 1852.

IN pursuance of the intention which I had the honour of announcing to your Lordship in my despatch No. 105 of the 20th instant, I came to this place on the 23rd instant, for the purpose of conferring with Mr. Webster on the subject of the measures lately taken by Her Majesty's Government for the protection of the British fisheries.

I found Mr. Webster at Nahant, a bathing-place in the neighbourhood of Boston, and there had an interview with him; but as he was on the point of proceeding to Marshfield, where he was to be publicly received on the following day, our conversation was a short one, and he therefore begged of me to join him at Marshfield on Monday, this day, for the purpose of renewing it. He gave me a letter, however, which he had received from the President, on the subject we were about to discuss, and requested me to peruse it in the meantime. Of this letter I have now the honour to inclose a copy to your Lordship herewith.

Your Lordship will perceive that Mr. Fillmore here makes a suggestion in regard to a temporary arrangement of the difficulty in question, nearly similar to that which he made to me at my interview with him at Washington, an account of which I had the honour of giving your Lordship in my despatch No. 105, with this difference, however, that Mr. Fillmore, in his letter to Mr. Webster, would seem to propose that British fishermen, as well as American fishermen, should abstain from fishing in what he considers to be the disputed waters (viz., within bays, but at a distance from the shore of more than three marine miles); whereas in his conversation with me, he suggested only that the British authorities should abstain from seizing American fishing-vessels, if found fishing in those waters.

Your Lordship will also observe that the President speaks of the "differences of opinion which have arisen between the two Governments as to their respective *rights* under the Convention of 1818;" from which it would seem as if the American Government intended to maintain that the construction of the Treaty of 1818 really conferred upon them, as a right, the privilege which they made matter of negotiation with Her Majesty's Government in 1845; and a part of which privilege they accepted as a *concession* from Her Majesty's Government, as will appear from Mr. Everett's despatch to Mr. Buchanan, of 26th of April of that year, a copy of which despatch was published by Mr. Webster himself, a few days since, and forwarded to your Lordship in my despatch No. 105, of the 20th instant.

I do not apprehend, however, that this position can possibly be maintained by the United States' Government; and if I can judge by the tone of both Mr. Fillmore's and Mr. Webster's remarks to me in conversation, they are both of

* Inclosure in No. 5.

them aware that neither the grammatical construction of the Treaty,—a fair examination of the transactions which have taken place between the two Governments in connexion with it,—nor the repeated vindication, as applicable to the bays and harbours of the United States, of the principle maintained by Her Majesty's Government, would at all admit of such an interpretation as is now sought to be given to it in America.

Should any doubt, indeed, be entertained of the identity of the American doctrine on this subject, with that maintained by Her Majesty's Government, it would at once be removed by a reference to one of the highest legal authorities on International and Constitutional Law in the United States, I mean Chancellor Kent, who, in his "Commentaries," pages 25, 29, and 30, lays down that doctrine fully, and supports it by unquestionable authority.

I think it probable, therefore, that the present claim of the American fishermen will be supported by the United States' Government rather in the light of a sort of prescriptive liberty resulting from long undisturbed indulgence, now interrupted without sufficient notice, than as a positive right. I have no doubt also, that Mr. Webster sincerely desires to settle the question with us by a negotiation, including the whole question of reciprocal trade between the United States and the British North American Colonies. The President too, who has hitherto objected to this question being made a subject of negotiation, and who, on the ground of its being a matter regarding revenue, and therefore not clearly within the competence of the Executive and Senate (or what is called the Treaty-making Power), preferred that it should be settled by Legislation, is evidently a good deal shaken in this opinion, and would not be indisposed to sanction the conclusion of a Treaty on the subject.

It may have been partly with a view of making clearly apparent the expediency of such a negotiation being now entered into, by showing that an important American interest was likely to suffer by its further delay, and that the country might at the same time be involved in serious questions with a foreign Power, that Mr. Webster, somewhat hastily I think, made the publication on the subject, of which I had the honour of transmitting a copy to your Lordship with my preceding despatch. The excitement which has been created by this publication has been very great, greater than he himself probably wished or intended, and has given an opportunity to the more violent of the members of the Senate who are opposed to the Administration, to make some of those noisy appeals to popular feeling, which, although arising much more from a desire to embarrass their political adversaries than from real alarm or animosity, is nevertheless calculated to have a prejudicial effect upon the satisfactory settlement of the questions affecting the reciprocal commercial interests of the United States and the British North American Colonies. Those who are opposed to the settlement of those questions on purely commercial grounds, will also be but too ready to avail themselves of any feeling which would be likely to retard their definitive arrangement.

I have the honour to inclose herewith a report of a debate which took place in the Senate on this subject on Friday, the 23rd instant, and which will give your Lordship an idea of the temper in which the matter has been taken up.

I also inclose a copy of a petition to Congress, on this subject, now under signature in this city, which is largely interested in the fisheries in question.

I shall proceed to join Mr. Webster at Marshfield, to-day, but it will, I fear, be impracticable for me to forward to your Lordship, by the present packet, any report of my further proceedings from that place.

I have, &c.

(Signed) JOHN F. CRAMPTON.

P.S.—I inclose the report which I have just received of a speech delivered by Mr. Webster, on Saturday last, the 24th instant, at the public reception at Marshfield, to which I have alluded in this despatch, in which Mr. Webster adverts to the question of the fisheries, and to the course taken in regard to them by Her Majesty's Government.

J. F. C.

Inclosure 1 in No. 16.

Mr. Fillmore to Mr. Webster.

My dear Sir,

Washington City, July 20, 1852.

YOUR note of the 17th, dated Franklin, came to hand this morning, inclosing a copy of yours of the same day to Mr. Crampton; and Mr. Hunter has shown me your telegraphic despatch of yesterday, requesting him to ask me whether it was not best to send one of our naval ships to Newfoundland, to look after the disturbances among the fishermen. I have also perused your article in the "Boston Courier" of yesterday, and sincerely hope that these difficulties will not prove as serious as you seem to anticipate. I have seen Mr. Crampton, who informs me that he will leave for Boston to-morrow morning, for the purpose of having a consultation with you upon the subject of the fisheries. He informs me also that he has addressed a circular to the several Governors of the British Provinces of North America, advising moderation and forbearance upon this subject. I doubt not that when you and he meet you will be able to agree upon some line of proceeding that will allay the present excitement, and prevent any bloodshed. I would suggest that you unite in a publication, in which you should express your regrets that any misunderstanding had arisen between our fishermen engaged in the fisheries at Newfoundland and the colonial subjects of Great Britain; that the differences of opinion which have arisen between the two Governments in reference to their respective rights under the Convention of 1818, have called the attention of both Governments to the subject, and that, together with the subject of reciprocal trade between Her Majesty's Provinces of North America and the United States, will doubtless become the immediate subject of negotiation between the two countries; that, in the meantime, and until these matters can be amicably adjusted, you both concur in the opinion that under the Treaty of 1818 our citizens had the unquestioned right of fishing on the Southern and Western shore of the Island of Newfoundland, lying between the Islands of Rameaux on the south, and the Island of Quiperon on the north, and of entering upon any unoccupied lands upon the shore of said island, between Cape Ray and said Island of Rameaux, for the purpose of drying and curing fish; and also of fishing upon the shores of the Magdalen Island; and with regard to all the rest of the Island of Newfoundland, and the other islands and mainland of Nova Scotia and New Brunswick, the English Government, so far as they have not conceded it to the French, have the exclusive right of fishing in all the waters adjacent to such islands or mainland, and within three marine miles of the shore; but as for those waters in the several bays and harbours which are more than three marine miles from the shore of such bay or harbour upon either side, and within three marine miles of a straight line drawn from one headland to the other of such bay or harbour, that you, as the Representative of the United States, conceived that our fishermen have the right under the Treaty to fish therein; but the British Government having held that by a true construction of the Treaty, such right belonged exclusively to British subjects; and as those waters were thus in dispute between the two nations, you respectively advised the citizens and subjects of both countries not to attempt to exercise any right that either claimed within the disputed waters, until this disputed right could be adjusted by amicable negotiation.

I perceive by the papers that your publication in the "Boston Courier" is somewhat misunderstood, and has consequently created unnecessary alarm; and some such joint publication as I have suggested above will, I think, quiet the apprehensions of the country, and be generally acquiesced in and obeyed by the parties engaged in the fisheries. I do not of course intend to indicate the precise words of such a declaration, as I write in much haste, and you are much more competent to prepare the article than I am.

As to the subjects of negotiation, beyond those growing out of the construction of the Treaty of 1818, I will write you more fully hereafter.

I do not know whether our citizens engaged in the fisheries seek for anything more than what they would obtain under the Treaty of 1818, if it received the construction for which we contend. If they do, then that will be one additional subject of negotiation; the right of navigating the St. Lawrence and the

Welland Canal will of course be another; but the reciprocal trade between us and the British Provinces is one which I greatly prefer should be settled by legislation; if, however, that cannot be done, it may be best to settle it by a treaty for a limited time. But, as I said before, I will write you more fully upon this subject, when I have had more time for reflection.

I have seen the Secretary of the Navy, who says the "Mississippi" steam-frigate, Captain Mc Cluney, is now at New York, and could be sent to the Banks of Newfoundland, if desired. She is, however, as you are aware, intended as the flag-ship of Captain Perry, and of course will soon be wanted for that expedition. I thought, however, I would wait until you and Mr. Crampton had settled upon something definite, from which proper instructions might be drawn, before I ordered the vessel to proceed to that destination.

Regretting that this unfortunate business compels you to leave the mountains and valleys of your native State, but hoping that it will detain you but a short time,

I remain, &c.
(Signed) MILLARD FILLMORE.

Inclosure 2 in No. 16.

Speech of Mr. Webster at Marshfield, July 24, 1852.

(Extract.)

MR. SPRAGUE has made allusion to recent occurrences, threatening disturbances on account of the fisheries. It would not become me to say much on that, until I speak officially, and under direction of the head of the Government. And then I shall speak. In the meantime, be assured that that interest will not be neglected by this Administration, under any circumstances. The fishermen shall be protected in all their rights of property, and in all their rights of occupation. To use a Marblehead phrase, they shall be protected, hook and line, and bob and sinker. And why should they not? They employ a vast number. Many of our own people are engaged in that vocation. There are among you some who, perhaps, have been on the Grand Bank for forty successive years. There they have hung on to the ropes, in storm and wreck. The most potent consequences are involved in this matter. Our fisheries have been the very nurseries of our navy. If our flag-ships have met and conquered the enemy on the sea, the fisheries are at the bottom of it. The fisheries were the seeds from which these glorious triumphs were born and sprung.

Now, gentlemen, I may venture to say one or two things more on this highly important subject. In the first place, this sudden interruption of the pursuits of our citizens, which had been carried on more than thirty years without interruption or molestation, can hardly be justified by any principle or consideration whatever. It is now more than thirty years that they have pursued the fisheries in the same waters and on the same coast, in which, and along which, notice has now come, that they shall be no longer allowed these privileges.

Now this cannot be justified without notice. A mere indulgence of so long continuance, even if the privilege were but an indulgence, cannot be withdrawn at this season of the year, when our people, according to the custom, have engaged in the business, without notice—without just and seasonable notice.

I cannot but think the late despatches from the Colonial Office had not attracted to a sufficient degree, the attention of the principal Minister of the Crown; for I see matter in them quite inconsistent with the arrangement made in 1845, by the Earl of Aberdeen and Edward Everett. Then the Earl of Derby, the present First Minister, was Colonial Secretary. It could not well have taken place without his knowledge, and in fact without his concurrence and sanction. I cannot but think, therefore, that its being overlooked is an inadvertence.

The Treaty of 1818 was made with the Crown of England. If a fishing vessel is captured by one of her vessels of war, and brought in for adjudication, the Crown of England is answerable: and then we know whom we have to deal

with. But it is not to be expected that the United States will submit their rights to be adjudicated upon in the petty tribunals of the provinces; or that they will allow our vessels to be seized on by constables, or other petty officers, and condemned by the municipal courts of Quebec and Newfoundland, New Brunswick, or Canada. No; no; no. (Great cheering.)

Further than this, gentlemen, I do not think it expedient to remark upon this topic at present; but you may be assured it is a subject upon which no one sleeps at Washington. I regret that the state of my health caused my absence from Washington when the news came of the sudden change in the interpretation of the treaties. My health requires relaxation. I shall feel it my duty, as soon as my health and strength will justify me in undertaking the journey, to return to my post, and discharge the duties devolving upon me, to the best of my abilities.

Inclosure 3 in No. 16.

Debate in the Senate on July 23, 1852.

Mr. Mason offered the following resolution:—

“Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, all correspondence on file in the Executive department, with the Government of England or its Diplomatic Representative, since the Convention between the United States and Great Britain, of October 20, 1818, touching the fisheries on the coast of the British Possessions in America, and the rights of citizens of the United States engaged in such fisheries, as secured by the said Convention; and that the President be also requested to inform the Senate, whether any of the naval forces of the United States have been ordered to the seas adjacent to the British Possessions of North America, to protect the rights of American fishermen, under the Convention, since the receipt of the intelligence that a large and unusual British naval force has been ordered there to enforce certain alleged rights of Great Britain, under said Convention.”

Mr. Mason said—I have thought it my duty, considering the present aspect of affairs, so far as they are communicated to us by the public journals, to submit this resolution, and ask that it be considered immediately. We are informed, unofficially, but in a manner clearly indicating that it is correct, that the British Government has recently asserted rights under the Convention of 1818, in relation to the fisheries of the north, which, whether they exist or not, they suffered from 1818 to 1841, when the question was moved as to the respective rights of British subjects and American citizens, under the Treaty of 1818. They still suffered it to remain in *statu quo*. Sir, the British Government know well that very large and important interests are embarked by citizens of the United States in these fisheries. They know that the harbours, and coasts, and seas of their possessions in America swarm at stated seasons of the year, and this, I am informed, is one of these seasons, with these fishing-vessels. Yet suddenly, without notice of any kind, we are informed from the public journals, and semi-officially by a sort of proclamation from the Secretary of State, that a very large British naval force has been ordered into these seas, for the purpose of enforcing, at the mouth of the cannon, the construction which Great Britain has determined to place on that Convention.

Now, Sir, I had supposed in this civilized age, and between two such countries as these—Great Britain and the United States—that were it the purpose of England to revive her construction of the Convention, and require that it should be enforced, ordinary national courtesy would have required that notice should have been given of that determination on the part of Great Britain. But, Sir, when no such notice is given; when, on the contrary, the first information which reaches us is, that Great Britain has ordered into those seas a large naval force, for the purpose of enforcing this alleged right, I know not in what light it may strike Senators, but it strikes me as a far higher offence than a breach of national courtesy—as one of insult and indignity to the American people. This morning, in the first paper I took up, from the north, I see extracted from one of the British colonial newspapers; printed at St. John, New Brunswick, a formal statement of the actual naval force ordered by Great Britain

into those seas. It consists of the "Cumberland," a seventy-gun ship, commanded by Sir G. F. Seymour, who is a British Admiral, commanding on the West India station, and then follows an enumeration of steam-vessels, sloops of war, and schooners, to the number of nineteen, ordered to rendezvous there immediately, and with the utmost dispatch. For what purpose? To enforce at once, and without notice to this Government, so far as I am informed—and yet we have some information through the quasi proclamation of the Secretary of State—at the mouth of the cannon, the construction which the British Government places on the Convention.

I do not know what view has been taken by the President of this extraordinary movement, but I think I do know what the American people would demand of the Executive under such circumstances. If there be official or satisfactory information to the Executive, that this extraordinary naval armament has been ordered by Great Britain into the North American seas, for the purpose of executing instant, the construction which Great Britain places on the Convention, I say the American people will demand of their Executive that all the force of the home squadron shall be ordered there instantly, to protect American fishermen. Sir, we have been told by the poet who most deeply read the human heart, that—

"Out of the nettle danger we pluck the flower safety."

and if I may be told there is danger of collision, I would answer at once there is no danger; but if there were, it becomes the Executive immediately to resent that which can only be looked on as an indignity and insult to the nation. I have no fears, Mr. President, that war is to follow the apparent collision which has taken place between the two Governments. But I confess I feel deeply the indignity that has been put upon the American people, in the ordering of the British squadron into those seas without notice; and if I read the feelings of our people right, they will demand that a like force shall be instantly sent there, in order that the rights of our people may be protected.

Sir, I do not profess the power to construe the purpose on the part of the British Government, but I was very much impressed by a despatch which I saw in one of the late papers—but which, unfortunately, I have not at hand—within the last few days; a despatch from the Foreign Office of Great Britain to the Colonial Office, advising it of this movement, and advising that it was one requiring celerity and dispatch, and requiring that measures should be taken by the Colonial Office to procure concert between the British naval forces and the Colonial authorities. The reason assigned was, that this measure was taken on the part of Great Britain as preliminary to certain negotiations. Now what does this mean? I know not what these negotiations are, but if it means anything, it means that we are to negotiate under *duress*. Aye, Sir, at this day, this great people, covering a continent, numbering 25,000,000, are to negotiate with a foreign fleet on our coast! I know not what the President has done. I claim to know what the American people expect of him. I know that if he has done his duty, the reply to this resolution of inquiry will be: "I have ordered the whole naval force of the country into those seas, to protect the rights of American fishermen against British cannon!"

I hope it will be the pleasure of the Senate to consider the resolution immediately.

Mr. *Hamlin* agreed to every word offered by the Chairman of the Committee of Foreign Relations, and was grateful to the Senator for having introduced the resolution. What the object of the British armament sent to the fishing shores was, he could not say; but that it had some ulterior object was certain. It had been whispered, that it was connected with certain negotiations with respect to a reciprocity trade with the colonies. If this were so, it was nothing more nor less than to compel the United States to legislate under *duress*, and to this, he for one, was unwilling to submit.

Mr. *Cass* gave his full concurrence to all that had fallen from Mr. Mason, and heartily approved of the resolution. He was grateful at hearing that Senator's remarks, which were equally statesman-like and patriotic. He had never before heard of such a proceeding as that now adopted by England. No matter what the object of the force was, there was one thing certain, the American people would not submit to surrender their rights. This Treaty was

now over thirty years old, and it recognized clearly the right of Americans to fish within three miles of any shore. This had been conceded for thirty years. If there was any doubt of it it could be settled by negotiation. This Great Britain did not do. She drew the sword and cut the Gordian knot at once. She settled the matter without notice, by force of arms. He regretted the recent publication by the Secretary of State, giving warning to the fishermen. It seemed to imply a doubt that the rights exercised by them under the Treaty and since its ratification, were not well founded.

Mr. *Davis* said that from the newspapers it would appear that the Secretary of State and the British Minister, who had gone to Boston, were now consulting on this matter, and he thought from this fact that there was little apprehension but the matter would be settled amicably. He had no difficulty at arriving at the object of the movement. The Senator from Maine, he thought, had touched the key to the whole. He would not hesitate to act on a Bill proposing a proper and suitable principle of reciprocity. He, however, desired as much as any one to protect the fishermen, whom he eulogized highly.

Mr. *Borland* complained that the Executive had neglected to send any information, or to communicate with Congress on this subject, while the Secretary of State was absent from the city, and was carrying on a newspaper discussion of the whole matter. He disapproved particularly of the tenour of the warning to the fishermen to beware of British vessels. He read from a New York paper that there was no truth in the statement that Mr. Crampton had gone to Boston.

Mr. *Butler* alluded to overtures from the British for negotiations about the fisheries some time since, in consequence of having been crowded out by the Americans.

Mr. *Adams* thought discussion was premature till after information was obtained.

Mr. *Seward* would vote with pleasure for the resolution. It was limited to two objects: to obtain information as to diplomatic correspondence on the subject, and whether any naval force had been sent to the seas where the difficulty has arisen. The importance of these fisheries was conceded by all, and no one State was more interested in them than another. It was well known that any attempt to drive our fishermen from these fisheries would involve the whole country in a blaze of war, in which case his State would be deeply interested. He deprecated, as well as the Senator from the Mississippi, all excitement on the subject. Whether the difficulty shall be settled by negotiation, or the sterner arbitrament of war, there was a necessity of avoiding excitement—for keeping cool. He deprecated, also, the complaints made against any branch of the Government. All men are aware that the Secretary of State, at this season seeks his native climate, to escape the severity of the weather here, and he could assure Senators, that should negotiation be conducted on the mountains of New Hampshire, there was nothing unpropitious in that location for the liberty of the country. In that locality was written that famous letter which startled the Governments of the continent of Europe.

Mr. *Rusk* said that if the object of that naval force by Great Britain, was to bring about a reciprocity of trade, no matter how favourably he might look upon such a proposition otherwise, he would never give his assent under the duress of British cannon. He thought this domineering spirit of England ought to be met promptly.

Mr. *Mason* did not desire that war should be substituted for negotiation, but that the sending of an unusual naval force into these waters should not pass unnoticed; and that, if sent there to effect negotiations, those negotiations should stop. He would not exchange one word, or write a line in the way of negotiation, till that force was withdrawn. He did not know the object of Mr. Webster and the British Minister being in New England, but if the Secretary of State exchanged a word, or wrote a line of negotiation before that force was withdrawn, he would greatly disappoint his countrymen.

Mr. *Toucey* thought the sending of this force to the fishing seas the most extraordinary initiative towards negotiation he ever heard of. He hoped the

resolution would pass. He thought it likely that the Executive required prompting. He discussed the terms of the Treaty of 1818, and denied the validity of the British construction.

Mr. *Dawson* deprecated all complaints of the Administration till further information was received. He asked when the President had ever shown that he required any prompting to discharge his duty? Who so competent to defend the men of the North as the Secretary of State? He saw no cause for war in all this. He would vote for the resolution. Messrs. Dawson and Toucey continued the debate.

Mr. *Borland* contended that the Executive had information on the subject, for the Secretary of State had, in his newspaper discussion, gone minutely into all the particulars.

Mr. *Seward* contended that the resolution ought to pass. If there was involved in this question the remotest prospect of war, there ought to be no division between the different branches of the Government, and no complaining or fault-finding by either. England ought to see us united. It was impossible for any one to say what information the President possessed.

Mr. *Bell* hoped most sincerely that the matter would not lead to war. He did not believe that a war was possible, at present, with the United States and Great Britain. Believing this, he rejoiced at what she had done: she had done that which would call the attention of the country to the miserably defenceless state of the country, as well on the Atlantic as the Pacific, and good might follow. At present we could not put twenty vessels to compete with the force now on the coast.

Mr. *Borland* answered the question as to who so capable of defending the interest of the country as the Secretary of State, by referring to that Secretary's course in the House of Representatives during the last war, which was a war commenced for the rights of these fishermen. He then denounced that war in terms which were too disgusting to be repeated; after the war the party, of which Mr. Webster was the leader, had declared that it was unbecoming a Christian people to rejoice over the victories of such a war.

Mr. *Pearce* said that Mr. Webster had been repeatedly assailed for his course during the war of 1812, but he never before heard imputed to him any remarks too disgusting to be repeated. He thought the Senator must be mistaken. He then suggested the impropriety of discussing matters on which we had no information. He would like to know the object of the naval force the gentlemen were disposed to send to the fishing coasts, and what instructions were to be given to the commander?

Mr. *Mason* said if the object of the British squadron was to coerce negotiations, there ought to be no negotiation till it was withdrawn. He would, in such case, instruct the American commander to sustain the American fishermen in those seas, in *statu quo*, to secure them the rights they have been enjoying for thirty years.

Mr. *Pearce* thought it probable, if the British Government were asked the object of their course, they would disclaim any such purpose.

Mr. *Pratt* said this appeared to him more likely to result in war than did the last difficulty. The English Government has decided upon a treaty construction. England don't want to negotiate, for she has sent a large force to execute her construction of the Treaty. Americans are to be expelled from rights which they have enjoyed for thirty years, under what their Government has at all times, and now declares to be the proper construction of the Treaty. Ought not a force to be sent there to protect them in their rights, which this Government has declared to be theirs? Certainly there ought. If this be done, and the British officer executes his orders, a collision must ensue, for no American commander will witness the seizure of American vessels without firing into the offender. He hoped the resolution would pass.

The resolution was agreed to unanimously.

Inclosure 4 in No. 16.

Draft Petition to Congress.

To the Hon.

THE undersigned, citizens of Massachusetts, connected in interests with the Mackerel and *Cod Fisheries*, respectfully represent,

That your memorialists have seen, with great surprise, the late publications under the authority of the Department of State, relative to the course which the Government of Great Britain proposes to pursue towards the citizens of the United States engaged in the Mackerel and Cod Fisheries.

That we and our fathers have always been accustomed to fish in the great bays of the north for mackerel and codfish, with the knowledge and acquiescence of the Governments of Great Britain and of the United States; that even so long since as the year 1829, the number of American vessels fishing in the great Bays of Labrador was estimated at *five hundred*, and that for years past over five hundred American vessels annually have passed the Gut of Canso into the Bay of Chaleur, engaged in the fisheries.

Your memorialists represent that the course of the business of the fishing is to follow the fish as they pass from one haunt to another, and that all the vessels engaged in the fisheries, at certain seasons, frequent the great northern bays for the purpose of catching the fish; that to exclude them would have the effect of breaking up the whole voyage; would shorten the fishing season so much that it would be unprofitable to fit out vessels for fishing in anything like their present numbers, and probably would exterminate a business always protected by our Government as affording a superior nursery for American seamen.

Your memorialists represent that at this time there is probably *twelve hundred* sail of fishermen, manned by twelve thousand Americans, and costing, including outfit, about *four millions of dollars*, all belonging to this State, on or near the waters, the exclusive use of which is now claimed, for the first time, by Great Britain.

If the measures of seizure and exclusion threatened are carried out, all this immense amount of property will be jeopardized, and our citizens reduced to beggary and made inmates of foreign prisons.

Your memorialists further estimate the entire interest put in peril by this act at about two thousand five hundred sail, manned by *thirty thousand seamen*, accustomed to draw a living from the business, and having generally families and homes in our coast towns, being almost entirely native-born citizens, an amount of property at sea in this enterprise estimated at nearly *twelve millions of dollars*.

Your memorialists represent, that without prompt and efficient action from the Government, the fishing interests will be thrown into a state of panic and alarm which may result in the loss of the whole year's business, and deprive those engaged in the business, and the numerous families dependent on them, of their means of living for the year, thus reducing the whole population of the coasts of New England to distress, want, and poverty, all of which evils may fall upon us by a feeling of insecurity and a sense of danger in pursuing our accustomed avocation. Your memorialists further represent that there are vast numbers of mackerelmen yet to sail on their usual voyage, and already prepared with their usual outfits, &c., for the purpose; that their destination cannot be changed without the loss of *millions of dollars*, and the consequent ruin and distress from such losses.

Your memorialists further represent that the capital invested in their business is not that of wealthy merchants or citizens of great fortunes, but that these vessels are usually owned in shares by several persons, that most of the capital belongs to a great many people of very moderate means, and frequently represents the entire wealth of widows and children of farmers, shipmasters and seamen, living along the entire extent of the coast of New England.

Your memorialists would therefore request, that an armed force of the Navy of the United States be at once dispatched to those waters to give countenance and protection to our fishermen in their legal rights, and to preserve our property from pillage and our fellow-citizens from foreign dungeons.

Your memorialists are aware that negotiations are going on between the two Governments on this subject; but they feel that, unless an armed force of the United States is on hand to protect them, the presence of the British force, and the avowed hostility of their intentions, will produce immense mischief and loss to our interests. Even a small force would give confidence to our seamen, and show that the powerful arm of our Government is ready and willing to protect them in the rights they have enjoyed ever since the glorious revolution.

And your memorialists will ever pray.

Names.

Residence.

No. 17.

Mr. Addington to Mr. Elliot.

Sir,

Foreign Office, August 10, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 5th instant, inclosing a copy of a letter from the Admiralty, with questions put by Sir George Seymour in regard to the intrepertation to be given to the Fishery Convention of 1818.

Sir John Pakington will have perceived by my letter to Mr. Merivale of the 7th instant, which was written before your letter was received, that Lord Malmesbury had already submitted to the Law Officers of the Crown the questions by Sir George Seymour, and that the Queen's Advocate was desirous of obtaining further information which I requested Mr. Merivale to supply; but meanwhile I am directed by Lord Malmesbury to request that you will inform Sir John Pakington that his Lordship is of opinion, that pending the investigation by the Law Officers, it will be proper that the uncertain points upon which Sir George Seymour requires instructions, should not be mooted.

The whole question of the American fisheries, and the interpretation of the Convention of 1818 and of British laws bearing upon it, must be attentively considered, and it is essential that it should be calmly discussed between the Governments of Great Britain and the United States.

Lord Malmesbury would therefore suggest, for the consideration of Sir John Pakington, that there should at present be no interference with United States vessels in regard to landing their crews on the Magdalen Islands, but that the instructions issued in 1828 on this point should be adhered to until Her Majesty's Government can decide upon the question; it being understood that the right of American citizens so to land their crews must not be acknowledged.

Sir John Pakington will doubtless think proper to inform Sir George Seymour that Her Majesty's Government in ordering that British fisheries should be protected, are making no new claims against the United States, and are not altering or reversing any standing orders to Her Majesty's Governors and public functionaries, nor revoking any concessions or privileges such as that which was granted by Her Majesty's Government in 1845 as regards the Bay of Fundy: their object at present being to maintain practically that right which the Government of the United States has never disputed, namely, the exclusive possession of the waters within three marine miles of the British coasts, and leaving the intrepertation to be given to the Treaty as regards other bays, precisely where it was when the matter was discussed and dropped between the two Governments in 1845.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 18.

Mr. Addington to Mr. Merivale.

(Confidential.)

Sir,

Foreign Office, August 11, 1852.

WITH reference to the recent proceedings in the United States in regard to the measures adopted by Her Majesty's Government for the protection of British fisheries on the coasts of Her Majesty's North American Possessions, I

am directed by the Earl of Malmesbury to request that you will call the early and serious consideration of Secretary Sir John Pakington to the extreme inconvenience which has resulted from the publication in the colonial newspapers of the official correspondence of Her Majesty's Government and of the officers employed to carry into effect the orders given by Her Majesty's Government in regard to those fisheries.

In the "Times" newspaper of Monday the 2nd of August, a despatch from Vice-Admiral Sir George Seymour to the Governor of Newfoundland is printed, as taken from a Halifax journal; that despatch is founded upon the orders given to the Admiralty by Lord Malmesbury, of which a copy was forwarded to you in my letter of the 21st of May last; and the publication of those orders, with the mention therein made of the grounds upon which Her Majesty's Government have given them, is likely to embarrass the negotiations between Her Majesty's Government and that of France upon the subject of the Newfoundland fisheries.

Moreover, public comments have been made by members of the United States' Government and of the United States' Senate upon Sir George Seymour's despatch, and upon the despatch written by Sir John Pakington to the Governors of the North American Colonies; and I am to suggest whether it may not be proper to cause a strict inquiry to be made as to who authorized the publication of those documents, or, if such publication were unauthorized, by whom the papers in question were communicated to the public prints; and also, whether it may not be proper to visit with severe displeasure so gross a breach of official confidence. Much of the unfortunate excitement prevailing in the United States is to be attributed to the imprudent publication of these documents:

I am, &c.
(Signed) H. U. ADDINGTON.

No. 19.

The Earl of Malmesbury to Mr. Crampton.

(No. 78.)

Sir,

Foreign Office, August 10, 1852.

I HAVE received and laid before the Queen your despatch No. 105, of the 20th ultimo, respecting the official publication by the Secretary of State of the United States, of certain information relative to the measures adopted by Her Majesty's Government for the protection of British fisheries on the coasts, the mainland, and islands forming part of Her Majesty's North American Possessions.

Her Majesty's Government must necessarily entertain the sincerest regret that such a publication should have been made, without what appears to Her Majesty's Government sufficient inquiry into the circumstances of the case; for the terms of friendly alliance which so happily subsist between the two nations would, on the one hand, not have warranted Her Majesty's Government in adopting any measures which might be held to be offensive to the United States; and, on the other hand, could not have justified the Government of the United States in supposing that any such measures were intended. Her Majesty's Government, therefore, while it gives expression to the above-mentioned regret, will assume at once that neither Government entertains towards the other any intention of acting discourteously, or of provoking collisions or unfriendly feelings between the subjects and citizens of the two countries; and I will now proceed to explain to you how greatly this question of the protection of British fisheries has been misunderstood and misinterpreted in the United States.

In the first place, it has been assumed by Mr. Webster, that "with the recent change of Ministry in England has occurred an entire change of policy;" and here I must take occasion to state, that the question of protecting British subjects in the exercise of their undoubted rights is one which, in this country, is not materially affected by changes of Ministry; and the real question,

therefore, is, what are those rights, and how are they understood respectively by Great Britain and the United States?

The rights are laid down in the Treaty of 1818, as quoted by Mr. Webster, that is, undoubted and unlimited privileges of fishing in certain places were thereby given by Great Britain to the inhabitants of the United States; and the Government of the United States, on their part, renounced for ever, any liberty previously enjoyed or claimed by its citizens, to fish within three marine miles of any other of the coasts, bays, creeks, or harbours, of the British dominions.

A point in dispute, in regard to this matter, subsequently arose, as to the interpretation to be given to the term "bay;" namely, whether an American vessel could fish within a bay so long as she was beyond three miles from the shore; or whether the words of the Treaty, "within three miles of any of the bays," meant within three miles of a line drawn from headland to headland; and in the year 1845 a correspondence ensued between the British and United States' Governments, which led to the dispatch of a letter from Mr. Everett, the United States' Minister in this country, to his Government, dated London, April 26, 1845. This letter has been published by Mr. Webster, and is unfortunately calculated to cause an incorrect view to be taken of the subject by the American public; for Mr. Everett therein stated, that Lord Aberdeen's note of the 10th of March, 1845, *conceded to American fishermen the right* of fishing within the Bay of Fundy, but left doubtful the question of other bays; and that he had, accordingly, claimed the same *right* as regards other bays: and it is to be inferred from Mr. Everett's expressions, that Lord Aberdeen had replied that he would submit that question to the Colonial Office, and that, meanwhile, the concession was to be limited to the Bay of Fundy.

Now if Lord Aberdeen's notes, to which Mr. Everett alluded, had been carefully examined by Mr. Webster, and had also been published, Mr. Webster and the public of the two countries would have seen, that instead of conceding a right, Lord Aberdeen expressly reserved it; but that, in order to prove the friendly feeling of Great Britain towards the United States, Her Majesty's Government, by Lord Aberdeen's note, *relaxed*, as regarded the Bay of Fundy, the right which Her Majesty's Government felt bound to maintain, of excluding American fishermen from that bay; and, moreover, it would have appeared that Lord Aberdeen, in the letter referred to, merely stated that he would submit to the Colonial Office the question relating to the seizure of two particular vessels, the "Washington" and "Argus;" and that, as regarded the bays, his words were to be taken as applying to the Bay of Fundy alone.

It appears, however, partly by Mr. Webster's communications with you and by the terms of his official publications, and partly by the proceedings in the Senate of the United States, that it is supposed in the United States, first, that Her Majesty's present Government have resolved to overrule the decision of the Government of 1845, and to withdraw the privilege then granted to American fishermen to fish in the Bay of Fundy; and secondly, that notwithstanding the express terms of the Treaty, American fishermen are privileged either by usage or right, to fish upon any part of the British coast *within* three marine miles of the shore.

Both suppositions are entirely founded in error. Her Majesty's Government, so far from having any intention of now excluding American fishermen from the Bay of Fundy, are prepared to maintain that the relaxation granted in 1845 was reasonable and just, and should be adhered to; and, in giving orders to strengthen the naval force employed to maintain the exercise of our rights under the Treaty of 1818, they could not contemplate that the Government of the United States would assume that a relaxation, formally granted as regards the Bay of Fundy, was thereby cancelled without the equally formal notice which Her Majesty's Government would undoubtedly feel themselves bound to have given to an ally of the British Crown, had such an act been intended.

But in regard to the three-mile distance, Her Majesty's Government are not aware that it has at any time been maintained by the Government of the United States that there can be, or that there has ever been supposed to be, the slightest doubt that Her Majesty's Government are not only entitled, but bound, to maintain that distance free from encroachment.

Whatever construction either Government may put upon the term "bay," as used in the Treaty, there can be no possible question as to the three-mile limit from any British shore; and when, therefore, Mr. Webster alluded, in his

official publication, to the seizure of the American vessel "Coral" in the Bay of Fundy, near Grand Manan, he must have overlooked the fact that Grand Manan was British territory, and that the "Coral" was taken almost within musket-shot of the shore.

It is for the prevention of such infractions of treaty, and not with any view to disturb arrangements made in good faith with the United States' Government, that Her Majesty's Government issued orders to their officers to put a stop to illicit proceedings; proceedings which are not merely contrary to treaty, but which are mixed up with smuggling transactions damaging to British interests.

Little, therefore, as Her Majesty's Government could have contemplated the impression which this matter appears to have produced in the United States, still less could they have imagined that the orders given by them to Vice-Admiral Sir George Seymour to attend personally to this matter, should have been construed into an offensive proceeding, and one calling for the strictures which, without any defence on the part of the United States' Government, it occasioned in the Senate; for although it is true that the flag of the Commander-in-chief is hoisted on board a ship of the line, and that, in the execution of his instructions, Her Majesty's ship "Cumberland" was ordered, with other vessels, to the fishery station, this measure was not adopted with a view to show an imposing force, but in order that Her Majesty's Government might have the advantage, in a matter requiring judgment and discretion, of the presence of an officer so highly distinguished for both qualities, and whose recent judicious conduct in an affair at Grey Town called forth the praise of the officers and of the Government of the United States.

As I propose that this despatch shall merely explain away certain points which have clearly been misunderstood, I shall abstain, for the present, from entering into a discussion upon the interpretation to be given to the term "bay;" and upon this part of the subject I will only add, that Her Majesty's Government intended to leave the matter precisely where it was left in 1845 by the Governments of Great Britain and the United States, namely, that the relaxation as to bays applied, as is stated in Lord Aberdeen's note to Mr. Everett of the 21st of April, 1845, "to the Bay of Fundy alone;" any further discussion of that question being a matter of negotiation between the two Governments.

I cannot, however, conclude without adverting to the fact, that the proceedings of Her Majesty's Government, which have called forth so much animadversion on the part of the United States, were adopted, not merely with reference to the protection of British fisheries against American encroachments, but also against similar encroachments on the part of French fishermen; and that a considerable proportion of the armed craft employed for protecting the British fisheries in North America, were placed there in order to use means equally used by the French Government to protect French rights.

Now with regard to such species of protection, the Governments of Great Britain and France have not been in the habit of evincing any national jealousy, or of considering that offence was thereby intended. On the contrary, both Governments have found that the surest mode of preventing misunderstanding was to join in effectually protecting their respective lines of demarcation.

Such protection, or rather guard, is constantly maintained by both Governments in the British channel, where the fishery is regulated by a Convention between Great Britain and France, whereby the lines are clearly laid down, and where, notwithstanding the mutual precaution adopted by the cruisers of both nations, the fishermen of both countries are repeatedly found encroaching. But such encroachments are not countenanced by either Government, for the cruisers of each Government are instructed to warn their own countrymen, whenever they observe them disposed to cross the line of demarcation, and the fishermen who trespass pay the penalty of their improper proceedings.

In like manner, trespasses have been committed by French and British fishermen respectively on the coast of Newfoundland; and, in order to avoid disputes, the two Governments resolved to endeavour, by negotiation, to establish rules for the mutual regulation of the fisheries; but pending the conclusion of such negotiations, Her Majesty's Government and the Government of France have placed a force off the coast of Newfoundland, to watch the proceedings respectively of the fishermen of the two countries.

You will read this despatch to Mr. Webster, and in leaving a copy of it with him, you will not fail to assure him, and to request him to assure the

President of the United States, that Her Majesty's Government continue to feel the same anxiety that has long been felt in this country for the maintenance of the best relations between the two Governments; and it will be to them a source of sincere satisfaction if the attention which has thus been drawn to the subject of the fisheries should lead to an adjustment, by amicable negotiations, upon a more satisfactory footing than at present, of the system of commercial intercourse between the United States and Her Majesty's North American Colonial Possessions.

I am, &c.

(Signed) MALMESBURY.

No. 20.

The Earl of Malmesbury to Mr. Crampton.

(No. 79.)

Sir,

Foreign Office, August 11, 1852.

IN your despatch No. 106 you state that the President of the United States had suggested to you and to Mr. Webster, the propriety of entering into some temporary arrangement with regard to the Fishery Question now pending, by which the danger of collision between British subjects and American citizens might be averted during the interval of time which must necessarily elapse before a permanent settlement of the points in dispute can be effected.

The arrangement proposed by the President in his conversation with you is stated to be simply as follows: that the British authorities should for the present abstain from seizing American vessels found fishing in disputed waters; but you add that the President, in a communication addressed to Mr. Webster, had further suggested that, by mutual agreement between the Governments of the United States and of England, the vessels of both countries should forbear to fish in those waters until the respective rights of each could be finally and amicably settled.

It is impossible for Her Majesty's Government not to do justice to the motive by which the President appears to have been actuated in suggesting the above arrangement; and any proposal calculated to give time for the removal of misapprehension, and the subsidence of excited feeling on the part of the people of the United States, before a permanent settlement of the existent difference is attempted, cannot fail to meet with their warm and cordial concurrence.

But however desirable the object which it is thus sought to attain, Her Majesty's Government cannot but perceive that the proposed arrangement, as it affects the rights of British subjects, rests on a basis of such manifest inequality, as to render its acceptance by England impossible.

No question has ever been raised on the part of the United States or of any other Power, with regard to the right of British vessels to fish within the limits of the disputed waters; their privilege to do so is undoubted and indubitable; and in waiving this privilege, even for a limited period, they would be parting with that which confessedly belongs to them by the express provisions of the Treaty of 1818.

The only point concerning which any difference of opinion either does or can exist, is, whether the right so enjoyed by British subjects is a right belonging exclusively to them, or one which they share equally with the citizens of the United States.

Her Majesty's Government cannot consider it as a just or reasonable demand on the part of the Government of the United States, that British subjects should be called upon temporarily to abandon, at considerable loss to themselves, a privilege their title to which has never been questioned, merely on account of the claim which has recently been put forward by the citizens of another State, to exercise a similar privilege, concurrent with, but in no way invalidating, that already exercised by Her Majesty's subjects.

Compelled, therefore, for the reason already stated, to reject the proposition above mentioned, but earnestly desirous by all means in their power, to avert the chances of collision between American citizens and British subjects, Her Majesty's Government will at once adopt the precaution of repeating the instructions on which, during a long series of years, British Admirals commanding on the North American station have invariably acted; and they will further

instruct Sir George Seymour to use the utmost forbearance and moderation in dealing with such American vessels as may be found manifestly infringing the terms of the Treaty.

It is almost needless to add, that in regard to the Bay of Fundy, where a special permission to fish has been granted to American fishermen, their vessels will be in no way interfered with; but it must be understood that the three-mile limit from shore will, as before, be maintained.

Her Majesty's Government hope that these precautions, in taking which no time will be lost, will sufficiently indicate to the President of the United States the earnest desire which exists on their part to guard against every possibility, not merely of actual collision between the inhabitants of the two countries, but even of a demonstration of hostile or unfriendly feelings during the conduct of the important negotiation on which both Governments are about to enter.

I am, &c.

(Signed) MALMESBURY.

P.S.—You will take an opportunity of speaking to the President on this subject, and you will read this despatch to him.

No. 21.

The Secretary to the Admiralty to Mr. Addington.—(Received August 12.)

Sir,

Admiralty, August 11, 1852.

WITH reference to your letter of the 7th instant, requesting to be furnished with certain papers required by the Queen's Advocate respecting the North American fisheries, I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Malmesbury, copies of the 2nd, 3rd, 4th, 5th, and 6th Articles of the instructions to Vice-Admiral Sir George Seymour, as Commander-in-chief of Her Majesty's ships and vessels on the North American and West Indian station, and of an order addressed to him on the 5th of June last, which are the last instructions given on the subject; and I am directed to add, that my Lords suppose that copies of the several despatches from the Colonial Department and Orders in Council referred to will be obtained from that Department.

I am, &c.

(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 21.

Instructions to Vice-Admiral Sir G. Seymour.

(Extract.)

Article 2. YOU are at all times to give every possible countenance, facility, and protection to the British trade and fisheries within your command, making such disposition of your force, and taking all such further measures, as you may deem most advisable, effectually to secure them against pirates, or hostile molestation of any description; and you will likewise do everything in your power to prevent any illegal trade within the limits of your command.

Art. 3. And whereas no foreign ships or vessels (except as hereinafter excepted) have any right to fish at or about Newfoundland; and the commanders of Her Majesty's ships of war have at all times been directed not to allow of their fishing in those situations; you are, therefore, to take measures for preventing the same, and insuring that Her Majesty's orders given therein be strictly attended to; and if any foreign ships or vessels should be found fishing at or about Newfoundland, they are to be obliged to desist, and to depart from off the coast, excepting ships and vessels belonging to France, fishing according to the stipulations contained in the Definitive Treaty of Peace concluded at Versailles on 3rd September, 1783, between His Majesty and the King of France; and also excepting ships or vessels belonging to the inhabitants of the United States of America fishing within the limits hereinafter alluded to, signed at London on 20th October, 1818.

Art. 4. With regard to the ships and vessels belonging to France, you are

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to observe, that by the IVth and Vth Articles of the Treaty of Peace before mentioned, Her Majesty is maintained in her right in the Island of Newfoundland, and to the adjacent islands, as the whole were assured to Her Majesty by the XIIIth Article of the Treaty of Utrecht, excepting the Islands of St. Pierre and Miquelon, which were ceded in full right to France; and in order to prevent the quarrels which had before arisen, France renounced the right of fishing which belonged to that nation in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bona Vista to Cape St. John, situated on the eastern coast of Newfoundland, in the 50th degree of north-latitude; and that His Majesty consented, on his part, that the fishery assigned to the French, beginning at the said Cape St. John, passing to the north and descending by the west coast of Newfoundland, should extend to the place called Cape Raye, situated in 47° 50' north latitude; and that the French fishermen should enjoy the fishery which is assigned to them by the said Vth Article, as they had a right to enjoy that which was assigned to them by the Treaty of Utrecht; and that with regard to the fishery in the Gulf of St. Lawrence, the French should continue to exercise it, conformably to the Vth Article of the Treaty of Paris.

And whereas by the XIIIth Article of the Definitive Treaty of Peace between His Majesty George III and the King of France, signed at Paris on the 30th May, 1814, it was stipulated that the French right of fishery upon the Great Bank of Newfoundland, upon the coast of the island of that name and of the adjacent islands of the Gulf of St. Lawrence, should be replaced on the footing on which they stood in 1772, and by the XIth Article of the Definitive Treaty between Great Britain and France, signed at Paris on the 20th November, 1815, it was stipulated that the Treaty of Paris of 30th May, 1814, should be confirmed and maintained in all such of its enactments as should not have been modified by the Articles of the said Treaty of 20th November. You are therefore to use your utmost care, diligence, and attention that the several stipulations herein mentioned or referred to, be suitably performed, as far as they shall come within the limits of your command; having due regard to such part of His Majesty's declaration, and the counter-declaration of His Majesty the French King, subjoined to the Treaty of Versailles of September 3, 1783, as may relate thereto, and also the fishery between the Island of Newfoundland and the Islands of St. Pierre and Miquelon; and you are to cause the several bays and places in Newfoundland between Cape St. John (passing to the north and descending to the western coasts) and Cape Raye, to be regularly visited by such of the ships of your squadron as you shall judge best for that purpose. But as from the vicinity of the Islands of St. Pierre and Miquelon to Newfoundland and other parts of Her Majesty's Dominions in North America, an illicit trade may be attempted to be carried on between the British-Indian or any other inhabitants of Her Majesty's Dominions and the people of France residing on the said Islands of St. Pierre and Miquelon, or employed in the fishery by virtue of the Treaty, or between Her Majesty's said subjects and other people of France, or subjects of other Powers trading or pretending to trade to or with the said Islands of St. Pierre and Miquelon, you are to prevent, as far as possible, any communication between the said Islands of St. Pierre and Miquelon, and any part of Her Majesty's Dominions in North America, contrary to law.

Art. 5. You will take special care that the Treaties which subsist between Her Majesty and the United States of America be strictly adhered to; and for your more precise information and guidance with regard to the inhabitants and vessels of the United States of America resorting to the fisheries on the coasts or in the neighbourhood of Her Majesty's settlements, we refer you to the before-mentioned Convention between the two countries, signed at London on the 20th October, 1818 (page 392 of Hertslet's Collection of Treaties), and to the Act of Parliament 59th George III, chap. 38 (page 1066 of the Admiralty Statutes), which passed with reference to that Convention; and we inclose you herewith a copy of an Order in Council, dated 19th June, 1819, a copy of a letter addressed by Earl Bathurst on 21st June, 1819, to the Governor of Newfoundland, and a copy of a letter addressed by Earl Bathurst on the 5th April, 1819, to the then Board of Admiralty; and you are carefully to attend to the regulations and instructions contained in these said documents, and to cause the same to be strictly observed and complied with by the officers under your orders.

And as various complaints have been made from the authorities in Canada, on the subject of encroachments of American fishermen in the River and Gulf of St. Lawrence, on the limits prescribed by the Convention of 1818, for the

regulations of the fisheries, and as by a letter of the 13th February, 1836, from Lord Palmerston, it is stated, that it does not appear that the Government of the United States can have any adequate means of preventing the encroachments of the American fishermen above referred to, it is his Lordship's opinion that the only way in which the British rights of fishery can be effectually maintained is by the presence of a British sloop of war; you will therefore during the fishing season, and from time to time, as it may appear to you to be necessary, send a vessel of war accordingly, with instructions to the Commander to enforce the stipulation of the 1st Article of the Convention of 1818. It may be added, that the American Government has shown every disposition and has instructed their collectors to enjoin the masters, owners, and others engaged in the fishery, to observe strictly the limits assigned for taking, drying, and curing fish, under the Convention of 1818.

Art. 6. You are to guard the fisheries as far to the northward as your means will enable you to do, and to prevent any trade or intercourse contrary to law being carried on by any foreigners with the inhabitants of Labrador, which of right solely belongs to Her Majesty. You are however to take care that the ships of your squadron be not frozen-in during the winter months in any of the ports of the northern part of your station, except it be deemed necessary for the public service, that one or more of the smaller vessels under your command should remain at Newfoundland throughout the winter; on which point you are to use your discretion, according to the communication which may be made to you from that island.

Inclosure 2 in No. 21.

Instructions to Vice-Admiral Sir G. Seymour.

By the Lords Commissioners of the Admiralty.

THE Right Honourable Sir J. Pakington, Her Majesty's Principal Secretary of State for the Colonies, having stated to us that urgent representations having been addressed to Her Majesty's Government by the Governor of the British North American Provinces, complaining of the encroachment of vessels belonging to citizens of the United States of America on the fishing-grounds reserved to Great Britain by the Convention of 1811, whereby the Colonial fisheries are most seriously prejudiced; and Sir John Pakington having signified to us Her Majesty's commands to give directions for stationing off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing-vessels and steamers as shall be sufficient to prevent the infraction of the Treaty; and further, that the officers employed upon this service should be specially enjoined to avoid all interference with the vessels of friendly Powers, except when they are in the act of violating the provisions of the Treaty, and on all occasions to avoid giving ground of complaint, by the adoption of harsh or unnecessary proceedings, when circumstances compel their arrest or seizure; we send you herewith copies of Sir John Pakington's said letter, dated the 2nd instant, and of the inclosures therein referred to; and we hereby require and direct you to carry Her Majesty's commands as therein expressed, into full effect.

It is of importance that the cruizers in question should be stationed immediately on the fishing-grounds, as the fishing season has commenced and is of short duration.

Given, &c., 5th day of June, 1852.

(Signed) HYDE PARKER.
ALEX. MILNE.

By command,
(Signed) W. A. B. HAMILTON.

No. 22.

The Earl of Malmesbury to Mr. Crampton.

(No. 80.)

Sir,

Foreign Office, August 12, 1852.

I HAVE had two interviews with Mr. Abbott Lawrence, the United States' Minister at this Court, upon the subject of the fisheries on the coasts of Her Majesty's North American Possessions; and yesterday I read to him my

despatch to you No. 78, of which I have instructed you to give a copy to Mr. Webster, and which, if Mr. Webster should be absent from Washington, you will read to the President of the United States.

Mr. Lawrence informed me that he had as yet received no communication from his Government upon this subject; and he appeared, from the statements which I made to him, perfectly satisfied that Her Majesty's Government, in the steps which they have taken, have had no intention either to influence the Government of the United States for the attainment of any indirect object, or to assert any new principle respecting the rights of fishery.

I showed Mr. Lawrence that by the Admiralty returns, a copy of which is annexed, the force of Her Majesty's ships now employed on the North American coasts is actually less by fifteen guns than it was at this date last year; proving thereby, that no military demonstration was intended, and that only an improved system of police had been established.

Mr. Lawrence dwelt much on the alleged want of courtesy on the part of Her Majesty's Government in not giving to the Government of the United States a long warning of their intention to increase the number of vessels employed in protecting the fisheries; to which I replied that Her Majesty's Government could not identify the Government of the United States with the illegal encroachments of their citizens, and that they would have thought it offensive so to do. I therefore remarked that Her Majesty's Government did not feel called upon to send an earlier intimation of their intentions than the notice conveyed to you by my despatch of the 15th of June.

Both Mr. Lawrence and I agreed that it was most desirable that this misunderstanding of the motives of Her Majesty's Government should lead to a course of negotiations which would comprehend the questions of all our commercial relations with the United States, and result in a treaty by which the relations between the two countries would be placed upon a just and satisfactory footing.

I am, &c.

(Signed) MALMESBURY.

Inclosure in No. 22.

RETURN showing the number of Her Majesty's Ships on the North American Coast.

On August 6, 1851.			On July 8, 1852 (date of last return).		
Names.	Guns.	Men.	Names.	Guns.	Men.
Cumberland	70	634	Cumberland	70	634
Alarm	26	230	Devastation	6	160
Sappho	12	125	Sappho	12	125
Persian	12	125	Bermuda	3	44
			Buzzard	6	160
			(Sailed from England June 4, 1852)		Supers. 160
			Basilisk	6	160
			(Sailed from England July 11, 1852)		
			Netley	2	..
			Telegraph (Hired) .. .. .	..	..
			Arrow (Hired) .. .. .	..	..
	120	1,114		105	13,33

N.B.—Directions given to the Admiral on the 1st June, 1852, to hire four schooners to protect the fisheries, and man them from the flag-ship.

At the present time there are 219 men more, and 15 guns less, than at the same period last year.

Admiralty, August 11, 1852.

No. 23.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, August 12, 1852.

I AM directed by the Earl of Malmesbury to transmit to you copies of despatches* from Her Majesty's Minister at Washington, relative to the excitement which has been caused in the United States in consequence of the protection given by Her Majesty's Government to British fisheries in North America.

I also forward to you copies of two despatches† which Lord Malmesbury proposes to send to Mr. Crampton by the mail of Friday the 13th instant; and I am to request that you will lay these papers before Secretary Sir John Pakington, for his consideration; and that you will suggest to him that instructions in conformity therewith be forwarded to the Governors of Her Majesty's North American Colonies and to the officers charged with the protection of the British fisheries.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 24.

Mr. Elliot to Mr. Addington.—Received August 13.)

Sir,

Downing Street, August 11, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you for the information of the Earl of Malmesbury, the copy of a despatch from the Governor of Newfoundland, inclosing two addresses to the Queen, from the Council and House of Assembly of that island, together with a copy of the reply which Sir John Pakington proposes to return to the prayer of them.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 24.

Sir Gaspard Le Marchant to Sir J. Pakington.

*Government House, St. John's, Newfoundland,
June 23, 1852.*

Sir,

I HAVE the honour to forward herewith two addresses from the Local Legislature of Newfoundland, to be laid at the foot of the Throne.

One from the Council and House of Assembly, praying that further naval protection may be afforded to the fisheries of the island, and also that the naval Commanders on the station may be furnished with such instructions as will cause the terms of the Treaties with foreign Powers to be observed, and thereby prevent the disastrous results to the Colony which the absence of Imperial protection must inevitably occasion.

The other from the House of Assembly, praying that in any arrangement in connexion with the subject of reciprocal free trade between the United States and the British Provinces that may be negotiated by Her Majesty's Government, the interests of this colony may not overlooked.

I am, &c.
(Signed) J. GASPARD LE MARCHANT.

* See Nos. 11 and 16.

† See Nos. 19 and 20.

Inclosure 2 in No. 24.

Address to Her Majesty.

To the Queen's Most Excellent Majesty.

May it please your Majesty,

WE, your Majesty's loyal subjects, the Council and House of Assembly in Newfoundland, in legislative session convened, beg leave to approach your Majesty with feelings of profound respect for your Majesty's person and Government.

The Legislature of this colony has frequently brought under your Majesty's notice the important subject of our fisheries, and has represented the serious evils to which they were exposed by the operation of the Treaties which give to foreign Powers the right of fishing on the coasts of this island. The manner in which those Treaties have been infringed by the subjects of France has formed the subject of renewed complaint, and your Majesty's Government has been repeatedly implored to afford us the protection necessary to guard our rights against such intrusions.

We lament that the favourable consideration to which we humbly submit we had a claim, has not hitherto been accorded to our prayers, and we are compelled by the pressing necessities of our position, to appeal again to the wisdom and justice of your Majesty.

The French fisheries on this coast are supported by large bounties, which have forced them into great importance. They are accordingly carried on with great vigour, and are steadily increasing from year to year. Our fisheries are wholly self-sustained, and at this serious disadvantage we have been obliged to compete with our rivals in the markets of Europe.

For many years after the Peace, the produce of the French fisheries was not greater than the requirements of their home markets, and while this continued, we experienced but the loss of the best portions of our fishing coasts. Of late, however, the increasing growth of their operations has given them a large surplus above what the French markets require, and this finds its way into places which formerly were supplied by our produce. From some of our oldest markets we have been driven altogether, and in most of those on which we chiefly rely, our interests are weakened to a degree that menaces the foundations of our trade. The evils of this unequal competition have been progressively developing themselves for some years, but in the past season we experienced them in an alarming degree, a large quantity of our fish having been disposed of in the European ports at one-half its actual cost.

This amount, with the bounty they receive, is a compensating price to the French, and as their fisheries are annually increasing, it is certain that a still larger supply will be forced by them into the markets on which we have to depend, which must necessarily be accompanied by a corresponding decline of British prosperity in this colony.

The consequences of the losses experienced in the past year are now being seriously felt. The merchants are naturally alarmed at the prospects of embarking their means in a trade which seems withering beneath the gigantic influences with which it has to struggle, and they are curtailing their operations as far as possible. A decline of the population must inevitably keep pace with a diminution of the means of employment, and it will be matter of serious reproach, if in a colony like this, with inexhaustible resources in its fisheries, the present small population should want for employment, while foreigners are acquiring wealth and importance in prosecuting the like pursuits of industry.

But critical as we have shown our position to be, we regret to add that new causes of embarrassment have lately arisen. Former regulations granted an additional bounty on French fish landed in the first instance at a national port, and thence transhipped. To relieve their trade from the expense of this second lading and facilitate their fishing interests to the utmost extent, it is stated that a decree has this year been issued by the Government of France, which makes the bounty applicable to fish discharged in any transatlantic port direct from the coasts of this island.

We are sensible that your Majesty's Government cannot directly arrest this evil, however ruinous its results to us. Nor do we desire to urge on the atten-

tion of your Majesty the question of Treaties which we fear cannot be disturbed. But we humbly submit, that when we are so severely injured by the concessions made in those Treaties, and by the consequent circumstances we have herein referred to, we have a just claim for protection of the rights which remain to us.

Great as the French competition would be even if the terms of the Treaties were adhered to, the ruinous increase of their rivalry that we now experience, is mainly attributable to their daring intrusions on the western coast in search of bait, and on the Labrador coast, to which when the fishery has ceased or failed on the French shore, they resort in great numbers; and whilst the interests of the subjects of France are carefully guarded throughout the whole season by war-steamers and other armed Government vessels peculiarly suited to the service, we are in effect wholly unprotected, and hence the intrusions to which we refer.

It is true that one of your Majesty's ships annually visits this island, but her presence, which is but for a very short period at the required stations, has little if any effect in preventing French encroachments, for which purpose a more suitable and continuous force would alone be of any substantial avail.

The question has at length assumed so serious an aspect, that the Local Legislature out of the small amount at its disposal, has appropriated this session a sum of money for the employment of a cruizer with a view to the maintenance of our rights. In the absence of needful aid from the Imperial authorities, we deemed ourselves justified in making an effort for the protection of British interests within the limits to which foreigners have no pretence of claim, interests not alone involving the welfare of this colony, but of the highest national importance.

We are now, however, concerned to find that your Majesty's Representative in this colony does not deem himself authorized to communicate to the officer in charge the power of seizure for violation of the law, which alone could give full effect to the movement in question.

The reports of Captain Milne, Captain Loch, and other distinguished naval officers of your Majesty's naval service, who have been employed on the coasts of this island, point out the inadequacy of the means of protection heretofore employed, and under all circumstances we humbly implore your Majesty to give directions that two small steamers and one or more small armed vessels may be continuously employed during the fishing season on the southern coasts of this island and in the Straits of Belleisle, and that there be furnished to the commanders of those vessels such instructions as will cause the terms of the Treaties with foreign Powers to be observed, and thereby prevent those disastrous results to the colony which the absence of Imperial protection must inevitably occasion.

Passed Her Majesty's Council, June 7, 1852.

(Signed) E. M. ARCHIBOLD, *President*.

Passed the House of Assembly, May 28, 1852.

(Signed) JOHN KENT, *Speaker*.

Inclosure 3 in No. 24.

Address to Her Majesty.

To the Queen's Most Excellent Majesty.

May it please your Majesty,

WE, your Majesty's loyal subjects, the Commons of Newfoundland in session convened, beg leave to approach your Majesty with feelings of profound respect for your Majesty's person and Government.

We have observed of late years, that the neighbouring provinces have made efforts to establish mutual trade relations with the United States of America by the free interchange of their respective products, and your Majesty's Government have approved of the desires of the provinces in this regard, and have instructed the national Representative at Washington to facilitate the accomplishment of the measure in question.

The people of this colony have a strong assurance that beneficial results would flow to them from the establishment of free trade with the United States

in articles of the natural produce of both countries, and the increasing competition of the French in the European markets render it a matter of growing necessity that new markets shall be found for the disposal of our produce.

We therefore respectfully pray that in any arrangement in connexion with the subject of reciprocal free trade between the United States and the British Provinces that may be negotiated by your Majesty's Government, the claims and interests of this colony may not be overlooked.

Passed the House of Assembly, June 12, 1852.

(Signed) JOHN KENT, *Speaker*.

Inclosure 4 in No. 24.

Sir J. Pakington to the Officer administering the Government of Newfoundland.

Sir,

Downing Street, August 1852.

I HAVE to acknowledge the receipt of Sir Gaspard Le Marchant's despatch of the 23rd of June, transmitting two addresses to the Queen, one from the Council and House of Assembly of Newfoundland, praying that further naval protection may be afforded to the fisheries of the island; the other from the House of Assembly, praying that the interests of the colony may not be overlooked in any arrangement which may be made for the establishment of reciprocal free trade between the United States and the British North American provinces.

I have laid these addresses before the Queen, and Her Majesty was pleased to receive them very graciously.

With respect to the first address, I have to instruct you to communicate to the Council and House of Assembly the substance of my despatch of the 13th of June last, which will place the Legislature in possession of the measures adopted by Her Majesty's Government for the due protection of the fisheries on the coasts; and with regard to the second address, you will acquaint the House of Assembly that the subject will receive the serious consideration of Her Majesty's Government.

I am, &c.

(Signed) J. PAKINGTON.

No. 25.

Mr. Addington to Mr. Elliot.

My dear Sir,

Foreign Office, August 13, 1852.

AS no mention is made in the Colonial Office letter of the 2nd June to the Admiralty, of the relaxation of the fishery police in the Bay of Fundy, which was notified by the Foreign Office to the Colonial Office on the 22nd March, 1845, Lord Malmesbury is of opinion that, in order to preclude all possibility of mistake on the part of Sir George Seymour on this important point, the Admiralty should be specially apprized by the Colonial Office, that the relaxation in question is still to be acted upon as it has hitherto been for some years past.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 26.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, August 17, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Malmesbury, copies of letters from Vice-Admiral Sir G. F. Seymour, dated the 5th and 6th instant, and of the inclosures to the former letter, relative to the North American fisheries.

I am, &c.

(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 26.

Vice-Admiral Sir George Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, August 5, 1852.

I BEG to acquaint you, for the information of the Lords Commissioners of the Admiralty, that on my arrival here this day I received the letters of which copies are inclosed, from Her Majesty's Minister at Washington, dated the 20th July.

It is my intention, in consequence, to order the officers employed in the protection of the fisheries to use additional caution, and to prefer as a general measure, to warn off United States' vessels found within three miles of the shores of our provinces, to seizure, unless in any gross and wilful cases of infraction of the Convention of 1818.

Since I left Halifax a second schooner has been seized by Lieutenant Kynaston, of the "Netley," for coming within the limits near the Grand Manan to procure bait. The Attorney-General of New Brunswick having furnished him with an opinion which made the vessel liable to seizure. A schooner has also been sent into Charlotte Town, Prince Edward Island, by Lieutenant Chetwynd, of the "Telegraph" hired tender, for fishing within three miles of the shore; and another by one of the Nova Scotia Preventive vessels.

Commander Campbell and Lieutenant Kynaston report that the American vessels are much less frequently near the shores of the British Provinces where they are stationed.

In consequence of Mr. Webster having treated the Convention of 1818 as not having been enforced of late years, Colonel Bazalgette, the late Administrator of Nova Scotia, has furnished Mr. Crampton with a list of twenty-eight vessels which have been seized in this province for infraction of its provisions, all of which, except three, were condemned between the 1st June, 1838, and the 29th October, 1851.

I am fully aware, however, that our right should be asserted in a conciliatory spirit, whenever circumstances permit.

I am, &c.
(Signed) G. SEYMOUR.

Inclosure 2 in No. 26.

Mr. Crampton to Vice-Admiral Sir George Seymour.

[See Inclosure 3 in No. 11.]

Inclosure 3 in No. 26.

Mr. Webster to Mr. Crampton.

[See Inclosure 1 in No. 11.]

Inclosure 4 in No. 26.

Extract from the "Boston Courier."

[See Inclosure 2 in No. 11.]

Inclosure 5 in No. 26.

Mr. Crampton to Vice-Admiral Sir George Seymour.

(Private.)

My dear Sir,

Washington, July 20, 1852.

THE measures taken to protect our fisheries have caused a good deal of excitement here.

You will see, however, from Mr. Webster's letter to me, that they may have the effect of making the United States' Government take up the whole of the reciprocity question, with a view to its settlement by treaty; the only means, as far as I can judge, which offers any prospect of its definitive settlement.

Should we be able to keep things quiet in the meantime, the result of the measures in question may therefore be beneficial; but from the difference of the view taken by the Law Officers of the Crown and by the United States' Government, of the meaning of the Treaty, as regards the line within which American fishermen are thereby precluded from taking fish, may, I fear, give rise to a number of cases, in regard to which the British and American Governments will find themselves at issue, and keep up a great irritation upon the subject here.

I am going to Marshfield (Mr. Webster's place near Boston) to-morrow, to confer with him on the subject, and I will inform you of anything of interest which may be the result.

I have written to the Lieutenant-Governors of the colonies concerned, a despatch similar to that which I send you to-day, and have sent to them a copy of the announcement on the subject made by the United States' Government. Any observations which you might like to make on this subject will find me at Marshfield, New Hampshire.

Believe me, &c.
(Signed) JOHN F. CRAMPTON.

P.S.—I have just returned from the President's, with whom I have had a conversation on the subject of the fisheries. He suggests that in order to avoid the question which might arise from the different construction which seems to be given to the Convention of 1818 by the two Governments, that an understanding should be come to by both Parties, to abstain from exercising the right which each asserts in regard to points upon which the opinions of the two Governments are at issue, until they can come to an agreement upon it, or refer it to the arbitration of a friendly Power; that is to say, that the British authorities should not seize or interfere with American fishing-vessels which should be found fishing without a line at a distance of three miles from the shore, which line shall follow the bays, creeks, and indents thereof, which is the American construction of the Treaty; while the United States' authorities, on the other hand, warn and in every way prevent their own people from encroaching upon the space we claim under our construction of it, until such time as it shall be settled which of the two constructions shall prevail. This would seem fair if it could be put into practice; but could the Colonial authorities take upon themselves to carry it into effect without referring it to the Imperial Government? I will write again as soon as I have spoken to Mr. Webster.

J. F. C.

Inclosure 6 in No. 26.

Vice-Admiral Sir George Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, August 6, 1852

I HAVE received this day, by the packet "America," New York and Boston papers of the 3rd and 4th instant, which contain information of the steamer "Mississippi" having been sent to the fishing-grounds to protect the rights of American fishing-vessels, under the Convention of 1818, and that one of the ferments which have been so usual lately in the United States has been increased by the supposed orders having been given in all the dockyards to prepare ships and steamers for service.

I have not received any communication from Mr. Crampton by this opportunity, nor am I acquainted with any steps having been taken to follow up the proposal which Mr. Webster made to Mr. Crampton to take up the whole subject of the fisheries and the Canada trade as a matter of negotiation.

Lord Elgin has, however, sent me a letter addressed to him by Mr. Crampton on the 20th July, acquainting him that after an interview with the President, they suggested an understanding should be come to by both parties to abstain from exercising the right which each asserts in regard to points upon which the opinion, of the two Governments are at issue, until they can come to an agreement, or refer it to arbitration.

On the short consideration I can give the matter when the packet is about to leave the harbour, I may not be authorized to enter into stipulations contrary to the opinion I find in the Colonial correspondence from the Law Officers of the Crown; but I shall endeavour to prevent the question practically arising, by inculcating caution on the officers employed in the protection of the fisheries on no account to seize United States' fishing-vessels unless in cases of undoubted and flagrant breaches of the Convention of 1818.

I am not aware that any of the seizures have turned upon any line between headlands, and that the two cases in the Bay of Fundy have, I understand, not been defended by the owners of the vessels.

I have communicated with Sir G. Le Marchant, who has every disposition to make the Commanders of the vessels employed by the provinces execute their employment with caution, and will give directions accordingly.

Sir Gaspard acquaints me that one vessel, the "Helena," seized upon insufficient grounds, has been ordered to be released.

I have, &c.
(Signed) G. SEYMOUR.

P.S.—I am only aware of three seizures by the squadron under my command, two by the "Netley" and one by the "Telegraph;" but there may be more, as the vessels are on points in some cases at a greater distance from Halifax.

G. S.

No. 27.

Mr. Crampton to the Earl of Malmesbury.—(Received August 17.)

(No. 107. Confidential.)

My Lord,

Marshfield, Massachusetts, August 2, 1852.

I HAVE been at this place (Mr. Webster's country residence) since the date of my last despatch (No. 106, of the 26th ultimo), and I have had several conversations with Mr. Webster on the subject of the late measures of Her Majesty's Government for the better protection of the British fisheries.

I observe with satisfaction, that Mr. Webster now clearly perceives, and fairly admits, the correctness of the construction of the Convention of 1818 maintained by Her Majesty's Government. The opinion of the Queen's

Advocate and of the Attorney-General is, Mr. Webster said, "undoubtedly right;" and he afterwards informed me that the President, from whom he had just received a letter on the subject, now concurred in that opinion.

Mr. Webster remarked, however, that he thought that more had been conceded on the part of the United States by the Convention of 1818, strictly interpreted, than had been intended, or ought to have been conceded; and that, at all events, a very important American interest had grown up under its practical operation; an interest which was now threatened with destruction by a strict enforcement of its provisions, and one which the American Government could not, if it would, abandon. Any injury which should be now inflicted upon that interest by the measures contemplated by Her Majesty's Government, would not fail to excite an angry feeling on the part of the inhabitants of the New England States against the neighbouring British Colonies, which he was most anxious to prevent. He felt, therefore, he said, most desirous that the whole matter might now be taken up by negotiation; and he read to me a letter addressed to the President of the United States, in which he recommends the adoption of this course in preference to a settlement of the matter by legislation, stating his apprehension that the arrangement of the matter by the latter mode, though preferable on some accounts, might be subjected to indefinite delay.

Congress, in the meantime, has at length taken a step towards the settlement of the question of reciprocal trade with the British North American Colonies, by the Committee of Commerce of the House of Representatives bringing up a report on this subject by which a comprehensive measure for this purpose is recommended. I fear, however, at this late period of the session, and in the midst of other pressing business, and also perhaps in the presence of the feeling which has been got up in regard to the measures of Her Majesty's Government for protecting the fisheries, which measures are represented as meant to constrain the United States to negotiate with us "under duress," there is but little prospect of the immediate success of this measure.

Mr. Webster informs me that the President, in consideration of the strong feeling which exists upon this subject at Washington, and the loud calls which were made for such a measure, has instructed Commodore Perry to proceed to the Gulf of St. Lawrence in the steam-frigate "Mississippi," for the protection of American fishing-vessels there. I could not learn what were the exact instructions given to Commodore Perry, but as the United States' Government does not now seem to differ with Her Majesty's Government as to the construction of the Convention of 1818, I should suppose that these would not be of a nature to produce collision or disagreement between the American naval forces and the naval forces of Her Majesty or the Colonial authorities.

With regard to the suggestion contained in the letter of the President to Mr. Webster, a copy of which I had the honour to inclose in my despatch No. 106, of the 26th ultimo, that Mr. Webster and myself should unite in a joint publication for the purpose of allaying the present excitement in regard to this subject, Mr. Webster has, upon consideration, judged it expedient to abstain, for the present, from taking this step, as one likely to produce fresh discussion on the subject, without leading to any definite result. I entirely agree with him in this opinion; the more so, that the excitement in question has already very much diminished, and that a very general impression prevails, that the question is now under discussion between the two Governments, with a view to its settlement upon a satisfactory basis. My present visit to Mr. Webster has, I believe, tended to strengthen this impression.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 28.

Mr. Elliot to Mr. Addington.—(Received August 19.)

Sir,

Downing Street, August 18, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you the accompanying copy of a despatch from the Lieutenant-Governor of Prince Edward Island, inclosing a letter from the harbour-master at Malpeque, reporting the refusal of certain American fishermen to pay the anchorage dues to which they are liable under the provisions of a Colonial enactment which has recently been passed; and I am to request that you will move the Earl of Malmesbury to favour Sir John Pakington with his opinion as to the steps it will be proper to take in this matter.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 28.

Sir A. Bannerman to Sir J. Pakington.

Sir,

Prince Edward Island, July 19, 1852.

I HAVE the honour to inclose copy of a letter which I have received from the harbour-master at Malpeque, complaining of the American fishermen refusing to pay the same anchorage dues that all other vessels are subject to.

2. The statute which imposes these anchorage dues was forwarded on the 6th instant—it has not yet received the Royal assent; I have, therefore, in the meantime ordered that the names of the vessels, with their masters who refuse to comply with the law, shall be sent to me. I should be very averse to use compulsion, indeed it would be useless to attempt it unless some of Her Majesty's cruisers were in the vicinity. Should any necessity arise, I apprehend I might apply to their commanders to aid the civil power. But a remonstrance to the United States' Government perhaps would be a more preferable mode before using any compulsory measure to enforce the law.

I have, &c.
(Signed) A. BANNERMAN.

Inclosure 2 in No. 28.

The Harbour-Master at Malpeque to Sir A. Bannerman.

Sir,

Prince Town, July 2, 1852.

ON the 1st of July there was a number of American fishing-schooners in this harbour, and I boarded them to collect anchorage duty from them; they would not pay, and positively affirmed that they would not comply with the law, and I had not force enough to take so many vessels, each of them comprizing a crew of from twelve to fifteen men, and would say well equipped for a defence. And I beg to state that we have neither ammunition or any weapons of defence, that if all our population would turn out, and the men will not turn out to my assistance, they state that the law does not compel them. Issuing a *capias* for one of the captains, but they only made fun of us. Hoping that your Excellency will adopt some means to make them comply with the laws, if not, it will be useless for me

to demand it all, when 200 or 300 sail comes in the same as there was last year, they will do as they please; they state that if the lights was up they would pay, but not till then.

I have, &c.
(Signed) WILLIAM H. Mc KAY.

Inclosure 3 in No. 28.

Colonial Statute (Prince Edward Island) respecting Light and Anchorage Dues.

An Act relating to Light and Anchorage Duties. (Passed April 3, 1852.)

BE it enacted by the Lieutenant-Governor, Council, and Assembly, as follows :

I. For each and every vessel registered in this island which shall hereafter on its first voyage sail from any port or place in this island for any other port or place or country whatsoever, there shall be paid a light duty of sixpence per ton for each and every ton which such vessel shall admeasure agreeably to its register, the same to be paid to the Comptroller of Navigation Laws at the port or place from which such vessel sails, or to such other person or persons as now are or hereafter may be appointed by the Administrator of the Government of this island for the time being to receive the same, who shall deliver to the master a certificate thereof, agreeably to a Form in the Schedule to this Act annexed, marked (A), which shall exempt the said vessel from further payment of light or anchorage duty in the same or any other port in this island, until the 1st day of January next after such payment, but no longer; and such vessel shall not be cleared at the custom-house without the production of such certificate, but new vessels leaving this island on their first voyage and intended for sale shall only be liable to pay twopence per ton duty, unless they again return, when they shall immediately become liable to the full duty as aforesaid.

II. All other vessels coming into any port or place in this island shall pay on entry sixpence per ton as aforesaid to the Comptroller of Navigation Laws, or other person appointed as hereinbefore mentioned, who shall grant a certificate thereof, agreeably to the Form in the Schedule to this Act annexed, marked (A), which shall exempt them from further payment of light or anchorage duty in that or any other port in this island until the 1st day of January next after such payment, but no longer.

III. All vessels anchoring within any harbour or port in this island, whether for shelter, to take in supplies, or otherwise, without the certificate aforesaid, shall pay sixpence per ton to the harbour-master of the port or harbour, who shall grant a certificate thereof, agreeably to the Form in the Schedule to this Act annexed, marked (A), which shall exempt them from further payment of anchorage duty or light duty in that or any other port or harbour in this island until the 1st day of January next after such payment, but no longer.

IV. The person receiving any of the duties aforesaid shall quarterly make a return in writing of the amount received by him to the treasurer of this island, and shall make and subscribe at the foot of each return an affidavit of the correctness thereof, in the Form in the Schedule to this Act annexed, marked (B), set forth to be sworn before a justice of the peace; and he shall also, at the time of making such return pay the amount so received by him into the treasury of this island, to be applied to the purposes specified in the Act of the 8 Vict., c. 3, intituled "An Act to make new provisions for the support of Light-Houses, Buoys, and Beacons," and to which the duties imposed by that Act are thereby applied, and such person shall for his services be paid twenty pounds per centum on all moneys so received and paid over by him as aforesaid, for

anchorage duties, and seven and one-half pounds per centum on all moneys so received and paid over by him as aforesaid for light duties.

V. If the master of any vessel liable to any duties hereunder, shall on demand refuse to pay, or shall depart without paying the same, he shall forfeit five pounds in addition to the amount of duties, and the Comptroller of Navigation Laws or person so appointed as aforesaid in the case of light duties, or the harbour-master in the case of anchorage duties, is hereby authorized in his own name as such officer to sue for and recover such fine and duty, before any one of Her Majesty's justices of the peace, which justice is hereby directed and required on the oath being made by any such officer as aforesaid, to cause a *capias* to be issued for the recovery of the same, and immediately to proceed and adjudicate on the same; and if the amount of the judgment given by such justice, and the cost and expenses be not at once paid after the giving of such judgment, then the defendant shall be imprisoned for the same length of time in proportion to the amount of the judgment as he would have been under an execution issuing out of any court for the recovery of small debts, constituted or to be constituted under any Act now or hereafter for the time being, to be in force, on a judgment of a similar amount recovered therein.

VI. If the master of any vessel shall not pay any such duty when duly demanded, the officer shall, and he is hereby fully authorized to seize such vessel or any part of her materials, and to employ other persons to assist him in doing the same, and to detain such vessel or materials until the duty due and the expenses thereon are paid.

VII. The remedies for the recovery of the duties and penalties aforesaid, given by the two last sections of this Act, may be both pursued, and at the same time or at different times, or one only may be pursued or otherwise as the officer collecting the same may think fit.

VIII. So much of the Act of the 8th year of Her present Majesty's reign, chap. 3, intituled "An Act to make new provisions for the support of light-house, buoys, and beacons," as relates to and establishes the rates of light duties to be paid on account of vessels clearing from or entering at any port or place in this island, and also the whole of the Act of the 11th year of Her present Majesty's reign, chap. 11, intituled "An Act to explain and amend an Act made and passed in the 8th year of the reign of Her present Majesty, intituled An Act to make new provisions for the support of Lighthouses, Buoys, and Beacons," be and the same are hereby respectively repealed.

IX. If any person shall by force or violence, assault, resist, molest, oppose, hinder, or obstruct any Comptroller of Navigation Laws, or harbour-master, or other person employed as aforesaid in the exercise of his office, or any of the powers by this Act conferred upon him, or any person acting in his aid or assistance, such person shall forfeit and pay a fine not exceeding 10*l.*, the same to be sued for and recovered in Her Majesty's name, before any two of Her Majesty's justices of the peace for the county wherein the offence was committed, and if not paid on conviction, the offender shall be imprisoned for a period not exceeding six months.

X. This Act shall continue and be in force for the space of three years from the passing thereof, and from thence to the end of the then next session of the General Assembly, and no longer.

attention, and that he has apprized the Governor of Nova Scotia, that he considers this an unfortunate occurrence, and has instructed him to make strict inquiry, in concert with the Admiral, into the manner in which the despatch may have been communicated to the newspapers. But I am to add, that Sir John Pakington would be unwilling to express the same displeasure at the publication in the Colonies of the despatch addressed by him to the Provincial Governors, as that despatch did not equally contain matter of which the communication to the public would be likely to produce inconvenience, but merely conveyed in general terms important intentions of Her Majesty's Government which were to be forthwith carried into effect, and which related to subjects upon which it was desirable to allay the anxiety prevalent in the British Provinces.

I am, &c.
(Signed) T. FREDK. ELLIOT.

No. 30.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, August 21, 1852.

I AM directed by Secretary Sir John Pakington to acknowledge the receipt of your letter of the 10th instant, suggesting that certain further instructions should be addressed to the Lords Commissioners of the Admiralty respecting the fisheries in North America, and also your letter of the 12th instant, accompanied by a correspondence with Her Majesty's Minister at Washington on this subject.

I am desired in answer, to transmit to you, for the information of the Earl of Malmesbury, a draft of the instructions which Sir John Pakington proposes to address to the Lords Commissioners of the Admiralty, for the guidance of the Vice-Admiral Commanding-in-chief on the North American station.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure in No. 30.

Sir J. Pakington to the Lords Commissioners of the Admiralty.

My Lords,

Downing Street, August 19, 1852.

IN my letter of the 2nd June last, I conveyed to you Her Majesty's commands for stationing off the coasts of the British Possessions in North America, a sufficient force of small vessels to protect the fisheries, and prevent infractions of the Convention of 1818 with the United States, desiring at the same time that the officers employed on this service should be enjoined to avoid all unnecessary interference with the vessels of friendly Powers, and all harshness in the performance of their duty.

Since the time when these instructions were issued, apprehensions have been expressed in the United States, that it was intended by them to withdraw the concession made by Her Majesty's Government in 1845, of liberty to the fishermen of the United States to pursue their avocation within the waters of the Bay of Fundy, provided that they should not approach within three miles of the inlets and coasts of the British Provinces situated within that bay.

And Admiral Sir George Seymour has referred to the instructions given to successive Naval Commanders-in-chief, that although no right on the part of the United States' fishermen to fish from the shores of the Magdalen Islands, or to

dry and cure their fish there, could be acknowledged, yet they should not be practically interfered with at those islands.

Sir G. Seymour has also stated that the fishing-vessels of the United States resort in large numbers to the various harbours in Cape Breton, Prince Edward Island, and New Brunswick, where they pass the Sundays without entering those harbours, except from stress of weather, or to repair damages, or for obtaining wood, and purchasing water, as provided for in the Convention, and he has inquired what course should be taken as to these vessels.

With reference to these several subjects, I have it in command to instruct your Lordships to inform the Admiral Commanding-in-chief on the North American station, that Her Majesty's Government, in ordering that the British fisheries should be protected, are not making new claims against the United States, nor altering or reversing any standing orders to Her Majesty's Governors and public functionaries, nor revoking any such concession as that which was granted in 1845 as regards the Bay of Fundy, or that which has long been practically made in the Magdalen Islands, it being clearly understood that no right of American citizens to land their crews upon those islands is acknowledged by this permission and sufferance on the part of the British authorities.

I have further to apprise your Lordships, that unwilling to withdraw any accommodation which fishermen of the United States now find in British harbours, although such accommodation may go beyond the terms of the Treaty, Her Majesty's Government do not for the present desire any interference with the resort which it appears that they have formed the habit of making to various ports in the British Provinces, at times when they are not engaged in fishing, so long as they may conduct themselves in an orderly and peaceable manner.

What course may be taken hereafter on these several concessions, it is unnecessary now to determine. The various questions at issue between the Government of this country and of the United States will probably be the subject of future discussion between them; but in the meantime Her Majesty's Government have no wish to withdraw the foregoing privileges from the fishermen of the United States in any manner which could be considered abrupt.

I have therefore to request that your Lordships will desire the Admiral to execute the instructions which you before conveyed to him with due regard to the above concessions, and with as much moderation and forbearance as may be consistent with the firm maintenance of those rights on the part of the British North American Provinces, the encroachments upon which have been the subject of their recent and repeated complaints.

No. 31.

Mr. Crampton to the Earl of Malmesbury.—(Received August 23.)

(No. 109.)

My Lord,

Washington, August 9, 1852.

WITH reference to my despatch No. 92 of the 5th ultimo, I have the honour to inclose the copy of a note addressed to me by the United States' Acting Secretary of State, acknowledging the receipt of my communication to the United States' Government in regard to the measures adopted by Her Majesty's Government for the better protection of the British fisheries.

I have &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 31.

Mr. Hunter to Mr. Crampton.

Sir,

Department of State, Washington, July 14, 1852.

I HAVE the honour to acknowledge the receipt of your note of the 5th instant, in which, by direction of your Government, you bring to the knowledge of that of the United States, a measure which has been adopted by Her Britannic Majesty's Government to prevent a repetition of the complaints which have so frequently been made of the encroachments of vessels belonging to citizens of the United States and of France, upon the fishing-grounds reserved to Great Britain by the Convention of 1818; and to be, &c.

(Signed) W. HUNTER, *Acting Secretary.*

No. 32.

Mr. Crampton to the Earl of Malmesbury.—(Received August 23.)

(No. 115. Confidential.)

My Lord,

Washington, August 9, 1852.

I LEFT Marshfield on the 5th instant, and arrived here on the evening of the 6th.

Mr. Webster having been earnestly requested by the President to repair immediately to Washington, would have accompanied me had not the delicate state of his health and the inclemency of the weather induced him to put off his journey to the following day. He will probably arrive here in a day or two.

At Mr. Webster's suggestion I immediately waited upon the President of the United States, who, Mr. Webster said, evidently felt a good deal of uneasiness respecting the view taken in the Senate of the fishery question, as evinced by a debate which took place on the 3rd instant, in regard to the President's message on that subject.

I have the honour to inclose herewith two extracts of the "National Intelligencer," containing a report of this debate and a notice of the message, which has not yet been printed.

Mr. Fillmore's tone and manner, in a long and confidential conversation which I had with him on the subject of the fisheries, was frank and conciliatory. I remarked, however, with regret, that, contrary to what I had been led to expect from my conversations with Mr. Webster at Marshfield, he did not seem to concur in the construction of the Convention of 1818, as regards the definition of bays, laid down in the opinion of the Advocate-General and Attorney-General of 30th August, 1841, but seemed rather disposed to adopt the view taken of that point by General Cass and Mr. Davis in the debate to which I have alluded. I say "rather disposed," because Mr. Fillmore, in avowing his impression of the correctness of that view, frankly admitted that he had not yet sufficiently examined all the documents relating to the subject, and more particularly the opinion of the Law Officers of the Crown referred to, of which he requested me to furnish him with a copy *in extenso*.

I remarked to Mr. Fillmore, that I had been struck in reading the speeches of the Senators who had impugned the opinion in question, by the absence of any allusion to the doctrine on the subject of the true definition of the maritime jurisdiction over bays which had been invariably held by the United States in regard to their own waters, and which was laid down by the highest American authorities,—a doctrine exactly coinciding with that which had always been held by Her Majesty's Government.

The President, not seeming to be clearly aware of the existence of any authoritative statement on this subject by an American authority, I read to him, with his permission, a short memorandum, which, with the assistance of

an eminent lawyer of this city, I had drawn up for my own use, and a copy of which I have the honour to inclose.

Mr. Fillmore seemed struck with the justice of the arguments adduced by Chancellor Kent (a very high authority in this country), which, he said, would certainly be applicable to the case of two nations when their rights had not been modified by treaty; but he seemed to apprehend that the Treaty of 1783 and the Convention of 1818, "taken together," would qualify the principle laid down by Kent as regarded the present question between Great Britain and the United States.

I confess I was at a loss to seize the drift of his argument in this respect, for he did not contest the correctness of my remark, that the rights in question, whatever they might be, now rested solely on the Convention of 1818.

With regard to the instructions given to Commodore Perry, alluded to in my despatch No. 107 of the 2nd instant, the President remarked that he had been careful to draw them up in such a manner as to avoid the possibility of any collision between the United States and British naval forces.

It was understood and agreed between Mr. Fillmore and myself, that our conversations on the subject of the construction of the Convention of 1818 were to be considered as confidential and unofficial.

I stated on my part, that I had as yet received no further instructions from Her Majesty's Government upon the subject of the fisheries, than to make known to the United States the intention of Her Majesty's Government to take measures to protect the rights secured to British subjects in regard to them by the Convention of 1818, and this I had done by my note of the 5th ultimo. It was true, I presumed, that the rights so secured were properly defined by the opinion of the Law Officers of the Crown above alluded to, but this opinion had never been brought officially under my cognizance, nor had I been instructed to insist upon it on the present occasion. Her Majesty's Government would therefore stand entirely uncommitted by any remarks of mine on the subject.

The President entirely concurred in the correctness of my remark, and observed on his own part, that the Government of the United States having hitherto done no more than simply acknowledge the receipt of my communication, was not to be considered as having, as he expressed it, yet "made any point" on the matter, which called for explanation on the part of Her Majesty's Government; but he added, that it would always give him pleasure to discuss the question with me in all its bearings, extra-officially, with a view to prevent the adoption of any precipitate step on either side, which might involve the two Governments in unfriendly or disagreeable official correspondence.

In alluding to the possibility of settling the present question of the fisheries by a negotiation or by legislation, embracing the whole subject of reciprocity of trade with the British North American Colonies, Mr. Fillmore seemed to fear that the excitement created in the country, and which he was sorry to see was participated in by the Legislature, had exercised a very unfavourable influence upon this mode of settling the question. He hoped, however, that even were it found impossible to combine the settlement of reciprocity of trade with that of the present difference about the fisheries, means might nevertheless be found of arranging the latter independently; and he mentioned arbitration by a third Power as one of these means, in case Great Britain and the United States found a difficulty is agreeing as to the precise signification of the Convention of 1818.

The President having in our conversation alluded to the supposed uninterrupted indulgence which had been for many years practically accorded to American fishermen in the exercise of the liberty of fishing in British waters, I was enabled to demonstrate to him the incorrectness of this assumption by placing in his hands the paper which I have the honour to inclose, being a printed return of the Court of Vice-Admiralty at Halifax, which had just been forwarded to me by the Administrator of the Government of Nova Scotia, stating the number of American vessels which had been seized and condemned by the authorities of that colony, for violation of the Convention of 1818, from the year 1838 to 1851.

This document clearly shows, that however ineffectual may have been, the efforts of the authorities of Nova Scotia to preserve the rights of British fisher-

men from encroachment, their efforts to do so had nevertheless been unremitting, and at all events constitute a substantial protest on their part against the violation of those rights, however unsuccessful this protest may in the main have proved.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 32.

Debate in the Senate, August 3, 1852.

A MESSAGE having been received from the President in relation to the fisheries on the coasts of the British possessions, with accompanying documents, and Mr. Cass having moved to refer the same to the Committee on Foreign Relations—

Mr. Cass said: Mr. President, I have looked with some care into this question of the fisheries since it was first brought before us, and as there seems to me to be some important errors prevalent, I desire to take this opportunity, before the just cause of our country is prejudged, to correct them.

The ocean which unites while it separates the nations of the earth is at once their common highway, and a liquid field whose abundant supply of food for man is among the most wonderful and beneficent dispensations of nature. No nation can appropriate it to itself. For the purpose of mutual convenience and of proper internal police, it seems to have been understood that the authority of every country may control the shores of the ocean within one marine league, or three miles, of its coasts. But within this distance vessels may navigate the seas, though they ought not to violate the municipal laws passed for revenue and for other proper purposes.

When the United States asserted their independence, and entered into negotiations with England for its recognition, the question of the fisheries was one of the most important, whose adjustment was required by the relations existing between the two countries. England contended that we were in the condition of any other foreign Power, and that, consequently, we had no rights but such as every nation possessed by virtue of its sovereignty. Our revolutionary patriots contended, and justly and successfully, that the colonists were among the first to carry on the fisheries; that they did their full share, and more, too, in defending and acquiring them from the French: and that, as a portion of the common empire which possessed them, they had a right to enjoy their just proportion, as well when separated as while united; and we learn, both from the traditional accounts and from diplomatic and historical documents, that in the very darkest period of the struggle, there was no wavering upon this point, but that our conscript fathers held on to it with as much tenacity as their Roman predecessors held on to the rights and honour of Rome when the enemy was at the gates of the capitol. The sturdy patriot, John Adams, told the story in his old age—and an eventful one it is—valuable both as an encouragement and as an example. It is contained in a letter to William Thomas, dated—

“Dear Sir,

Montezillo, August 10, 1822.

“The grounds and principles on which the IIIrd Article of the Treaty of 1783 was contended for on our part, and finally yielded on the part of the British, were these: first, that the Americans and the adventurers to America were the first discoverers and the first practisers of the fisheries; secondly, that New England, and especially Massachusetts, had none more in defence of them than all the rest of the British Empire; that the various projected expeditions to Canada, in which they were defeated by British negligence—the conquest of Louisburg in '45—the subsequent conquest of Nova Scotia, in which New England had expended more blood and treasure than all the rest of the British Empire—were principally effected with a special view to the security and pro-

tection of the fisheries ; thirdly, that the inhabitants of the United States had as clear a right to every branch of the fisheries, and to cure fish on land, as the inhabitants of Canada or Nova Scotia ; that the citizens of Boston, New York, or Philadelphia, had as clear a right to those fisheries and to cure fish on land, as the inhabitants of London, Liverpool, Bristol, Glasgow, or Dublin ; fourthly, that the IIIrd Article was demanded as an ultimatum, and it was declared that no Treaty of Peace should ever be made without that Article. And when the British Ministers found that peace could not be made without that Article, they consented—for Britain wanted peace, if possible, more than we did ; fifthly, we asked no favour, we requested no grant, and would accept none. We demanded it as a right, and we demanded an explicit acknowledgment of that right as an indispensable condition of peace.”

The war of 1812, and the peace that followed it, left this important right in a disputed and precarious condition. No arrangement could be made at Ghent in relation to it ; and the effort was closed by the peremptory declaration made on the 10th of November, 1814, by the American to the British Commissioners, “ 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 [the fisheries]. From their nature, and from the peculiar character of the Treaty of 1783, by which they are recognised, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them.”

After the Peace, during some years, difficulties and troubles arose, threatening serious consequences, from the almost hostile pretensions of the parties, that finally led to the negotiations of Messrs. Gallatin and Rush, which terminated in the existing Convention of 1818.

There were strange claims in those days as well as now. An effort was made to exclude us from coming within twenty leagues of the colonial coasts ; though the act was finally disavowed by the British Government, wherever the design may have originated.

And Mr. Monroe said, in his instructions to the Commissioners at Ghent, that the Administration “ had information, from a quarter deserving attention,” that a demand would be made to surrender our right to the fisheries, to abandon all trade beyond the Cape of Good Hope, and to cede Louisiana to Spain.

“ These rights,” said the Secretary, by order of the firm and patriotic Madison, “ must not be brought into discussion. If insisted on, your negotiation will cease.”

And even after the Convention a claim was made to run a line from Cape Granby to Cape North, across the whole north-east coast of Cape Breton, not less than 100 miles, including within the *tabooed* region numerous bays and harbours.

The history of that period of pretension teaches lessons that no independent State, mindful of its own self-respect, or solicitous of the respect of the world, should forget or disregard. Those were the days of impressment, when British officers took whom they pleased from American ships, and when two great belligerents, animated with the spirit of the highwayman, robbed us of our property wherever they could find it on the ocean, each alleging as its justification that the other had set the example. Hereafter let us meet the first intentional insult or injury—by intentional I mean one directed or justified by a foreign Power—let us meet it, as it should be met, by the armed hand, and by the whole force of the nation. Submission and acquiescence will conduct us only to contempt and dishonour.

We learn from the Report of the Commissioners of 1818, that the important provisions in the present Convention were the result of an ultimatum submitted by them, and which was followed by an arrangement. That arrangement was in some respects different from the Treaty of 1783. By that Treaty the American fishermen were acknowledged to have the right to fish on the Grand Banks and all the other banks of Newfoundland, and also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries were at any time before used to fish ; and also on the coast of New-

foundland, and on the coasts, bays, and creeks of all the other colonial possessions; and the right to cure and dry fish on all the colonial coasts except Newfoundland.

The new Convention restricted the right to fish—that is, to fish within three marine miles of the coasts—to the lines and points enumerated in that instrument, and the right to dry fish on the coast of Labrador, and to a portion of the coast of Newfoundland, which was substituted for a more extended recognition in the original Treaty.

The consideration on the part of the United States for entering into this Convention was the amicable arrangement of a perplexing and dangerous question, which, while it was open, was at any time liable to lead to war, and the security of a large portion of the rights claimed by them, which placed this great fishing interest in a prosperous condition. The consideration on the part of England was the same permanent establishment of the amicable relations of the two countries, and the relinquishment by the United States of some part of what they had previously claimed. Each party, therefore, surrendered something to the other—rights and claims arising out of the relations they had previously occupied as portions of one common empire. But their rights as sovereign States, having no reference to previous connexion, were neither touched, nor designed to be touched, by this Convention. We did not ask of England, nor did she ask of us, the privilege of fishing in the ocean three marine miles from each other's coasts. No treaty was needed for that purpose, nor did either Government dream of it. What we wanted was the enjoyment of a right we had possessed since the settlement of the country, to fish near to the coast when necessary, without reference to the question of jurisdiction, and to dry the fish in proper places; and what England wanted was to reduce these claims within the narrowest limits she could induce us to accept; and the result was the existing arrangement.

We did not get the right to fish on the ocean from England, nor from any other earthly power. We got it from Almighty God, and we mean to hold on to it, through the whole extent of the great deep, now in the days of our strength, as our fathers held on to it in the days of our weakness. Should we abandon this attribute of independence, even in any extremity which human sagacity can foresee, we should prove recreant both to the glories of the past and to the hopes of the future, to the deeds of our fathers, and to the just expectations of our children. I know but little of the character of my countrymen, if they would not reject with indignation any proposition thus to tarnish their history and to write their own dishonour upon it.

What, then, I repeat, have we secured by the Convention? The right to take fish within three miles, and the right to come ashore to dry them, and the right of shelter in certain coasts, harbours, creeks, and bays. In what bays do we possess rights? for there arises the controversy.

This word "bay," as a geographical designation, is very indefinite in its application. Neither the form, size, nor position of the various expanses of water to which it is applied has any such strict relation as to give to the term a fixed definition. We have designated that great interior sea, under the Arctic circle, named from the enterprising mariner Hudson, as a bay, though with its various indentations it extends through twenty degrees of latitude, and as many of longitude. And the few miles at the mouth of the North River, forming the harbour of New York, is equally entitled to the same appellation. Baffin's Bay is another prodigious indentation of the ocean, covering, with Davis's Straits as far as Cape Farewell, a greater area than the Gulf of Mexico and the whole Caribbean Sea. The Bay of Biscay—whose headlands, according to the new doctrine, may be said to be near Brest, as my honourable friend from Louisiana (Mr. Soule) well knows, on the north-east, and Corunna on the south-west, giving an arc of near five hundred miles—is another of these mighty sheets of water with a comparatively humble name; and so is the Bay of Fundy, though less, and the Bay of Chaleur, from both of which we are sought to be excluded. The same uncertainty prevails as to gulfs and seas, for we have them of all sizes and forms, from the Gulf of Guinea and the Mediterranean Sea down to the Gulf of Patras, and to the far-famed but diminutive Marmora, renowned in history, but insignificant in geography.

Now, Sir, it is preposterous to run a line from one projecting point of these

vast expansions to the other, and claim for the State which holds the coast, even if it is the whole of it, exclusive jurisdiction over great arms of the ocean, with the right to prevent any other nation from enjoying them, either for the purpose of fishing or of navigation.

That there are many land-locked indentations which constitute portions of the territory of the country whose coasts surround them is indisputable. It is not necessary to enter into the public law, made since by general consent, which regulates that subject. No doubt cases may arise where rights are claimed and resisted, which are not easy of adjustment in consequence of the absence of fixed principles. When such controversies arise, they must take their own course of settlement.

But, independent of these general considerations, applicable to the larger bays and gulfs of the fishing region, there are others which fix the meaning of the word "bay," as employed in the Convention, beyond reasonable doubt or dispute, beyond all cavil, but a determination to resort to interest rather than to reason for the signification of a term. The Convention, by indicating the use of the bays, sufficiently indicates their nature. They are for the purpose of affording *shelter*, &c. Now, what shelter can the storm-beaten mariner find in the Bay of Fundy or in the Gulf of St. Lawrence? Both of these seas are among the most dangerous that our hardy seamen are compelled to encounter, whatever may be their pursuits, or wherever they may range the ocean. They are proverbially perilous and deceitful, and the right to find shelter upon these tempestuous waves would not be worth the paper on which it might be written.

The "Montreal Herald," indeed, in a late number, while accusing the American of standing "upon any advantages they may possess," cuts this Gordian knot with great ease, by the discovery and annunciation that "there is, after all, no real ground for considering this as an insult; for the bays and straits where the British men-of-war are stationed are as exclusively British as the British Channel." Quite cool, this claim over the great highway which separates France from England, twenty-one miles broad in its narrowest part. This is going backward, indeed, to the days of Selden, the advocate of this pretension, and to the reign of Charles, who hoped to establish it. The knowledge and the modesty of the editor are equally commendable.

The bays of the Convention are classed with harbours and creeks—a classification significative of the object. They are defined as bays "of His Britannic Majesty's Dominions," over which the British Government has jurisdiction, as it has over the land that encircles them. That such was the understanding of our negotiators is rendered clear by the terms they employ in their report upon this subject. They say, "it is in that point of view that the privilege of entering the ports for shelter is useful," &c. Here the word "ports" is used as a descriptive word, embracing both the bays and harbours within which shelter may be legally sought, and shows the kind of bays contemplated by our framers of the Treaty. And it is not a little curious that the Legislature of Nova Scotia have applied the same meaning to a similar term. An Act of that province was passed March 12, 1836, with this title, "An Act relating to the Fisheries in the Province of Nova Scotia and the Coasts and Harbours thereof," which Act recognizes the Convention and provides for its execution under the authority of an Imperial statute. It declares that harbours shall include bays, ports, and creeks. Nothing can show more clearly their opinion of the nature of the shelter secured to the American fishermen.

The general views of Messrs. Rush and Gallatin are shown in the following extract from their report, and I introduce it because it has an important bearing upon the whole subject before us:—

Messrs. Gallatin and Rush to the Secretary of State. October 20, 1818.

"It will also be perceived that we insisted on the clause by which the United States renounced their right to the fisheries relinquished by the Convention, that clause having been omitted in the first British counter-projet. We insisted on it with the view—1st. Of preventing any implication that the fisheries secured to us were a new grant, and of placing the permanence of the rights secured and of those renounced precisely on the same footing. 2nd. Of its being

expressly stated that our renunciation extended only to the distance of three miles from the coast. This last point was the more important, as, with the exception of the fishery in open boats within certain harbours, it appeared from the communication above mentioned, that the fishing-ground on the whole coast of Nova Scotia is more than three miles from the shores; whilst, on the contrary, it is almost universally close to the shore on the coast of Labrador. It is in that point of view that the privilege of entering the ports for shelter is useful, and it is hoped that with that provision, a considerable portion of the actual fisheries on that coast (of Nova Scotia) will, notwithstanding the renunciation, be preserved."

Now, Sir, it appears to me, on a careful review of this whole question, that the conduct of England is equally unfriendly and unjust. Indeed, I find it difficult—I might almost say impossible—to ascertain her true motive, or the length to which she is prepared to go; and more especially so, since her Government at home and her officers abroad have heralded her proceedings to the world, the instructions of the Secretary of State, and the orders of the Admiral having been equally communicated through the medium of the press, and are now on their way through Christendom. Where her prudence, after these disclosures, will prompt her to stop, or how far in this dangerous career her pride, or whatever other motive dictates her course, may impel her onward, I am at a loss to conjecture. Nations, before they take such ground, and take it so openly, should be very sure of their rights, and fixed in their determination to maintain them. Mr. Monroe was equally puzzled in 1815, under not dissimilar circumstances, and I commend to attention the remarks in his letter to Mr. Adams of July 21 of that year:—

Extract of a Letter from Mr. Monroe to Mr. Adams, dated July 21, 1815.

"It can scarcely be presumed that the British Government, after the result of the late experiment, in the present state of Europe, and under its other engagements, can seriously contemplate a renewal of hostilities. But it often happens with nations, as well as with individuals, that a just estimate of its interests and duties is not an infallible criterion of its conduct. We ought to be prepared at every point to guard against such an event. You will be attentive to circumstances, and give us timely notice of any danger which may be menaced."

When the honourable Senators from Maine and Massachusetts (Mr. Hamlin and Mr. Davis) attributed the course of England in this matter to a design to effect a reciprocity arrangement for her colonies by a manifestation of energy and display of force, I could not concur with them at all in the opinion. I thought it was impossible that England would hazard such an experiment upon our forbearance, not to say timidity. I could not believe that any British statesman could so far mistake our national character as to suppose that such a course would extort our consent to any measure, whether obnoxious or not. I thought we had lived in the world so long, and grown to be one of its great Powers, under circumstances so often requiring energy and resolution, that no nation would regulate its demands against us upon the presumption, even if they were made with boldness, they would be granted with the alacrity of fear. I am well aware that England, and other Powers, indeed, have measured their own rights for themselves, and have compelled reluctant States to do them justice. And this is justifiable where the demand is incontestable, and voluntary satisfaction becomes hopeless. But this generally occurs with comparatively small States; for with powerful ones such a course would be the signal of war. But I did not believe we were in this category in the estimation of the British Administration, nor that the experiment would ever be made of firing a gun on the Potomac in time of peace, to secure any demand whatever, because such an act had succeeded on the Tagus. I do not mean that the display of an unusual force in neighbouring waters is as indicative of a belligerent attitude as would be its appearance upon our own coast; but it is well calculated to give offence, especially when coupled with the avowed determination of so turning the cir-

cumstances as to procure commercial arrangements which it is not certain we shall ever make.

Now, Sir, recent statements in the colonial papers justify the conjecture of the Senators from Maine and Massachusetts, and indicate pretty clearly one of the objects of this new movement. I will refer to some of them:—

From the "New Brunswicker."

"We have no doubt but an attempt will be made by the American Government to obtain a modification of the strict letter of the Fishery Treaty between Great Britain and the United States; but failing, as we believe they will, in this, they will then offer as an equivalent, reciprocity in certain articles of domestic growth and produce, for the privilege of fishing within the prescribed limits. The unlimited sway which American fishermen have heretofore enjoyed along our coasts left them little or nothing to wish for; and when these colonies wished a reciprocity in some of their staple articles they were treated with the utmost indifference. Our neighbours had so long trampled upon our privileges, that they imagined they had a perfect right to our fishing-grounds for their benefit. Did they possess such a valuable source of wealth, British subjects would not be permitted to take a single fish. The strictest *surveillance* would be exercised to keep off all intruders."

From the St. John "Morning News."

"The recent movements of the British with respect to the American fishermen have caused some sensation in the United States, and serious troubles between the two Governments are anticipated, consequent upon the strict interpretation of the Fishery Treaty by Earl Derby's Government. It is not at all improbable that the determination of the Ministry to enforce the Treaty has been conceived with a view to the success of the negotiations for reciprocal free trade, and that the American Government will be glad to make terms."

From the "Montreal Herald."

"THE FISHERIES—RECIPROCITY.—The Americans are always disposed to stand upon any advantages they may possess, and refuse to yield favours to others, even when themselves are likely to gain by the bargain, without a distinct and apparent compensation. When, after abolishing the differential duties, we asked the small return of reciprocity in raw materials, we were immediately met by the question, What have you got to give us in return? The fisheries were suggested by the Americans as something that might be thrown in on our side; but eventually they seem to have become impressed with the conviction that, as they were enjoying them without any formal concession of privilege, they might as well still refuse what the colonies asked. It was quite time to show them that we had something which we could withhold as well as they; and though we know not whether the desire to obtain reciprocity has not been one of the grounds for the present somewhat sudden action on the part of the Imperial Government, we hold that such a desire would be a perfectly legitimate ground for such action."

I understand, also, that similar views were expressed in Parliament during some recent allusion to this subject. I trust, for the permanent welfare of both countries, that this effort, as a compulsory means of effecting a diplomatic arrangement, will be abandoned.

Apart from this conjecture—for it is only such—what does England intend to do? I see it stated in many of our journals, as a reason for sitting still, that we do not know what is the exact object of England. Well, Sir, that is precisely one of our most serious grounds of complaint. A great movement is going on in a part of the ocean where we have immense interests at stake. A

powerful armament has arrived there ; rumours are rife that a new policy is to be adopted ; the British Minister here, and the British Secretary of State, and the British Admiral, talk of our "encroachments ;" and the whole tenor of the preparations show, that what is thus termed is to be resisted ; and yet we have no information, official or even authentic, as to what England designs to do. A very able and respectable journal of this city, which I generally read with pleasure, and often with profit (the "Intelligencer"), and for whose editors I have much personal regard, gives us the following information :

"Nor has the present proceeding by the British authorities been so sudden, or so entirely without notice, as seems to be supposed. We are informed, upon the best authority, that about the 7th of this month the Minister of Great Britain notified our Government that measures had been adopted by the British Government to prevent the repetition of the complaints which had so frequently been made of the encroachments of vessels belonging to citizens of the United States and of France upon the fishing-grounds reserved to Great Britain by the Convention of 1818 ; that urgent representations had been addressed to the Government of Great Britain by the Governors of the British North American Provinces in regard to those encroachments, to the effect that the colonial fisheries were most seriously prejudiced ; and that directions had been given by the Lords of the Admiralty for stationing off New Brunswick, Nova Scotia, Prince Edward's Island, and in the Gulf of St. Lawrence, such a force of small sailing-vessels and steamers as should be deemed sufficient to prevent further infractions of the Treaty.

"The Minister of Great Britain at the same time also informed our Government that it was the command of his Government that the officers employed upon this service should be specially enjoined to avoid all interference with vessels of friendly Powers, except when they were in the act of violating existing treaties ; and on all occasions to avoid giving ground of complaint by the adoption of harsh or unnecessary proceedings where circumstances compelled the arrest or seizure of such vessels."

I have no doubt but this is substantially correct. Now, I disagree with the "Intelligencer" as to the use or friendly spirit of this communication. What does it amount to as a correct means of judging the true state of things, either present or prospective ? What are these "encroachments ?" and what is this "infraction" thus to be forcibly prevented ? Fair-dealing required we should be told ; but the matter is involved in Delphic obscurity. Do these complaints, thus to be remedied by one of the parties alone, relate to palpable violations of the Treaty which our Government would not defend—such as fishing within the clearly excluded limits, attempts to smuggle, or other indefensible acts—or do they relate to the large open bays, which we contend we have a right to enter, and which is in fact the only real subject in dispute ?

Sir John Pakington, the British Secretary of State for the Colonies, in a letter to the Colonial Governors, employs the same word "encroachment," and leaves us equally in the dark as to its application. This is his letter :

Copy of a Letter from Sir John Pakington, Secretary of State for the Colonies to the Governors of the British North American Colonies. Dated May 28, 1852.

"Her Majesty's Ministers are desirous of removing all grounds of complaint on the part of the Colonies in consequence of the encroachments of the fishing-vessels of the United States upon those waters from which they are excluded by the terms of the Convention of 1818, and they therefore intend to dispatch, as soon as possible, a small naval force of steamers, or other small vessels, to enforce the observance of that Convention."

In the meantime the Colonial papers are in raptures, looking forward to the advent of a golden age by the adoption of their construction of the Treaty, and by the determination of the Home Government to maintain it. There is a prodigious flourish of trumpets upon the occasion, and it is obvious that every

colonist believes that this large force has been assembled for far more important purposes than to watch smugglers or the common trespasses of fishermen.

Now, what are these "encroachments," thus denominated and denounced by the British Government, and by their Representative here? There are not wanting the means of answering this question.

For a series of years the Colonial authorities have complained of our fishermen for fishing in all the large bays—in the Bay of Fundy, the Gulf of St. Lawrence, the Bay of Chaleur, and elsewhere. In 1842 these complaints assumed quite an imposing appearance, and a resolution passed the Legislature of Nova Scotia, embodying their supposed grievances in a distinct form, with a view to a decisive action. A case was stated by the Governor, embracing all the points they contended for, which was transmitted to the Government, with a request that the opinion of the Advocate and of the Attorney-General might be taken upon the various questions propounded. Among these questions was the following :

"3rd. 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?"

There are two curious facts in connexion with this proceeding worthy of a passing notice.

The first is, that in the case stated by the Nova Scotia Government, it is asserted that at the Peace of 1783 a Treaty was entered into between the United States of America and Great Britain, by which the people of the former country obtained the right "to take fish on the Grand Bank," &c. A greater historical error could hardly be committed in this matter, which the Treaty itself, as well as all contemporaneous accounts, contradicts. What influence the statement may have had upon the subsequent opinion, I know not. It certainly leaves but little respect for the careful action of those who prepared the document :

The second curious fact, though of a different nature, concerns the Governor (Lord Falkland), who gravely tells the Secretary of State, while sending him this paper, that "the people of the colony have not been wanting in efforts to repel the incursions of the natives of the United States upon these fishing-grounds," &c. This dignitary seems to have supposed that the aboriginal population yet possessed our country, as the term "natives" is by common consent applied to the primitive inhabitants of a region.

The case thus stated was referred by the Home Government to the Advocate and Attorney-General, who decided every point in favour of British, or rather of colonial interests. It is probably well for the peace of the two countries, if the course of England is to be guided by the views of these functionaries, that nothing more was asked ; for I suppose a negative upon such questions of national interest could hardly have been expected from these legal expounders. On the main point the following was the opinion :

"2nd. 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 Treaty, American citizens are excluded from the 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 of the coast, or of the entrance of the bays, and not from the interior of such bays or inlets 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, excluding the interior of the bays and the inlets of the coasts.

"4th. By the Treaty of 1818 it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence, within certain defined limits, in common with British subjects; and such Treaty does not contain any words negating the right to navigate the passage of the Gut 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 dominions 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 fishery to be enjoyed by the Americans, we are also of opinion that that Convention did not, either expressly or by 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 vessels navigating the passage would constitute a fishing within the negative terms of the Convention."

This decision goes for the whole; but it is accompanied with two remarks little creditable to those high juriconsults, and which shake our faith in their opinion.

The first is, that "the term HEADLAND is used in the Treaty to express the part of the land we have before mentioned," &c. Unfortunately for their accuracy and their reputation, the word headland is not to be found in the Treaty, from one end of it to the other.

The second drawback upon their intelligence is of a much graver nature, and utterly destroys all confidence in their views. They say that "the prescribed distance of three miles is to be measured from the headlands, or extreme points of land next the sea of the coast, or of the entrance of the bays," &c. Here we have two kinds of headlands—one of the sea of the coast, and the other of the entrance of the bays. The former expression, if it means anything, means that from headland to headland along any coast, however straight and however unbroken such coast may be, resting upon the broad ocean itself, a line may be drawn, and exclusive jurisdiction claimed within it. This is more than the Nova Scotians asked, and more than the Law Officers of the English Crown could give. It is preposterous. The Bay of Fundy is not named specifically in this opinion, but it was evidently intended to embrace it. Now, this bay is not within the exclusive dominion of England, as part of the coast belongs to Maine; and it has no marked entrance, nor any distinct headlands on the north-eastern side, being almost a straight line, both in Maine and New Brunswick. It wants all the characteristics of a bay as defined in this opinion. It is, in fact, an open, exposed arm of the ocean, running along the coast of Maine more than 100 miles. Geographers consider the Bay of Fundy as separated from the Atlantic Ocean by a line from Cape Sable, on the southern coast of Nova Scotia, to the islands in the Penobscot Bay; and in the discussions respecting our north-eastern boundary it was contended on the part of England, that the rivers east of Penobscot Bay all emptied into the Bay of Fundy. This diagonal line would be little short of 200 miles in length. It is impossible to be definite in such an inquiry; but these facts indicate the great extent of this oceanic indentation, and how far it is from being a sheltered sheet of water separated from the ocean and protected from it by marked projecting headlands. It averages probably about 50 miles in width, and includes within its circuit numerous bays, such as Penobscot Bay, Frenchman's Bay, Passamaquoddy Bay, and Machias Bay in Maine, and the Bay of Minges, Chignecto Bay, and Bay Nortex, in Nova Scotia and New Brunswick, together with several others. Such an expanse of water is geographically and politically a part of the Atlantic Ocean.

But, Sir, this is a strange way of settling great international questions of jurisdiction, by referring them to the decision of the Law Officers of a Government. Such questions involve the most important and delicate points of foreign intercourse, and should be the subject of negotiation, not of legal reference. We thus arrive, Sir, at what the British authorities consider the "encroachment" of our fishermen, and for which they have recently made provision. No doubt occasional infractions of the Treaty occur, which the ordinary force in those regions is competent to prevent or to punish. No one defends such acts, nor will our Government make any reclamation in relation to them. But the complaint of throwing out offal and furnishing bait to the fish, and other grievances of a similar nature, are rather small matters to become the subject of controversy between two great nations. If the British colonists would imitate the

industry, and skill, and enterprise of our fishermen, it would be far better for them than these eternal complaints because a neighbouring people seek to obtain a portion of that beneficent bounty which is offered to the human race. Their proximity to the places of fishing and their possession of the whole coast would give them advantages which ought to ensure their superior success, if they would put their shoulders to the wheel, instead of calling for help across the Atlantic. And besides, the rigid pursuit of this object where our fishermen are concerned, is in singular and unfriendly contrast with the conduct of the British Government towards the French and Dutch fishermen, even in time of war. The former is marked with a spirit approaching persecution, while the latter is characterized by just moderation.

There is also a decided contrast between the force now employed and the force called out upon former and similar occasions. In 1817 one vessel only, the "Dec," was ordered upon this kind of service, when strong remonstrances were made by the colonies.

In 1836 Lord Glenelg informed the Governor of Nova Scotia, in answer to his representations, that the British Minister at Washington had been instructed to ask the friendly co-operation of the American Government, and that one small vessel would be sent to Nova Scotia, and another to Prince Edward Islands. But times have changed. Whether the change is to go on remains to be seen. Certainly a just comity would have dictated a similar guarded course under existing circumstances. Here is an active, powerful squadron close to our shores, and in waters where we have a deep interest, and to this day our Government learns nothing of the real designs of that of England. We have barren generalities leading to no useful results, and report tells us that seizures are daily making, and that many more are anticipated.

I have no doubt but that some of the Senators from the Eastern States will give to the Senate full statistical details of this important branch of national industry. I have been struck with its magnitude from a statement recently made in the papers, and which represents that we have 30,000 seamen, among the best in the world, and 2,000 vessels engaged in the various branches of the fisheries. This is an interest that no just Government can neglect, and one that would expose us to the severest reprehension of the American people should we neglect it.

The Gut of Canso, which is the passage from the main ocean to the Gulf of St. Lawrence, and which avoids a long detour round the Island of Cape Breton, is also to be shut to us, as is that great gulf itself, if the decision of the Law Officers of England is to be carried into effect. This pretension opens some of the gravest maritime questions as to narrow communications between various arms of the sea, and as to the right of jurisdiction over large expansions of the ocean. I shall leave them for other inquirers.

There are two episodes, if I may so term them, in this drama, which deserve a brief remark.

The first is the declaration of Lord Stanley, now Lord Derby, and the head of the British Ministry in 1852, in a letter to the Governor of Nova Scotia, acknowledging the receipt of the case stated for the consideration of the Advocate and Attorney-General, and transmitting the decision of those officers. The whole subject was then before him, and he thus communicates the determination of the British Government:

"We may, however, come to the conclusion, as regards the fisheries of Nova Scotia, that the precautions taken by the Provincial Legislature appear adequate (alluding to the law before referred to); and that such being practically acquiesced in by the Americans, no further measures are required."

Now this is significant enough. The Home Government refuses to endorse the exorbitant demands of the Colonies, even fortified as they are by high legal opinions, and puts the whole case upon the question of the practical acquiescence of the Americans. Now, no one will contend that at any time—then, or before, or since, did our Government or citizens practically, or virtually, or in any other manner acknowledge this pretension to exclude us from the great bays of that region; and of course such a claim is actually surrendered by the terms of the declaration. The second assurance is found in the admission of Lord Aberdeen

to Mr. Everett, that the Bay of Fundy would not be shut to us; and more distinctly in the despatch of Lord Stanley to the Governor of Nova Scotia. Here it is:—

To Sir William Colebrooke.

“ Sir,

Downing Street, March 30, 1845.

“ I have the honour to acquaint you, for your information and guidance, that Her Majesty’s Government have had under their consideration the claim of the citizens of the United States to fish in the Bay of Fundy—a claim which has hitherto been resisted, on the ground that that bay is included within the British Possessions.

“ Her Majesty’s Government feel satisfied that the Bay of Fundy has been rightly claimed by Great Britain as a bay, within the Treaty of 1818; but they conceive that the relaxation of the exercise of that right will be attended with mutual advantage to both countries—to the United States, as conferring a material benefit to the fishing trade, and to Great Britain and the United States conjointly and equally, by the removal of a fertile source of disagreement between them. It has accordingly been announced to the United States’ Government, that American citizens would henceforward be allowed to fish in any part of the Bay of Fundy, provided they do not approach, except in cases specified in the Treaty of 1818, within three miles of the entrance of any bay on the coast of Nova Scotia or New Brunswick.

“ I have, &c.

“ (Signed) STANLEY.”

Now, Mr. President, I take it for granted that no one who knows the course of British statesmen, and the instincts of the British people upon all questions touching territorial rights or interests, will doubt for an instant that this concession, as they call it, but recognition as we consider it, was made in the conviction that the right was with us; at any rate, in the full persuasion that the pretension of England was so doubtful that they ought not to hold on to it. And, as Mr. Everett justly remarks, the principle of this acquiescence applies with equal force to the other larger bays, and particularly to the great estuary of the St. Lawrence; and it is pretty clear that the British Ministers suffered themselves to be driven from their proper course in the application of their own principle elsewhere, in the other bays and waters, by the unreasonable clamour and remonstrances of the colonies.

Now, Sir, this acquiescence in our practical construction of the Treaty was an absolute surrender of the point in dispute; and it is too late in the day to recall the step. Nations cannot safely play the game of fast and loose, of give and take at pleasure, with one another, in the practical exposition of their conventional arrangements. It will not do. Nothing is gained; on the contrary, things are made worse by such temporary recognitions, to be resumed or changed when the opposite party is most strongly convinced by time and usage of its rights. England had just the same interest in our exclusion from the great arms of the ocean in 1842 which she has at this time; and her surrender of the point then implies her own views of the case, and the ten years which have since intervencd, unquestioned, have been enough to place our rights beyond dispute.

An attempt has been made to show a difference between our rights and liberties—designations first used in the Treaty of 1783, and transferred from that instrument to the Convention of 1818—and thereby to establish the pretension that the one is more indefeasible than the other. And I regret to see, Sir, that this effort is countenanced by the views of some of our own journals—honestly, I have no doubt, but erroneously, I am satisfied. I do not suppose that an Englishman can be found, from Johnny Groat’s house to the Land’s End, who will not firmly believe in the claim of England in this case, as he believes it in all other cases. No man will accuse the English people of a want of patriotic ardour; and it is rare indeed that their demands upon foreign nations are not supported by the almost unanimous sentiment of the country. I wish we had a little more of this feeling; not enough to blind us to the truth,

but enough to render it a source of congratulation to find our Government in the right. In looking back upon our past history, I recollect no case where we have not found doubts and opposition among our own citizens in our controversies with foreign Powers. I hope this case will yet prove an exception, as the right is so manifestly with us, and that we shall be found united in feeling and in action. Such an exhibition of patriotism would be worth more and do more than "an army with banners."

Now, Sir, no man, it appears to me, can read the letter of Mr. John Quincy Adams to Lord Bathurst, written, I believe, in 1816, without being satisfied that our claims are not in the least affected, either in their strength and duration, by the use of one or the other of those words, *rights* or *liberties*; and the subject is placed beyond dispute by Mr. John Adams, in the letter to which I have already referred, and in which he explains the origin of the difference, and shows that it had no relation to the pretensions of the parties:—

Further Extract from the letter of Mr. John Adams, before referred to.

"And the word 'right' was in the Article as agreed to by the British Ministers, but they afterwards requested that the word 'liberty' might be substituted instead of 'right.' They said it amounted to the same thing, for liberty was right, and privilege was right, but the word 'right' might be more displeasing to the people of England than 'liberty,' and we did not think it necessary to contend for a word."

And I cannot refrain from asking the attention of the Senate to the able and interesting letter of Mr. Stevenson, then our Minister to England, to Lord Palmerston, dated March 27, 1841. It is written with great force, and with a full knowledge of this whole subject, and Mr. Stevenson successfully combats what the Republic of this city well terms the preposterous pretension of England.

The danger and impropriety of transferring the course to be pursued in such delicate questions to the Colonial authorities, locally interested in the establishment of their own construction, is well shown in this letter; and I am glad to see that Mr. Webster, in some recent remarks at Marshfield, advances views similar to those of Mr. Stevenson. The Colonial Legislatures are authorized to pass laws and to make regulations upon the matter, and these laws and regulations carefully follow the words of the Convention, but in their administration colonial interests are kept prominently in view, and the peace of two great countries is put to hazard by petty interests, as exemplified in the complaints about offal and fishing-bait.

Mr. President, I said on a recent occasion, and I repeat emphatically, that I desire no war with England. Far from us and them—from the world indeed—far be such a calamity. No two countries on earth have stronger inducements, moral and political, to remain in amity with each other than have the United States and England, and woe be to either of them which voluntarily changes the pacific relations that now hold them together. But, Sir, the way to avoid war is to stand up firmly but temperately for our clear rights. Submission never yet brought safety, and never will. To yield, when clearly right, is to abandon at once our interest and our honour, and to show to the world how the finger of scorn can be best pointed at us. I am one among the feeblest of the sentinels placed upon the watchtowers of the country, and perhaps the one among all others the tenure of whose interest in our common property is, from my age, the most uncertain. But I shall not cease to raise my voice when I believe danger approaches, unmindful of the senseless charge so often made against me, that, because I am jealous of the honour and rights of my own country, I am therefore hostile to all others. I shall defend myself against no such clamour.

Mr. Davis, of Massachusetts, said: I propose only to occupy a brief period of the time of the Senate in the discussion of this question. I said the other day, when this subject was under the consideration of the Senate, that I felt no peculiar degree of alarm; that I did not apprehend that hostilities would grow

out of it; and that opinion remains unchanged. Nevertheless, I see much to object to in the course pursued by Great Britain. I see much that is irritating in its character, and well calculated to ripen a feeling of hostility.

But, before touching on the subject really under consideration, I wish to make one remark in regard to a topic connected with it—the proposition which comes from the Colonies for reciprocity of trade. It has been suggested by the Senator from Michigan, to whose patriotic sentiments I have listened with great pleasure, that the question as to the privileges of reciprocal free trade might form a subject of negotiation between the two countries; but here, at the outset, I enter my protest against any such proceedings, so far as revenue is concerned, at any time and under any circumstances which may exist. Is the Congress of the United States prepared to transfer the control of the revenues of the country to the treaty-making power? Are we prepared to transfer it to negotiators, and let them settle and determine what amount of revenue we are from time to time to raise for the uses of this country? A treaty is an irrevocable law; it is a law which cannot be modified at any time or under any circumstances, except by agreement of the Contracting Parties. In one year we may require 40,000,000 to meet the exigencies of the public service, and in the next year we may want 80,000,000, in the transition state of our affairs which may exist from causes which cannot be anticipated. No man in his sober senses can suppose that the control of the revenue should be transferred to the treaty-making power. It would be an encroachment on the fundamental principle of the constitution itself. So jealous is that constitution of the money power of the country, that it does not even allow this body, in its legislative capacity, to originate a money-bill.

Such, Sir, were the feelings and views of those who framed that instrument, and of the people who adopted it. And now, Sir, at this day, it seems to me the opinion can hardly be entertained anywhere, and under any circumstances, that the revenues of the country are to be transferred to, and disposed of by, the treaty-making power. But, Sir, I will not trouble you on that point. I only wish to say that, whenever such a treaty comes here, it will never meet with my approbation.

As to these fisheries, in regard to which negotiation is appropriate, I think this whole matter is to be explained as a stroke of policy. It may be a dangerous step to be taken by the British Government, and the Colonies may be playing a game which will not advance materially the interests they have in view. I think that very probable; but I am not alone in entertaining the opinion that the motive at the bottom of the whole transaction is a motive of policy.

Well, Sir, is it justifiable? Is the course pursued one that can be maintained anywhere, or by any process of reasoning? Mr. President, I think that the last class of men in this country which a politic nation, about to enter into hostilities, would disturb, is the class of fishermen; and a bolder stroke of policy could not be executed by a Government about to make war upon the United States, than to say to these fishermen, “war or no war, you may carry on your business at your pleasure, and you shall not be disturbed.” Can Great Britain maintain the ground which has been pointed out by the Senator from Michigan (Mr. Cass)? Can she maintain the construction of the Treaty which is said to be given to it by the Law Officers of the British Government? I say unhesitatingly that she cannot, if I understand correctly her position. I admit that the terms of the Treaty are capable of such a construction as they have given to it; but I say it is open to another construction, quite different, and that all contemporaneous authorities concur in establishing the other construction as the true one.

It is to this point that I invite the particular attention of the Senate, and I shall occupy but a few moments in considering it. The doctrine laid down by these Law Officers, as is alleged, is, that Great Britain may stretch a line from headland to headland, and that all the waters within these headlands are waters within the jurisdiction of the Colonial or the Imperial Government.

Now, I apprehend, if the Senate will give me their attention while I analyze the terms of the Treaty, which are very brief, they will be satisfied that no such construction can be maintained. What, then, are the terms of the Treaty? They commence in the First Article by pointing out certain coasts and certain portions

of the territory of these colonies which are to be left open to American fishermen freely to fish therein.

What is the rest of the Article? In order that I may not make any mistake in quoting any part of it, I will read from the Treaty itself. After running through that portion to which I have alluded, the Article proceeds thus:—

“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.”

The right, then, is to take, dry, and cure fish in certain coasts, bays, harbours, and creeks of Her Britannic Majesty's Dominions in America. But that portion of the Treaty to which I wish to invite the attention of the Senate more particularly is the renunciation. It is in these words:—

“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.”

They renounced the right to take fish within three miles of any of the coasts, bays, creeks, or harbours of Her Britannic Majesty's Dominions. Now comes the proviso to the renunciation:

“Provided, however, that American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter, repairing of damages therein, of purchasing wood and obtaining water, and for no other purpose whatever.”

That is what is renounced. The Envoys inform you that they choose to renounce the rights which were given up, and they chose to do it distinctly and in detail, that it might be known what was surrendered at the time. The true question is, What do they renounce by the language they use? I know that in using these terms they are excluded from the coasts, bays, harbours, and creeks; and the British Government raise a question of construction, namely, that we cannot fish within three miles of any of these bays; that we are excluded to a distance of three miles, not only from the coast, but also from these bays, including, in that term, Fundy, and other large bays.

But, Sir, analyze the Article a little further, and you will ascertain what the terms of the exclusion are, and what they apply to. You have a right to come within three marine miles of the coasts, within three marine miles of the bays, and within three marine miles of the harbours and creeks. What, then, is meant by the word “bays”? The latter part of the proviso which I have just read explains the whole of it. You have a right “to enter.” “To enter” what? “To enter such bays,” &c., undoubtedly referring to the bays mentioned in the former part of the Article—the bays renounced. And for what purpose have they this right to enter such bays? Why, Sir, they have a right to enter them for the purposes of shelter, and of obtaining wood and water, and for the purchase of bait. All these things are enumerated in the Treaty itself, and they have a right to enter all such bays for such purposes—that is, all the bays renounced. Now, let me ask if the Bay of Fundy is a bay to enter for shelter, or for wood, or water, or bait? No, Sir. And are these great open seas from headland to headland, in the Gulf of St. Lawrence (where I understand they have stretched a line, and forbid vessels to enter within these headlands, and thereby excluded them from some of the most important fisheries in that gulf), places where vessels are to enter for the purpose of obtaining bait, and shelter, and wood, and water? Sir, the term “such bays,” and the uses to be made of the privilege, show most clearly and distinctly what the purposes and intentions were—and these were not the waters renounced by the term “bays.” Then, in conformity with all this, we have the contemporaneous practical construction of this Treaty. These open bays were all enjoyed by the fishermen of the United

States from the making of this Treaty, for more than twenty years, without any serious interruption or complaint, and they enjoyed this right practically as a construction acceded to on all hands. They were permitted to fish everywhere, except within three miles of the coast, being excluded only from the coast and the small bays and harbours of the coast. These were the bays renounced, and none others. All else were left open to the fishermen.

Now, this construction put upon the Treaty contemporaneous with its execution, and its continuance for twenty years undisturbed, seems to me to stamp it with a decided character of authority. The Treaty is capable of that construction without any violation to language, and no other fair or just construction can be put upon it. Now, is it to be pretended, after all this has happened, that under the opinion of the Law Officers of the Crown, lines are to be stretched from headland to headland across the Bay of Fundy, and across certain portions of the Gulf of St. Lawrence, of still more doubtful character, and that our fishermen are to be excluded from grounds which they have always occupied? No, Sir. It is a stringent, unfair, and unjust construction given to the instrument, and, moreover, it is one which, in my opinion, the people of this country never will acquiesce in.

The term "bay" is exceedingly indefinite in its application to the waters of the ocean. Take, for instance, Hudson's Bay and Baffin's Bay, which are parts of the great ocean, and compare the use of the term applied to such waters with its application to those indentations of the coast which serve as harbours of refuge, and are properly so called. There is also the Bay of Fundy, a large body of water, from which our fishermen are now sought to be excluded, but in which they have the right of fishing at the distance of three miles from the British coast, not only in accordance with the terms of the Convention, but also by another right, which was pointed out by the Senator from Michigan—the right of coterminous proprietorship; it having the coast of Maine on the one side, and the coast of Nova Scotia on the other, as forming the headlands of that bay. It flows along the coast of the United States for a considerable distance, and therefore, even under the British construction, our fishermen are entitled to fish there. This language of the British authorities is much less applicable to the Bay of St. Lawrence, for that is as much a part of the open ocean as the Gulf of Mexico. The headlands are a little nearer together, it is true, but it is as much a part of the open sea as any of those which all nations have a right to enjoy.

Now, to undertake to shut our fishermen out from that gulf is a very singular and stringent, and, in my apprehension, a very unjustifiable, construction to the Treaty. I do not desire to enter into a discussion of this matter at length. This, it seems to me, is not the fit or proper occasion for that. But, nevertheless, as it is open to inquiry, and as the main point in controversy is the construction of this Treaty, and as I have not seen precisely this view given to it, I thought that I would make these statements, that the attention of the Senate might be drawn to it; and if it is drawn to it, and the construction which I have given is taken in connexion with the contemporaneous construction given at the time, together with the use of the fisheries for so long a time, I think the Senate will conclude that my construction is the true one.

If Great Britain wants a war, undoubtedly she can have it; but I do not believe she wants any such thing; and I do not believe she will maintain the position she has assumed; nor do I believe she will maintain her pretensions to an extent to violate and break up the pacific relations which now exist between us. I do not think she will do it; I hope not, at least.

Mr. *Hamlin* next addressed the Senate at considerable length, but, without concluding, he yielded the floor at the usual hour of adjournment.

Inclosure 2 in No. 32.

Extract from the "National Intelligencer."

August 4, 1852.

THERE was some further debate in the Senate yesterday on the subject of the fisheries, which we shall publish as opportunity offers. The speakers were Messrs. Cass, Davis, and Hamlin, all of whom argued against the construction of the Treaty of 1818 contended for by Great Britain.

This debate sprung up on a motion to print the correspondence between the two Governments relating to the fisheries, which was laid before the Senate yesterday by the President of the United States, in compliance with a call of the Senate. This correspondence extends from 1823 to the present time, but most of it has before been placed before the public. We copy the last letter of the British Minister, conveying notice to the United States of the intention of his Government to protect its subjects in their right to the fisheries :

"Sir.

Washington, July 5, 1852.

"I have been directed by Her Majesty's Government to bring to the knowledge of the Government of the United States a measure which has been adopted by Her Majesty's Government to prevent a repetition of the complaints which have so frequently been made of the encroachments of vessels belonging to citizens of the United States and of France upon the fishing-grounds reserved to Great Britain by the Convention of 1818.

"Urgent representations having been made to Her Majesty's Government by the Governors of the British North American Provinces in regard to these encroachments, whereby the colonial fisheries are most seriously prejudiced, directions have been given by the Lords of Her Majesty's Admiralty for stationing off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing-vessels and steamers as shall be deemed sufficient to prevent the infraction of the Treaty. It is the command of the Queen that the officers employed upon this service should be specially enjoined to avoid all interference with the vessels of friendly Powers, except where they are in the act of violating the Treaty; and on all occasions to avoid giving ground of complaint by the adoption of harsh or unnecessary proceedings, when circumstances compel their arrest or seizure.

I avail, &c.

(Signed) JOHN F. CRAMPTON."

In communicating the above-mentioned correspondence, the President informs the Senate that the steam-ship "Mississippi, Commodore Perry, has been dispatched to the seas adjacent to the British-American Provinces, in order to protect the rights of our fishermen under the Treaty of 1818.

Inclosure 3 in No. 32.

Memorandum by Mr. Crampton on the Fisheries Convention of 1818.

I.

THERE can be no doubt that, according to the Law of Nations, as recognized and insisted on by American authorities, judicial and political, the waters of the Gulf of St. Lawrence belong to Great Britain.

The American doctrine on this subject is stated by Chancellor Kent,* who refers to various authorities in support of his view of it. He says :

"Navigable rivers which flow through a territory, and the sea-coast adjoining it, and the navigable waters included in bays and between head-lands and arms of the sea, belong 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.

* I. Kent's Com., p. 25.

(P. 30.) "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 Montawk Point, and from that point to the Capes of the Delaware, and from the South Cape of Florida to the Mississippi.

"It ought at least to be insisted that the extent of the nautical immunity should correspond with the claims maintained by Great Britain around her own territory; and that no belligerent right should be exercised within the *Chambers** formed by headlands, or anywhere at sea within the distance of four leagues, or from a right line from one headland to another."

The passage underlined he cites from a letter of Mr. Madison (Secretary of State) to Messrs. Munroe and Pinckney, dated 17th of May, 1806.

He refers also to a learned opinion of the Attorney-General of the United States (Edmund Randolph), May 14, 1793, concerning the seizure of the ship "Grange," in the Delaware Bay; and the letter of the Secretary of State to the French Minister, on the 15th of the same month.

(See also the history of this particular question.)

Chancellor Kent proceeds at page 29 as follows:

"It is difficult to draw any precise or determined 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. According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach, and no further; and this is generally calculated to be a marine league, and the Congress of the United States have recognized† this limitation." &c.

II.

Such being the position, in point of rights, of the Contracting Parties, let us examine the Convention itself, and see how far those rights were modified, surrendered, or admitted by it.

The preamble refers to the existing state of things, viz., that differences had 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 Her Britannic Majesty's Dominions, &c.

The word used is "liberty." It is difficult to perceive how any *right* could have been pretended. The word "liberty" in this sense is perfectly synonymous with licence or permission.

Article I then proceeds to mark out and specify the places within the British jurisdiction on which the inhabitants of the United States may thenceforth enjoy the right to *take fish* in common with British subjects, and provides also, that they shall have liberty to *dry* and *cure* fish in any of the *unsettled* bays, harbours, and creeks of the southern part of the coast of Newfoundland thereinbefore described, and of the coast of Labrador, *while unsettled*.

And then follows an explicit renunciation by the United States of "any liberty theretofore enjoyed or claimed by its inhabitants to *take, dry, or cure fish, on or within three miles of any of the coasts, bays, creeks, or harbours of Her Britannic Majesty's Dominions not included* within the above-mentioned limits."

It is to be remarked here, that the particular fishing-ground delineated by the Article, as conceded to the United States in common with Great Britain, embraces but a portion of the waters and coasts of the Gulf of St. Lawrence. To claim, therefore, that by any general words or ambiguous expressions in the Treaty, if any such exist, the right to the whole as recognized or implied, is to

* These arms of the sea are called "King's Chambers," by the old authorities.

† Act, June 5, 1794 s. 50.

make the prominent and capital clause wholly inoperative and insensible. But it is an universal rule, applicable to the construction of all solemn written acts, public and private, that effect and meaning is to be given, if possible, to every part. And when in connexion with this express definition of the licence, there is found the distinct renunciation by which it is followed, it would seem that no ingenuity can extend the licence beyond the terms of that definition.

The language of that renunciation is worthy of attention. Its natural and probable office would be to exclude all pretensions beyond those which were already warranted by the Public Law and the preceding concessions. This is precisely what it does; "The United States, renounce, &c., *on or within three marine miles* of any of the coasts, bays, creeks, or harbours, &c., not included within the above-mentioned limits."

We have seen that by the Public Law, as recognized by the United States, these bays, &c., belonged to Great Britain; and that the territorial jurisdiction might lawfully be extended to one marine league beyond them into the sea; and that this limitation of one league had been recognized by Congress as the proper one.

The national jurisdiction and property in these bays, gulfs, &c., arises from the neighbouring land, and is defined by it. No other mode of ascertaining its limits is known to the Public Law, but that of drawing a right line from headland to headland. Beyond this line the jurisdiction extends into the sea at least to the distance of three marine miles. Bearing this in mind, the language of the renunciation by the United States is perfectly clear. Nothing but the grossest confusion of ideas can apply that language to the assertion of a right within three miles of every part of the coast lying within the outer jurisdictional line of Great Britain, especially where a small portion of that coast is made the subject of the express grant of that very right.

But if any doubt could be imagined to remain, it must yield to what follows immediately upon the language just commented on. It is a reservation for the benefit of the United States. The office of this clause is to secure to the United States what would otherwise, by reason of the preceding words, be lost to it. This reservation is *of the right to enter* such bays, &c., and this, too, for a special purpose, viz., shelter, repairing damages, &c., "*and for no other purpose whatever.*"

And, *ex abundantia cautela*, as if to make assurance doubly sure, it is added: "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 abusing the privileges hereby reserved to them."

Without this reservation, upon every principle of construction, it is to be presumed that the right reserved did not exist; and the most critical examination of the Article sustains this presumption, and is consistent with no other presumption.

Inclosure 4 in No. 31.

Court of Vice-Admiralty at Halifax.

A RETURN of the Number of American Vessels seized for Violation of the Convention made between the Government of Great Britain and the United States of America, in the year 1818, and prosecuted in this Court, with the dates of their Seizure and Condemnation or Restoration.

Name of Vessel.	Date of Seizure.	Condemnation or Restoration.
Hero	June 1, 1838	January 28, 1839
Combene	November 1, ..	January 28, ..
Shetland.. .. .	June 4, 1839	July 8, ..
Java	May ..	August 5, ..
Independence	May 26, ..	August 5, ..
Magniola	May 25, ..	August 5, ..
Hart	May ..	August 5, ..
Battelle	June ..	July 8, ..
Hyder Ally	June 14, ..	July 8, ..
Eliza	June 14, ..	July 8, ..
May Flower	June, ..	Restored
Papineau	June 2, 1840	July 10, 1840
Mary	June 2, ..	July 10, ..
Alms	September 11, ..	December 8, ..
Director.. .. .	September 18, ..	December 8, ..
Ocean	October 1, ..	December 8, ..
Pioneer	May 6, 1841	August 18, 1841
Two Friends	May 20, ..	Restored
Mars	September 20, ..	November 2, ..
Egret	September 20, ..	November 2, ..
Warrior.. .. .	October 13, ..	November 9, ..
Hope	October 13, ..	Restored
May Flower	October 13, ..	December 7, ..
Washington	May 7, 1843	August 1, 1843
Hyades	May 10, 1848	September 5, 1848
Leonidas	May 11, 1849	June 29, 1849
Harp	September 15, 1850	January 28, 1851
Tiber	October 29, 1851	

Of the above vessels three were restored, the May Flower, Two Friends, and the Hope.

July 30, 1852.

(Signed)

SCOTT TREMAIN, *Regr.*

No. 33.

The Earl of Malmesbury to Mr. Crampton.

(No. 85.)

Sir,

Foreign Office, August 26, 1852.

I HAVE laid before the Queen your despatch No. 115, of the 9th instant, stating, that upon your return from Marshfield you had called, at the request of Mr. Webster, upon the President of the United States, and had had a long conversation with him upon the subject of the fisheries.

Her Majesty's Government entirely approve the language which you held to President Fillmore, and particularly of the clear statements which you made to him in regard to the interpretation given by the most eminent American jurists, as well as by the United States' Congress, to the term 'bay.'

It is impossible for Her Majesty's Government, in the face of such interpretation, which concurs wholly with the principle upon which British rights have been maintained, to admit that any doubt can exist in regard to the meaning to be given to the Treaty of 1818; and I learn with satisfaction, that the President, after reflecting upon your statement, expressed the readiness of the United States' Government to treat the question of the fisheries calmly and by negotiation; but Her Majesty's Government could not consent to refer any negotiation upon this subject to the arbitration of a third Power, because no question can properly be admitted by Great Britain to exist as to the respective rights of this country and the United States.

British subjects possess certain rights of fishery; American citizens desire to obtain the privilege of using those rights; and the American Government propose to negotiate with Her Majesty's Government upon the subject.

This proposal is equitable, and Her Majesty's Government will be prepared to enter into negotiation, with a view to the conclusion of a treaty between the two countries.

I stated to you in my despatch No. 80, that I concurred in opinion with Mr. Lawrence, the American Minister at this Court, that such negotiation should be extended to all subjects affecting our commercial relations, and Her Majesty's Government remain of opinion that these should now be regulated by Treaty.

I am, &c.
(Signed) MALMESBURY.

No. 34.

The Earl of Malmesbury to Mr. Crampton.

No. 86. Confidential.)

Sir,

Foreign Office, August 26, 1852.

IN my despatch No. 85, I have stated to you the opinion of Her Majesty's Government in regard to the propriety of opening negotiations with the Government of the United States, for the purpose of regulating, not only the Fishery Question, but also the whole of the commercial relations subsisting between the two countries.

I have now to inform you, that Her Majesty's Government would much prefer that these negotiations should be carried on in London; and this course is the more desirable, as the questions to be discussed involve matters in which both the Secretary of State for the Colonies and the President of the Board of Trade are equally, with myself, concerned, and their presence at the discussions would be of essential importance to British interests.

You will accordingly use your utmost endeavours to persuade the United States' Government to appoint a Plenipotentiary, without loss of time, to open the negotiations in London.

I am, &c.
(Signed) MALMESBURY.

No. 35.

Lord Stanley to Mr. Merivale.

Sir,

Foreign Office, August 27, 1852.

I AM directed by the Earl of Malmesbury to transmit to you herewith, for the information of Secretary Sir John Pakington, copies of two despatches* which his Lordship has addressed to Her Majesty's Minister at Washington, respecting the Fishery Question, and the negotiation of a treaty between Great Britain and the United States, for regulating the commercial relations between the two countries.

I am, &c.
(Signed) STANLEY.

No. 36.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, August 27, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, copies of despatches relating to the protection of the fisheries on the coasts of British North America, together with copies of the answers returned to the several Governors.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 36.

The Earl of Elgin and Kincardine to Sir J. Pakington.

Sir,

Government House, Quebec, July 29, 1852.

I HAVE the honour to transmit, for your information, copies of a communication which I have received from Vice-Admiral Sir G. Seymour, and of my reply thereto. The schooner dispatched by this Government to the Gulf was sent chiefly for the purpose of observation, and the officer in charge was directed to place her in constant communication with, and at the disposal of the Commanders of any vessels of the Royal Navy he might find cruising in the vicinity of the fishing-grounds.

I have, &c.
(Signed) ELGIN AND KINCARDINE.

Inclosure 2 in No. 36.

Vice-Admiral Sir G. Seymour to the Earl of Elgin and Kincardine.

My Lord,

"Cumberland," Halifax, July 12, 1852.

I HAVE the honour to acquaint your Excellency that I have received instructions from Her Majesty's Government to take measures for the better protection of the fisheries in the Gulf of St. Lawrence, and to visit Newfoundland with the same object as regards the fisheries off the coasts

* Nos. 33, 34.

of that island and Labrador, and I propose to sail to-morrow for St. John's.

I think it my duty to acquaint your Excellency that it has been recommended to Her Majesty's Government by the Queen's Commissioner employed in negotiating with the French Government on the fisheries, that the senior Captain of Her Majesty's ships on the coast of Newfoundland should be furnished with a commission of the peace, a course which received the sanction of the Queen's Advocate in 1843; and I have to request, if you shall consider with myself, such an appointment will tend to assist the senior officers employed in the Gulf of St. Lawrence, that your Excellency will enable Commander Colin Yorke Campbell, of Her Majesty's steam-sloop "Devastation," to act in that capacity.

It appears to me highly desirable that such authority should be granted, to enable him to carry fully into effect the 4th clause of the Act 59 Geo. III, cap. 38, relative to such foreign fishermen as may, after due warning, refuse to depart from or re-enter the harbours of Her Majesty's colonies, for other purposes than those defined by the Convention of 1818 with the United States; also to assist the local magistrates at the Magdalen Islands in any questions which may arise from the ambiguous manner in which the Article of the Convention respecting taking fish on its shores had been expressed; as well as to prevent irregularities on parts of the coasts of Canada or Labrador, where no magistrate is resident, and where a reference to any other civil authority is unattainable.

Commander Campbell is a prudent and well-informed officer, who will not abuse any power conferred on him by your Excellency for the public service. Communications to the "Devastation" will probably find her at Gaspé towards the end of this month.

It may perhaps be useful to your Excellency that I should mention the disposition of the squadron as regards the fisheries.

The "Devastation" and two schooners I have lately hired as tenders are employed in the Gulf of St. Lawrence under Commander Campbell.

Her Majesty's brig "Sappho," in the Straits of Belleisle and Labrador, to which I have ordered the "Janus" steam-vessel on her arrival at St. John's.

The "Bermuda" schooner is on the coast of Newfoundland, and the "Netley" cutter in the Bay of Fundy.

The "Buzzard" steam-vessel is daily expected from England for the same service.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 3 in No. 36.

The Earl of Elgin and Kincardine to Vice-Admiral Sir G. Seymour.

Sir,

Government House, Quebec, July 29, 1852.

I HAVE had the honour to receive your Excellency's despatch of the 12th instant, recommending that the necessary commission be granted to Commander Colin Yorke Campbell, of Her Majesty's steam-sloop "Devastation," to enable that officer to act as a justice of the peace within the limits of Canada, on the shores of the Gulf of the St. Lawrence.

I inclose copies of letters which have been addressed by my direction to Commander Campbell and Mr. Fortin, the magistrate in charge of the schooner "Alliance," employed by the province for the protection of the fisheries, detailing the steps which have been taken by this Government with the view of meeting your wishes in respect to this matter.

I further avail myself of the opportunity to furnish your Excellency with a copy of the general instructions given to Mr. Fortin for his guidance in the service in which he is now engaged.

I have, &c.
(Signed) ELGIN AND KINCARDINE.

Inclosure 4 in No. 36.

The Provincial Secretary to Commander Campbell.

Sir,

Quebec, July 26, 1852.

I HAVE the honour to inform you that his Excellency the Governor-General of Canada has been pleased, on the recommendation of Vice-Admiral Sir G. Seymour, to appoint you justice of the peace for the three districts of Quebec, Kamouraska, and Gaspé. The commissions appointing you as such have been transmitted to the clerks of the peace of the respective districts, to be by them kept of record as usual in similar cases.

The law of Canada requires all magistrates under a penalty, to subscribe to a qualification as to property before acting, so that until an Act of Parliament can be passed, which will be introduced in a few weeks, dispensing with the formalities now required, it would be expedient that you should refrain from acting as a magistrate and employ Mr. Fortin, now on board of the schooner "Alliance" in that capacity, who has been instructed to place himself under your orders.

I inclose a copy of the circular addressed to magistrates on their appointment, from which you will perceive that although it is intended to exempt you by the proposed law, from the oath of qualification, it will still be incumbent on you, when the proper time arrives, to take the magistrate's oath and also the oath of allegiance before a Commissioner of *Dedimus Potestatem*. The under-mentioned gentlemen hold the appointment of commissioner at the most likely places to meet your convenience in taking these oaths, viz. : the Honourable Mr. Justice De Blois at Percé, G. F. Tremblay at Percé, and J. B. F. Painchaud at the Magdalen Islands. Should not any letter on the subject have reached Mr. Fortin before your receiving mine, a communication of this letter to him at your first meeting will have the effect desired. He will also, I am confident, make it a duty to procure you every information, written or verbal, in his power, particularly as regards the performance of your magisterial duties under our laws and within our limits.

A copy of the Act intended to meet your case will be transmitted to you as soon as it is passed, very likely towards the end of August, through the postmaster at Percé, with whom you may in the meantime leave directions for the forwarding of the same to the proper quarter.

I am to add for your information, that Mr. Fortin, by his instructions, is directed to place the schooner under his control in constant communication with any vessels of the Royal Navy he might find cruizing in the vicinity of the fishing-grounds, and at their disposal when required to do so.

I have, &c.
(Signed) A. N. MORIN.

Inclosure 5 in No. 36.

The Provincial Secretary to Mr. Fortin.

Sir,

Quebec, July 26, 1852.

I HAVE the honour to communicate to you, for your information and guidance, the purport of a despatch recently received by the Governor-General from Vice-Admiral Sir G. Seymour, reporting that he has received instructions from Her Majesty's Government to take measures for the better protection of the fisheries in the Gulf of St. Lawrence, and to visit Newfoundland with the same object as regards the fisheries off the coasts of that island and Labrador, and recommending that Commander Colin Yorke Campbell, of Her Majesty's steam-sloop "Devastation," be appointed a justice of the peace. To this recommendation his Excellency has been pleased to comply, but Commander Campbell has been informed at the

same time, as the law of Canada requires all magistrates to qualify under a penalty, to subscribe to a qualification as to property before acting, it would be expedient, until an Act of Parliament can be passed which will be introduced in a few weeks, dispensing with the formalities now required, that he should refrain from acting as a magistrate and employ you in that capacity, and that you had been instructed accordingly. I tell him at the same time that you will make it a duty to procure him all kinds of written or verbal information in your power, particularly as regards the performance of his magisterial duties under our laws and within our limits.

You will therefore place yourself in communication with and under the orders of Commander Campbell as soon as possible after the receipt of the present letter.

It may be useful to you to know the disposition of the squadron as regards the fisheries, which is as follows :

The "Devastation" and two schooners hired as tenders, are employed in the Gulf of St. Lawrence, under Commander Campbell.

Her Majesty's brig "Sappho," in the Straits of Belleisle and Labrador, to which the "Janus" steam-vessel has been ordered on her arrival at St. John's.

The "Bermuda" schooner is on the coast of Newfoundland, and the "Netley" cutter in the Bay of Fundy.

The "Buzzard" steam-vessel was expected daily from England for the same service.

I have, &c.
(Signed) A. N. MORIN.

Inclosure 6 in No. 36.

The Provincial Secretary to Mr. Fortin.

Sir,

Quebec, June 8, 1852.

ADVERTING to my letter of the 20th April last, I have received the commands of the Governor-General to convey to you the following instructions for your guidance, as the magistrate placed in control and direction of the schooner "Alliance," for the protection of the fisheries in the Gulf of St. Lawrence.

The vessel will be placed under your control and direction, but his Excellency has been pleased to appoint Captain Antoine Talbot as second in command to you. It will be his duty to follow your directions as regards the course of the vessel, but in other respects he is to be entrusted with its management. You are to be allowed the services of six men to man your boats and to perform such other duties as you may require of them, either as constables or otherwise. You will, with the captain, be required to live on board the vessel, unless when required by duty to visit the shore.

It is intended, if found possible, to commission Captain Talbot as a justice of the peace, and he will be of course in that capacity independent of your control; but in the event of his appointment as such, he has been instructed to act only in concert with you in those cases where the services of two magistrates are required, or alone, in your absence.

Although the means placed at your disposal may not be found sufficiently large for the efficient performance of the service, you will yet find it in your power to afford partial protection to the fisheries, and at all events of procuring such information as will enable the Government the better to attain the contemplated object.

The principal cruising ground of the schooner will be on the Labrador coast, which is the most important of the fishing-grounds within the limits of the Canadian Territory; and it is intended that she shall penetrate into the bays and rivers where her services may be required; but in case of meeting with parties coming in any great force, with whom you could not be expected to cope successfully, no interference is to be attempted, in which case a full report of the circumstances will be transmitted to me for the information of the Government.

It will be your duty, in which you will be assisted by Captain Talbot,

to procure detailed information as to every locality occupied or capable of being occupied, as a fishing or trading post, its resources, its occupants, and the circumstances under which such parties may have become occupants; the extent to be allotted to each post, and for what purpose; the amount of yearly rent that could reasonably be demanded for such occupancy, or what charged for giving full titles; and by what means it might be possible to organize that section of the country, and to render individual rights more secure?

In the execution of the service imposed on you, you will be careful not to contravene any treaty or law in force. And I am to instruct you to place the schooner in constant communication with the Commanders of any vessels of the Royal Navy you may find cruising in the vicinity of the fishing-grounds, and at their disposal when required to do so.

Your salary will be 150*l.* for the season.

I have, &c.
(Signed) A. N. MORIN.

Inclosure 7 in No. 36.

Sir J. Pakington to the Earl of Elgin and Kincardine.

My Lord,

Downing Street, August 25, 1852.

I HAVE received your Lordship's despatch of the 29th July, inclosing copies of communications between the Admiral commanding on the North American Station and yourself, on the subject of the fisheries.

I have to signify to your Lordship my approval of the instructions which you have addressed to the Provincial officers on this subject.

I am, &c.
(Signed) J. S. PAKINGTON.

Inclosure 8 in No. 36.

The Earl of Elgin and Kincardine to Sir J. Pakington.

(Confidential.)

Sir,

Government House, Quebec, July 29, 1852.

WITH reference to my despatch of this day's date, I have the honour to inclose herewith copies of a confidential despatch and private letter which I have received from Mr. Crampton. I have thought it proper under the circumstances, to forward copies of these documents, with the inclosed confidential despatch to Sir G. Seymour, and I have written to Mr. Crampton to apprize him of my having done so.

I have, &c.
(Signed) ELGIN AND KINCARDINE.

Inclosure 9 in No. 36.

Mr. Crampton to the Earl of Elgin and Kincardine.

[See Inclosure 3 in No. 11.]

Inclosure 10 in No. 36.

Mr. Webster to Mr. Crampton.

[See Inclosure 1 in No. 11.]

Inclosure 11 in No. 36.

Mr. Crampton to the Earl of Elgin and Kincardine.

(Private.)

Dear Lord Elgin,

Washington, July 20, 1852.

THE measures taken to protect our fisheries have caused a good deal of excitement here. You will see, however, from Mr. Webster's letter to me, that they may have the effect of making the United States' Government take up the whole of the reciprocity question, with a view to its settlement by treaty, the only means, as far as I can judge, which offers any prospect of a definitive settlement.

Should we be able to keep things quiet, in the meantime, the result of the measures in question may therefore be beneficial, but from the difference of the view taken by the Law Officers of the Crown and by the United States' Government, of the meaning of the Treaty, as regards the line within which American fishermen are thereby precluded from taking fish, may, I fear, give rise to a number of cases in regard to which the British and American Governments will find themselves at issue, and keep up a great irritation upon the subject here.

I am going to Marshfield (Mr. Webster's place near Boston) to-morrow to confer with him on the subject, and I will inform you of anything of interest which may be the result.

I have written to the Lieutenant-Governors of the colonies concerned, a despatch similar to that which I send you to-day, and have sent them a copy of the announcement on the subject made by the United States' Government. Any observations which you might like to make on this subject will find me at Marshfield, New Hampshire.

Believe me, &c.

(Signed) J. F. CRAMPTON.

P.S.—I have just returned from the President's, with whom I have had a conversation on the subject of the fisheries. He suggests that in order to avoid the question which might arise from the different construction which seems to be given to the Convention of 1818 by the two Governments, that an understanding should be come to by both parties, to abstain from exercising the right which each asserts in regard to points upon which the opinions of the two Governments are at issue, until they can come to an agreement upon it, or refer it to the arbitration of a friendly Power; that is to say, that the British authorities should not seize or interfere with American fishing-vessels which should be found fishing without a line at the distance of three miles from the shore, which line shall follow the bays, creeks, and indents thereof, which is the American construction of the Treaty; while the United States authorities, on the other hand, warn and in every way prevent their own people from encroaching upon the space we claim under our construction of it, until such time as it shall be settled which of the two constructions is to prevail.

This would seem fair if it could be put into practice; but could the Colonial authorities take upon themselves to carry it into effect without referring it to the Imperial Government?

I will write again as soon as I have spoken to Mr. Webster.

Inclosure 12 in No. 36.

The Earl of Elgin and Kincardine to Vice-Admiral Sir G. Seymour.

(Confidential.)

Sir,

Government House, Quebec, July 29, 1852.

I HAVE received a confidential despatch and a private letter from Mr. Crampton, copies of which I transmit herewith confidentially for your information.

I am not aware of the nature of the instructions which your Excellency may have received from Her Majesty's Government, but I feel confident that you will recognize with Mr. Crampton the importance of asserting our rights in the most conciliatory spirit.

I have, &c.
(Signed) ELGIN AND KINCARDINE.

Inclosure 13 in No. 36.

Sir J. Pakington to the Earl of Elgin and Kincardine.

(Confidential.)

My Lord,

Downing Street, August 25, 1852.

I HAVE to acknowledge the receipt of your Lordship's despatch of the 29th July, marked confidential, inclosing copies of a despatch and of its inclosures which you had received from Her Majesty's Minister at Washington; and reporting that under the circumstances you had deemed it proper to forward copies of these documents to the Admiral commanding on the station.

I approve your Lordship's proceedings in this matter.

I have, &c.
(Signed) J. S. PAKINGTON.

Inclosure 14 in No. 36.

Colonel Bazalgette to Sir J. Pakington.

Sir,

Government House, Halifax, July 31, 1852.

I HAVE the honour to inclose copies of despatches which I have deemed it my duty to address to his Excellency Her Majesty's Minister at Washington, and to the Governor-General.

I have, &c.
(Signed) JOHN BAZALGETTE,
Administrator of the Government.

Inclosure 15 in No. 36.

Colonel Bazalgette to Mr. Crampton.

Sir,

Government House, Halifax, July 31, 1852.

HAVING observed that many speakers in Congress and writers in United States' newspapers assume that the rights which British subjects claim over the reserved fishing-grounds of North America, have never until recently been claimed or exercised, I have the honour to inclose for your Excellency's information, an official return taken from the records of the Court of Vice-Admiralty, by which it will appear that twenty-eight vessels have been seized and libelled in that court since 1838, and that scarcely a year has elapsed without the rights now more vigilantly guarded, having been asserted in the most public and decided manner.

I have, &c.
(Signed) JOHN BAZALGETTE, *Administrator.*

Inclosure 16 in No. 36.

Return of American Vessels seized, from 1838 to 1851.

[See Inclosure 4 in No. 32.]

Inclosure 17 in No. 36.

Colonel Bazalgette to the Earl of Elgin and Kincardine.

My Lord,

Government House, Halifax, July 30, 1852.

I HAVE the honour to inclose a copy of a despatch which I have deemed it my duty to address this day to his Excellency Her Majesty's Minister at Washington, with a copy of the return by which that despatch was accompanied.

I trust that your Lordship will see in the importance of the return itself, a sufficient reason for its direct transmission, without my having first communicated with your Lordship.

I have, &c.

(Signed) J. BAZALGETTE, *Administrator.*

Inclosure 18 in No. 36.

Sir J. Pakington to Sir Gaspard Le Marchant.

Sir,

Downing Street, August 25, 1852.

I HAVE to acknowledge the receipt of Colonel Bazalgette's despatch of the 31st of July, transmitting copies of letters which he addressed to Her Majesty's Minister at Washington and to the Earl of Elgin, inclosing a return of the number of American vessels seized since the year 1838, for violations of the Convention of 1818; and I have to instruct you to signify to Colonel Bazalgette the approbation of Her Majesty's Government of his having lost no time in conveying to them this important information.

I have, &c.

(Signed) J. S. PAKINGTON.

Inclosure 19 in No. 36.

Sir Gaspard Le Marchant to Sir J. Pakington.

Sir,

Government House, Halifax, August 6, 1852.

REFERRING to the correspondence forwarded by my predecessor in reference to the protection of the fisheries, I have now the honour to report that but one vessel, the schooner "Helen Maria," of Gloucester, has been seized for breach of the Convention.

Upon a careful review of the depositions sent in by Captain Cromell, who detained her, I have directed her to be released.

With a view to preclude the possibility of any forced construction of the Convention, or risk of collision with the fishermen of the United States, I have this day issued an official letter, a copy of which I have the honour to inclose, strictly enjoining the Provincial officers not to seize any vessel, except the case is flagrant and condemnation can be established beyond dispute.

I have placed myself in communication with his Excellency Sir George Seymour, and shall seek by every possible effort on my part to keep the Provincial service in subordination to his general views and to what I assume to be the policy of Her Majesty's Government.

I have, &c.

(Signed) J. GASPARD LE MARCHANT.

Inclosure 20 in No. 36.

*The Provincial Secretary to Captain Cromell.*Sir, *Provincial Secretary's Office, August 6, 1852.*

HAVING laid before the Lieutenant-Governor your report and the depositions forwarded therewith, I have been commanded by his Excellency to direct the release of the schooner "Helen Maria."

His Excellency commands me to acquaint you that, in view of the risks which may follow any act of indiscretion on the part of the officers commanding the Provincial cruizers, his Excellency will hold them strictly accountable for any want of prudence; and commands me to acquaint you that, while it is the intention of the Government to protect the rights of fishery clearly established by the Convention of 1818, it is bound to respect the privileges which others may lawfully enjoy, undisturbed by any strained or vexatious construction of those which British subjects claim.

I have, &c.

(Signed) JOSEPH HOWE.

Inclosure 21 in No. 36.

*Sir J. Pakington to Sir Gaspard Le Marchant.*Sir, *Downing Street, August 25, 1852.*

I HAVE to acknowledge the receipt of your despatch of the 6th of August, reporting the seizure of the schooner "Helen Maria," and her subsequent release by your direction.

Your despatch does not show the particulars of the capture, and I am unable, therefore, to express any positive opinion on the case; but supposing that the vessel was detained on too slight grounds, the letter which you addressed to the commander of the "Belle" was proper. You were right to convey a caution, in general terms, on the manner in which the delicate duty of seizing foreign vessels should be discharged by the Provincial officers.

In all future cases it will be material that you should report the particulars of any seizures which may occur of United States' or other foreign fishing-vessels.

I have, &c.

(Signed) J. S. PAKINGTON.

Inclosure 22 in No. 36.

*Lieutenant-Colonel Murray to Sir J. Pakington.*Sir, *Government House, Fredericton, N. B., July 28, 1852.*

I HAVE the honour to inclose for your information, a copy of a communication I have received from Lieutenant Kynaston, R.N., reporting the capture of the American fishing-schooner "Hyades," for an infraction of the Treaty of 1818.

Even if it be possible to restrict American citizens from holding shares in fish-weirs on our coasts, as desired by Mr. Kynaston, I scarcely think that it would be prudent to insist upon such a measure during the present state of excitement prevalent in the United States with regard to the fisheries.

Acting under this impression, and urged by a request from Her Majesty's Minister at Washington, I have requested Mr. Kynaston to avoid any demonstration of a hostile character towards citizens of the United States, so far as may be consistent with the proper assertion of our own rights.

I inclose copies of the whole correspondence between myself and Mr. Kynaston, so far as it has as yet gone; but I have not hitherto received the report of the Attorney-General of this province, alluded to therein.

I am, &c.

(Signed) FREEMAN MURRAY.

Inclosure 23 in No. 36.

Lieutenant Kynaston to Lieutenant-Colonel Murray.

Sir,

"Netley," at sea, July 20, 1852.

I HAVE the honour to inform you that I have detained and sent in for trial at St. John (if claimed), the American fishing-schooner "Hyades," of Lubec, on substantial proofs of a wilful infraction of the Treaty of 1818, by taking in bait by purchase or otherwise within the prescribed limits, or, in fact, while at anchor within one quarter of a mile from a British possession. The proofs have been elicited by the statement of a portion of the "Hyades'" crew, and the circumstances aggravated by the false statement of the master, in order to cloak his delinquency, the penalty of which he appears to have been aware of.

The intrusions of American fishermen, especially those of Lubec, have been long a source of complaint, and were mentioned by myself in my report of last year, and I am thoroughly satisfied that some examples are necessary, more especially on the "bait" question.

While the terms of the Treaty, in spirit and in letter, are enforced on this head, we shall sooner reduce the advantages enjoyed by the American fishermen to a level with our own; for while the latter [*sic*] is allowed the benefit of a bounty, and the Government of the United States still exact a duty of twenty per cent. from the industry of British fishermen in the only market where the latter can take their produce, I do not consider that the privileges of the foreigner should be stretched beyond the strict letter of the Treaty of 1818.

The system of warning offenders and allowing *first offences* has long proved its inefficacy, by the encroachments of foreign fishermen throughout our American fishing-grounds, which are the subject of yearly complaints, and in fact the system is endless for this reason.

A man once *warned* (since the officer appointed to protect the fisheries is seldom here for more than a season) is seldom caught trespassing the same year, but the next he may be forgiven an act of trespass by the succeeding officer, and so on *ad infinitum*; in fact, nothing short of capture seems to open their eyes.

Moreover, while the inhabitants of a British settlement are allowed to *share* the privileges of their fish-weirs with citizens of the United States, in order to escape the aforesaid duty of twenty per cent., which I presume is the object of this mutual arrangement, the former will never be induced to promote the cause of their own country fishermen; and I consider the main object of the Treaty of 1818 is lost, although the American shareholders of these weirs be not *bonâ fide fishermen*, in the usual acceptation of the term.

I shall be very glad to witness or act upon any restrictions on this head.

I have, &c.

(Signed) A. F. KYNASTON.

Inclosure 24 in No. 36.

*Lieutenant-Colonel Murray to Lieutenant Kynaston.*Sir, *Government House, Fredericton, N. B., July 24, 1852.*

I HAVE to acknowledge your despatch of the 20th instant, reporting the detention by you of the American fishing-schooner "Hyades."

I trust that the prompt and vigorous measures you have taken may check such trespassing in future.

I have directed the Attorney-General to report to me in how far it may be possible to impose restrictions on United States' citizens holding shares in fish-weirs on our coasts; and in order to prevent unnecessary delay, I have requested him, if possible, to communicate personally with you at St. John. On my part I shall not fail to forward to you a copy of his report to me on the subject of the weirs.

I am, &c.
(Signed) FREEMAN MURRAY.

Inclosure 25 in No. 36.

Lieutenant-Colonel Murray to Lieutenant Kynaston.

(Confidential.)

Sir, *Government House, Fredericton, N.B., July 28, 1852.*

I HAVE reason to believe that a negotiation is at present pending between Great Britain and the United States. It is therefore of the utmost importance to avoid any demonstration of a hostile character towards citizens of the United States, so far as may be consistent with the proper assertion of our own rights.

I request you in consequence, while repressing all undue intrusion on our fishing-grounds, to shun an oppressive enforcement of the letter of the Treaty of 1818, as being likely to endanger the successful settlement of the questions at present under the consideration of Her Majesty's Government and that of the United States.

I have, &c.
(Signed) FREEMAN MURRAY.

Inclosure 26 in No. 36.

*Sir J. Pakington to Lieutenant-Colonel Murray.*Sir, *Downing Street, August 25, 1852.*

I HAVE to acknowledge the receipt of your despatch of the 28th ultimo, reporting the capture of the American fishing-schooner "Hyades," for an infraction of the Treaty of 1818, and inclosing copies of a correspondence on this subject between yourself and Lieutenant Kynaston, R.N.

You have exercised a very proper discretion in this matter, and I entirely approve of the prudent and suitable terms of the letter you addressed to Lieutenant Kynaston.

I am, &c.
(Signed) J. S. PAKINGTON.

Inclosure 27 in No. 36.

*Sir A. Bannerman to Sir J. Pakington.**Government House, Prince Edward Island,
August 2, 1852.*

Sir,

IN reference to your important despatch of the 27th May, I have the honour to inform you that the hired armed tender "Telegraph," commanded by Lieutenant Chetwynd, under the orders of Commander Campbell, of Her Majesty's steam-sloop "Devastation," cruising in the Gulf, brought into Charlotte Town the United States' fishing-schooner, the "Union," of Brooklyn, seized while fishing within three miles of the shore near the east point of this island. Lieutenant Chetwynd, an intelligent young officer, proceeded to sea again on Saturday, after taking the necessary affidavits, leaving the schooner in charge of the comptroller of customs, and the case to be gone through by the Admiralty Court here, as usual, in terms of the Imperial statute 59 Geo. III, cap. 38; the Admiral, Sir George Seymour, preferring that the officers under his command employed in this service shall act under the Imperial statute rather than on any of the subsequent Colonial ones.

I have, &c.

(Signed) A. BANNERMAN, *Lieutenant-Governor.*

No. 37.

Lord Stanley to Mr. Merivale.

Sir,

Foreign Office, August 28, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 11th instant, inclosing a copy of the reply which Secretary Sir John Pakington proposes, with Lord Malmesbury's concurrence, to return to two addresses to the Queen from the Council and House of Newfoundland, praying that naval protection may be afforded to the Newfoundland fisheries, and that the interests of Newfoundland may not be overlooked in any arrangements with the United States for the establishment of reciprocal free trade between British North America and the United States. And I am to inform you in reply, for the information of Sir John Pakington, that Lord Malmesbury concurs in the terms of the proposed answer to those two addresses.

I am, &c.

(Signed) STANLEY.

No. 38.

Mr. Crampton to the Earl of Malmesbury.—(Received August 29.)

(No. 123.)

My Lord,

Washington, August 15, 1852.

THE debate in the United States' Senate on the subject of the fisheries was renewed on the 12th instant, when a speech was made by Mr. Pierre Soulé, Senator from Louisiana, of which I have the honour to inclose the only report which has yet appeared.

Mr. Soulé belongs to, and indeed aspires to lead, what is called the "Young America" or Manifest Destiny party; that is to say, those who profess extreme Democratic doctrines in the usual sense of the word Democratic, as well as in the more limited sense of that word as applied to one of the political parties of the United States; and also those who

urge it to be the duty, as well as the true policy of the United States, to intervene in the affairs of foreign nations in support of Democratic and Republican principles. Mr. Soulé is, nevertheless, as Representative of a purely Southern State, an unflinching advocate of Slavery, and of the right and expediency of propagating and extending that institution in such territories as may be acquired through conquest or negotiation by the United States. He is a Frenchman by birth: he quitted his country and settled in Louisiana in consequence, I am informed, of being mixed up in some political proceedings in France during the reign of Charles X, which rendered his stay in that country unsafe to him. Mr. Soulé possesses considerable talents, and his eloquence, when it is considered that he uses a foreign language, is remarkable, though of a very theatrical character. Whether, however, that there exists in this country, notwithstanding its intimate relations, at one period of its history, with France, a strong prejudice against that nation, or that Mr. Soulé's acquirements, though brilliant, are thought to be superficial and rather calculated for display than use, his political weight is much less than the admiration commonly expressed for him would give reason to suppose.

The debate was again taken up yesterday, the 14th instant, when Mr. Seward, Senator from New York, spoke in defence of the Administration. Mr. Seward is a prominent leader of the party the most directly opposed to that which Mr. Soulé aspires to represent, being regarded as the chief of that section of the Whigs called "Free Soilers," whose leading avowed principle is an opposition to the extension of Slavery into any territory which has been, or may be hereafter, acquired by the United States. This party is, however, supposed to be in reality in favour of the total abolition of that institution.

No report of Mr. Seward's speech has yet been published, but I was myself present at its delivery. Although some of his remarks in regard to the general policy of Her Majesty's Government were very objectionable, he stated the present question between the two Governments regarding the fisheries, in a manner more consistent with justice and common sense than has yet been done by any of the speakers on the the subject. He also corrected some erroneous and exaggerated statements which had been made in regard to matters of fact connected with it. In order to do so more effectually, Mr. Seward had, the day before his speech, applied to me for any information which I might feel myself at liberty to afford him. This I communicated to him as far as I thought I could properly do so, and I thereby enabled him to refute an exaggerated account which was current as to the amount of additional naval force which had been lately put under the command of Vice-Admiral Sir G. Seymour, as well as to remove an erroneous impression which prevailed, that the operations of American fishermen in British waters had been carried on for a series of years without molestation or protest against their proceedings by British authorities.

I listened with some anxiety to Mr. Seward's remarks in regard to the construction of that part of the Convention of 1818 with respect to which it is supposed that the two Governments are or may be at issue; I mean the definition of what would constitute a bay under that instrument. I did so from a presumption that the ground taken by Mr. Seward would be that which the Government of the United States would probably adhere to. Mr. Seward's position in this respect seemed to be, that by a fair and liberal construction of the Convention, American fishermen could be excluded from such bays only as were included between headlands, of less than six miles distance in a right line from each other: or, in other words, that they might fish anywhere outside of a line at a distance of three miles from the shore, following the indents thereof. But he admitted, at the same time, that by what he called a "rigorous or forced construction," it might be contended that the exclusion applied to all bays of whatever dimensions, and to a distance of three miles from a right line drawn from headland to headland: this, he said, was the British construction, but he did not think that the British Government had, by any act of theirs, ever insisted upon it, while the American

Government had always maintained the other construction, though they had not absolutely insisted upon it, and had even accepted from the British Government, as a concession, a relaxation of the principle as applied to the Bay of Fundy. He contended, however, that this did not amount to an admission of the correctness of the British construction of the Convention: the question was, therefore, he said, in summing up, one of doubt and difficulty, on both sides of which arguments might be brought forward; and was therefore one to be settled as the present Administration designed to settle it; that is to say, by amicable negotiation between the two Governments.

So soon as a report of Mr. Seward's speech shall be published, I will do myself the honour of forwarding a copy to your Lordship.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 38.

Speech of Mr. Soulé in the Senate, August 12, 1852.

THE President's message relating to the fisheries was taken up, when

Mr. *Soulé* (Dem.), of La., arose and addressed the Senate. He said that, in alluding to the subject of the difficulties arising between fishermen and Her Majesty's colonial subjects, and the Course pursued by Her Majesty's Ministers on the subject, he would speak with becoming moderation. The subject involved interests which we could neither barter away nor surrender. The times were strange when we were called upon to witness a nation with whom we are at peace, and seemingly on terms of amity and kindness, seeking to assume a right of dominion over seas, against our protest, by sending there armed steamers, sloops, and vessels of war—seeking to ride the ocean in triumph and complacency, like Van Tromp, with a broom at the mast-head, to sweep away all vessels which do not bear her flag. The first information on this subject was derived from the proclamation by the Secretary of State, dated July 5th, that the schooner "Coral" was seized for an alleged infraction of the Treaty, and had been taken into St. John, where proceedings in Admiralty were taken, with a view to her final condemnation and forfeiture: also, that Great Britain so construed the Treaty which excluded our fishermen from rights then enjoyed, and insisted on a line from headland to headland, and that Americans could not fish within three miles from said line, nor in the Bay of Fundy at all. Such were the pretensions of Great Britain, and which she threatens to enforce with the 150 guns she so boastingly displays in the waters of those bays.

Is England right, and we wrong, in all this? How was it that, in the face of such difficulties, we appeared so humble, desponding, and enduring? There was no denial but that the liberties now denied were acknowledged under the Treaty of 1783, and which have been acknowledged since 1845, under an unrecognized tender of grace and favour. England now, without notice, undertakes to deprive Americans of liberties, without the recognition of which, in 1783, peace could not have been concluded. He considered that Mr. Webster, in his proclamation, where he says it was an oversight in the Convention of 1818 to make such large concessions to England, declared that concessions were made by that Treaty to England. If so, then the question was at an end. Although still, England could not be justified in her manner of vindicating that concession.

He referred to the speeches of Messrs. Davis, Cass, and Hamlin, in which they controvert the construction assumed by Great Britain. He based his argument on different grounds than those assumed by those Senators. He could not agree with them, nor with the Secretary of State,

that there was anything in the Treaty of 1818 in any way jeopardizing our rights. The Treaty excluded American fishermen from within three marine miles of the coast of all bays, seas, indentures of ocean harbours, within His Majesty's Dominions in North America; and the question was over what seas His Majesty then had exclusive dominion and sole supremacy? England, at an early period, assumed to herself the supremacy of the ocean, and delighted in being considered the "Queen of the Seas," and there was a time when she ruled supreme. That sceptre had fallen, and the nation was not in existence who would ever resume it in the seas in which she claimed it. The Psalmist declared the earth was given to the children of men, but the sea of God alone. He then argued the necessity for this—that the seas, from their nature, &c., could never be reduced to possession, and hence could not become the property of any one people. The mastery of the seas has been claimed by several nations. England, during the last century, claimed the mastery of all seas communicating with the waters which washed her shores, which, as they all communicated with each other, amounted to all the seas of the world. Rome herself disclaimed any right to own the seas; and he read an extract from the Roman Law, that the sea is as free as the air. No one can claim it, and no one can be prevented from fishing in it.

In 1609, England complained of the encroachments by the Dutch on her shores, and issued her proclamations warning Dutch fishermen from coming into waters claimed by her as her own. She qualified this by saying her object was not to exclude them, but to regulate the manner of such fisheries, and that she would annually grant them a permit to fish, otherwise they would do it by force. Against this the Hollanders protested, and continued their fishing for nine years, during which time England endeavoured to obtain a recognition of her exclusive right by negotiation. She failed in this, and war ensued, which continued till 1654, when Holland, reduced and broken down, was compelled to accept terms of peace, in which this right was recognized. That Treaty was no authority, for it was declared by a conquering to a subdued and broken nation.

All writers on national law, he contended, laid it down that the maritime jurisdiction did not extend beyond three marine leagues from the coast of any nation; hence there was no difficulty in arriving at what was the extent of His Majesty's exclusive dominion over the seas, bays, &c., on the coast of North America. The words of the Treaty are full of meaning. They mean what they say, and are not susceptible of any other meaning than a relinquishment of the rights to fish within three marine miles of the shore. The ocean was free to all the world, except within a certain distance from the shores. The bays or inlets of the seas were as free as the seas, unless the entrance to them be so narrow, that it is within six marine miles or three miles from each side. The Bay of Fundy, the Straits of Northumberland, and others in dispute, far exceeded this distance at their entrances. To constitute a private sea, belonging to one nation, the whole coast of it must be the property of the person claiming it, and its outlet must be so narrow as not to exceed twice the distance of gunshot. As these bays, &c., were not private seas, nor were they under the dominion of His Majesty in 1818, they were free to the world, except within the distance from the shore named in the Treaty.

Four reasons had been given for the course pursued by England, one to awaken our slumbering diplomacy to the subject of reciprocity; another to show the friendship of the present Ministry to the Colonies; another to strike terror by the armed force to the population disaffected by the failure to establish a railroad from Halifax to Quebec; and the other to involve the United States in some diplomatic difficulty, in which we would surrender the privileges heretofore enjoyed. He alluded to the course pursued by the United States in allowing England to despoil Nicaragua—essentially an American State—to enrich Costa Rica, which, in feeling and sentiment, was a British province; and to her success in placing her bankers in our Treasury, and making them disbursing agents of the United States. It was the case in the payment of the instalments of the

Mexican indemnity; and he thought, perhaps, that emboldened by this, she was not alarmed in producing a crisis to involve the United States in difficulty.

He read a memorial sent to Mr. Rantoul by the fishermen, showing the vast importance of the fisheries, the vessels engaged in them, and the thousands deeply interested in the business, as showing the consequence which would follow by allowing Great Britain to enforce her claim. He said that nations, often emboldened by past success, became rash, and pushed on to measures reckless of consequences, under the impression that whatever they touched would be successful. It might be that England—jealous of the maritime power of the United States, and knowing the spring of our naval seamen, and the nursery of our hardy mariners—took this step to destroy it, and cripple our resources. Emboldened by her success at Nicaragua, he feared that she now sought to deprive us of liberties heretofore enjoyed. This question was most important. The signs were portentous. There were storms ahead, and the questions of the day should be met with firmness. They were forced upon the United States by a rival, and should be met as men should meet them.

It was said that there are negotiations going on, and he read extracts from newspapers that such was the fact. He hoped not. These paragraphs coupled reciprocity with the negotiations on this subject. If negotiations were going on, then a portion of the revenue of the country may have been disposed of. He could not consent to this. The British lion might roar and roar again, before the people of the United States will be driven to surrender any of their rights. He thought it strange that the Secretary of State should have so misjudged the forecast of such men as Gallatin and Rush, and the wisdom of the comprehensive statesman, Adams, as to suppose they surrendered everything in the Convention of 1818, while they supposed they had secured much that was good and valuable. He did not believe that any negotiations had taken place. It could not be true. How could it have escaped the mind of the illustrious individual now Secretary of State, that to sign a treaty under such circumstances, would be to sink into dust the high character of the nation. He did not believe it possible. He thought it likely that one object of the resolution, and the debate on it, was, that before any settlement of the matter was made, that the Senate should, so far as it could, express the sentiments of the country on this subject. If asked what he would advise the Administration to do? it would be to repeat the language of an English statesman, who, when France had seized certain islands, said to the French Ambassador, "The islands must be restored, and every cent of damage done to any one by their seizure paid—when this is done, you shall be heard." He thought firmness and determination would secure peace—while silence and hesitation would produce rupture.

He was fully aware of the great stake which the United States, and all the world, had in peace between the United States and England. But he also knew, that unless the danger was faced in time, circumstances would arrive when war or disgrace would be inevitable. The country would repudiate any peace obtained by negotiations under the rule of British cannon. If negotiations were thus concluded, then was gone the pride, glory, honour, and dignity of the nation. The British North American Possessions were no longer colonial dependencies, but would shortly take their place among the nations of the continent. While disposed to insist upon the full recognition of the rights of American fishermen, he was also disposed, under proper circumstances, to deal favourably with them, on what they had so much at heart. But he would never do anything under the lash of England. He hoped the Committee on Foreign Relations would report a resolution expressive of the sentiments of the Senate.

Mr. *Cass* (Dem.), of Michigan, explained his former speech, and repeated his views on the subject.

Mr. *Butler* (Dem.), of South Carolina, hoped that the Senate would wait till it had something more before it than conjectures. He desired to

discuss this subject, but preferred to wait till the Committee should report on it. He was not anxious for a war. A war with Great Britain now would be a most disastrous one. He could not believe England desired it, for no advantage was to be derived by her from it. He was opposed to any debate, for the purpose of influencing negotiations or to prepare the people for a war. He rather believed Great Britain would abandon her pretensions, and submit to a strict adherence to the Treaty. He thought it likely that the title of Great Britain to those bays, &c., was better since the Treaty than before it. He believed the ocean to be free, and the United States and Great Britain by a Treaty, could not make those bays, &c., British bays. But he preferred to postpone his argument till a report was made. He did not approve of debating the subject, and framing public opinion when the Senate was not itself prepared to make a judgment.

Mr. *Seward* (Free Soil), of New York, said he was as anxious as the Senator from Louisiana, that the Senate should express its opinion on the subject, but when it did so, he desired that expression of opinion to be a wise one, a tenable one, a just one, and one which can be maintained. This could be only arrived at upon full information. He thought he should be able to show that there had been no negotiations of a character to compromise the honour or interests of the country, and that there would be no such negotiation—that there would be no war, and there was no cause for alarm.

Mr. *Mason* (Dem.), of Virginia, suggested that the Senator allow the papers to be referred, and he could make his remarks on them after a report was made.

Mr. *Seward* said he considered it but just to the Administration, whose policy had been unjustly represented, that some reply should be made before the papers were referred; more particularly so, because there would be further papers sent in on the subject, when the whole could be referred together. He would consent, however, to the postponement of the subject.

Messrs. *Dawson* and *Badger* insisted that the papers ought not to be referred till after a reply was made to attacks on the Administration.

Mr. *Pratt* (Whig), of Maryland, said he hoped the papers would be referred. Senators desired to reply to the charge made against the Administration by the Senator from Louisiana, of a want of American feeling.

Mr. *Soulé*—Do you say that I made that charge?

Mr. *Pratt*—No, Sir. I understood you to say nothing of the kind, but others say so.

Mr. *Soulé*—Do you endorse it?

Mr. *Pratt*—I say I did not understand you to say anything of the kind.

Mr. *Soulé*—I never uttered such a sentiment.

Mr. *Pratt* said the Administration desired no defence. A report on this subject would show that it had done everything proper for the vindication of the honour of the country. He believed the difficulties would be honourably settled. He thought it too late for the session to delay public business for orations.

A debate ensued as to whether the subject should be postponed till Saturday.

After a short executive session, the Senate adjourned.

No. 39.

Mr. Crampton to the Earl of Malmesbury.—(Received August 29.)

(No. 125.)

My Lord,

Washington, August 15, 1852.

NO official step has yet been taken by the United States' Government in regard to the measures adopted by Her Majesty's Government for the protection of the British fisheries, to which so much exception is taken and which have caused so much excitement in this country.

I have however had several conversations on the subject with Mr. Webster and the President, and from what I can collect from these it is their intention to pursue the following course:

1st. To obtain correct information on the subject which seems to be very imperfectly understood: to ascertain what is the real nature of the interests involved on both sides; how they are affected by the late measures, and how they may be reconciled in a manner satisfactory to both parties; in a word, as Mr. Webster expressed it, "to find out where the shoe pinches." For this purpose Mr. Webster has sent to Boston for a Mr. Sabine, a gentleman whom he believes to be very well acquainted with the subject in all its details, and who has a thorough knowledge of the nature and extent of the American interests involved. Judging on my part, that it would be expedient that Her Majesty's Legation should be in possession of information equally correct on the subject, as it affects the interests of the British North American Colonies, I proposed to invite to come to Washington, Mr. Perley, a gentleman who was in 1849 employed by the Lieutenant-Governor of New Brunswick to draw up a report (of which I have the honour to inclose a copy) on the subject of the British fisheries; this report is executed in a very able manner, and I believe Mr. Perley to be intimately acquainted with the whole subject. In the fairness of this proposal Mr. Webster entirely concurred. I expect Mr. Perley to arrive here to-morrow.

2ndly. So soon as Mr. Webster shall have had an opportunity of consulting with both of these gentlemen, he informs me that he will address a note to Her Majesty's Legation, in which the views of the United States' Government will be embodied, and which will be of such a nature as he hopes will appear reasonable to Her Majesty's Government, and lead to a settlement of the question upon a footing satisfactory to both countries, and calm the excitement which has been got up in regard to it,—an excitement which, for the present, stands in the way of any general settlement, whether by negotiation or legislation, of the commercial questions between the Colonies and the United States; an amicable and definite arrangement of which would be of so much advantage to both parties.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 40.

The Secretary to the Admiralty to Mr. Adlington.—(Received September 2.)

Sir,

Admiralty, August 31, 1852.

WITH reference to your letter of the 19th ultimo, I am commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the information of the Earl of Malmesbury, the copy of a letter, dated the 18th instant, from Vice-Admiral Sir George Seymour, inclosing copies of the instructions issued by him to the officers employed in the

Gulf of St. Lawrence in the protection of the fisheries; together with other documents on the subject. And I am to acquaint you that my Lords concur in the opinions expressed by Sir George Seymour to the officer administering the Government of Nova Scotia.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 40.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, August 18, 1852.

IN reply to your letter of the 29th ultimo, transmitting, for my information and for any observations I may have to offer thereon, copies of a letter from the Foreign Office and its inclosure, relative to the instructions to be given to Her Majesty's ships and Colonial vessels for the fisheries on the coasts of the British North American Provinces, I transmit a copy of my instructions to the officers employed in the Gulf of St. Lawrence, which is similar in effect to those for the coasts of Newfoundland and in the Bay of Fundy; and also a copy of a letter, dated the 21st June, which I addressed to the Administrator of the Government of Nova Scotia, on his submitting to me the proposed instructions to the Commanders of the Colonial vessels engaged for the protection of the fisheries, in consequence of which they were modified to the extent shown in the accompanying copy.

I have, &c.
(Signed) G. SEYMOUR.

Inclosure 2 in No. 40.

Orders issued by Vice-Admiral Sir G. Seymour.

By Sir George Seymour, K.C.B., &c., &c.

YOU are hereby directed to procure a pilot well acquainted with the Gulf of St. Lawrence and coast of Labrador, whom you are authorized to bear on the books of the "Devastation" during the time you are employed on the services hereinafter mentioned. You will then make the best of your way into the said Gulf, for the purpose of protecting the fisheries and trade of Her Majesty's subjects there and on the coast of Labrador, from molestation, or infraction of treaties; to prevent illegal traffic; and to give countenance and support to the several settlements and establishments of Her Majesty's subjects, as well on the islands as on the continent.

2. As soon as practicable after your arrival in the Gulf, you are to call at Charlotte Town, Prince Edward Island, to communicate with the Lieutenant-Governor, and to acquaint him with the tenor of your instructions; and any requests made to you by him, or the Lieutenant-Governor of New Brunswick, are to be attended to as far as may be in your power and consistent with these orders.

3. As regards the right of the citizens of the United States of America of fishing within the Gulf of St. Lawrence, you will please to observe by the 1st Article of the Convention between Great Britain and the United States of America, signed at London on the 20th of October, 1818 (page 392, in the second volume of "Hertslet's Treaties"), that with the exception of the shores of the Magdalen Islands, and also of the coast of Labrador eastward of Mount Joli, the inhabitants of the United States are precluded from taking, drying, or curing fish, on or within

three marine miles of any of the coasts, bays, creeks, or harbours of Her Majesty's Dominions, within the station now assigned to you; and the Act 59 Geo. III, cap. 38 (page 1063 of the Admiralty Statutes), subject their vessels to confiscation, if found fishing, &c., nearer to the said coasts than that limit, to be prosecuted in the same manner as offences against the laws of customs and navigation. Your best vigilance and endeavours are therefore to be exerted to cause the stipulations of the aforesaid Convention to be fully and strictly complied with.

4. As regards the right of fishing of the French in the Gulf of St. Lawrence, you will observe that, by the Vth Article of the Treaty of Paris, between Great Britain and France, under date of the 10th of February, 1763 (page 239 of first volume of "Hertslet's Treaties"), the subjects of France are precluded from fishing within three leagues of any of the coasts, as well of the continent as of any of the islands within the said gulf; and by the subsequent Treaties with France, the first-mentioned Vth Article of the Treaty of Paris of the 10th February, 1763, still remains in force, and is the one by which the French fishery in the Gulf of St. Lawrence is to be regulated and governed. You are therefore to be guided accordingly, exerting your utmost diligence and attention to prevent any infraction whatever of the stipulations of the said Article of the Treaty; and in the event of your finding any French vessel fishing nearer to any of Her Majesty's aforesaid coasts than the stipulated three leagues, but beyond three marine miles therefrom, you are to oblige such vessel to remove immediately beyond the required three leagues, taking note of every particular respecting her, that such measures may be taken with the proper French authorities as shall be deemed right, with a view to the punishment of the offenders according to the French law or regulation on the subject; but in the event of your finding any French vessel fishing within the nearer distance of three marine miles, you will perceive that French vessels so found by you nearer than that distance to Her Majesty's coasts in North America (where not permitted by Treaty), are, as well as American vessels, liable to confiscation under the second clause of the said Act of the 59th Geo. III, cap. 38; and in cases where the evidence is entirely conclusive of an infraction of Treaty, you are to take measures to secure and send the vessel in for trial with the necessary witnesses.

5. You are, however, to understand that it is not my intention to require you to proceed to the extremity so open to you by the said statute, either with every French or American vessel you may find there fishing contrary to law, if, from the excuses offered by the master, the unfrequency of such infringements, or other causes at the time, you think the case may be dealt with by more lenient measures; keeping, however, always in view the main point of endeavouring, as far as may be in your power, to diminish or prevent future encroachment. But whilst, on the one hand, you so prevent French or American vessels from fishing or buying fish nearer to our coasts than the limits so prescribed, you are, on the other, to be careful that they are not molested or improperly interfered with in any manner by Her Majesty's officers or other subjects, so long as they keep within the authorized limits.

6. You are from Prince Edward Island to proceed to Gaspé and the coasts of New Brunswick; and when you have taken the necessary measures, then you are to cross over to Mount Joli, on the coast of Labrador (unless information received by you on the spot should oblige you to proceed in another direction), to give protection to our fisheries and establishments on that coast from Mount Joli westward as far at least as the entrance to the River St. John; and when it appears to you that the presence of Her Majesty's steam-sloop under your command on that part of the coast of Labrador, and the measures adopted by you, have sufficiently secured there the object before stated, you are to proceed to such other parts of the Gulf as may appear to you best, according to the wind and weather at the time, and the intelligence you may have obtained,—understanding that you are to visit all such parts of the coasts as may ensure, as far as in your power, the attainment of the objects directed by these instructions.

7. In the execution of this service you will occasionally turn back on points and places which you have already visited, instead of pursuing a direct course round those within your station, as I have reason to believe foreign fishing-vessels are apt to transgress their limits when the vessel of war employed in the protection of the fisheries has passed on, as her return is considered unlikely for some weeks.

8. Great complaints having been made of American encroachments on all parts of the Gulf of St. Lawrence, and more particularly near Gaspé, you are at liberty to leave a boat and crew at that place, when you are likely to return in a short time, under charge of a steady officer, provided you can obtain a proper lodging for them, giving the officer in charge orders for his guidance in compliance with your instructions, if you find that a boat is adequate and will be of advantage to the service.

9. You are during the summer to take a convenient opportunity of proceeding from Mount Joli along the coast of Labrador, as far to the eastward of Belleisle as the chart of the coast and weather will permit, and the nature of the service requires, to prevent illegal traffic or fishing on this coast and island; and you will remain there as long as your other duties permit.

10. You will bear in mind that from Mount Joli, eastward of 60° of west longitude, on the coast of Labrador, the Americans have a right to fish close to the shore, and to dry and cure their fish upon it, under the restrictions set forth in the before-mentioned Convention.

11. Whilst on this coast you will be careful to obtain the most minute information in regard to its fisheries; the nature of the vessels that frequent it; the manner in which the fishing is carried on, and the extent thereof, with its increase or decrease; inserting it in your general report under the head of "Labrador," a copy of which last you will forward to the Governor of Newfoundland.

12. I have charged Lieutenant Jolly, of the "Bermuda," for the present with the protection of the fisheries on the south and east-coasts of Newfoundland.

13. When you visit the Magdalen Islands, which you are to make a point of doing during the season, you will understand that though the said islands are not named in the Convention with the United States, as open to the people of that nation to dry and cure their fish there, which has been tacitly permitted, on this particular point you are not to consider it necessary to adopt any measures to prevent the continuance of it; but you are to be very careful that nothing be said or done by you which may be construed into an admission of the right of the people of the United States of America to dry and cure fish upon any part of the Magdalen Islands, and you will be mindful that it is your duty to prevent all contraband traffic there.

14. You are to afford every aid and support you consistently can to the civil magistrates or local authorities you find at the several ports and places you may visit within the station assigned you, on being required by them so to do for the preservation of internal peace and legal government.

15. Should you fall in with either French or American ships of war, you are to endeavour to promote the good understanding which exists between Great Britain and those nations, by behaving towards them with all proper attention and conciliation; and in your transactions with the fishermen or other natives of those countries, you are to be very careful not to afford them any just ground of complaint, of being treated by you either unfairly or harshly.

16. You are to consider Picton as your port of rendezvous, and any communication I may desire to make to you will be sent to the post office at that place; you will therefore so arrange as to call there from time to time, as convenient, to inquire for letters, acquainting the Senior Officer at Halifax by electric telegraph, of your arrival. All bulky returns are to be kept until your return to Halifax.

17. There being a contract at Picton with Mr. S. Cunard, for the supply of coals to Her Majesty's steam-vessels, at the rate of 11s. a-ton

including screening and shipping, you are to complete your fuel when requisite, giving the necessary receipts for the same; and as the nature of the service on which you are to be employed will require your frequent presence at various points of extensive coasts, you will use your own discretion in using steam or sails, always profiting by the latter when circumstances permit.

18. You are to continue on this service until the 1st October next, or the end of the fishing season, unless sooner recalled, when you are to make the best of your way to Halifax for further orders; and on your arrival there you are to furnish me with a minute and detailed general report of your proceedings in the execution of these instructions, of the nature and extent of the fisheries carrying on by the English, French, and Americans, within the Gulf of St. Lawrence.

19. You will also observe and report on the efficiency of the light-houses you may pass or approach, how far they may generally be respectively seen by night, and adding any suggestion that may strike you for their improvement; should you be enabled to land to visit any of them, which you will do when convenient, you will bear in mind in your communication with the people in charge of them, that they have been built by and are under the direction and management of the province in which they are situated.

20. You will cause an entry to be made in your log every evening at sunset, of the number of fishing-vessels seen during the day, distinguishing them as British, French, American, or unknown.

21. In addition to the documents A to E,* referred to in the foregoing instructions, you will also receive marked F, the last year's report of Commander the Honourable A. A. Cochrane, of Her Majesty's sloop "Sappho," which will afford you the requisite general information relative to the matters you have to deal whilst on the service with which you are hereby charged, and which are all to be returned to me on your rejoining my flag, together with these orders.

Given on board the "Cumberland," at Bermuda, May 5, 1852.

(Signed) G. F. SEYMOUR.

C. Y. Campbell, Esq.,

Commander of H.M.S. "Devastation," Halifax.

N.B.—These orders were issued before their Lordships' directions for the employment of an increased number of small vessels in the Gulf of St. Lawrence had been issued.

Inclosure 3 in No. 40.

Amended Instructions to Provincial Commanders.

[See Inclosure 2 in No. 7.]

Inclosure 4 in No. 40.

Vice-Admiral Sir George Seymour to Colonel Bazalyette.

[See Inclosure 3 in No. 7.]

* These Inclosures are various Admiralty orders relative to the fisheries.

No. 41.

Mr. Crampton to the Earl of Malmesbury.—(Received September 5.)

(No. 133.)

My Lord,

Washington, August 23, 1852.

WITH reference to my despatch No. 123 of the 15th instant, I have now the honour to transmit to your Lordship, herewith, a more fully detailed report of the speech made in the Senate by Mr. Pierre Soulé, on the Fisheries question; and likewise printed reports of Senator Seward's speech on the same subject, and of which I communicated the substance to your Lordship in my despatch No. 123, above alluded to.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 41.

Speech of Mr. Soulé, of Louisiana, on the American Fisheries, delivered in the Senate of the United States, August 12, 1852.

THE Senate having under consideration the message of the President in relation to the subject of the fisheries on the coast of North America,—

Mr. Soulé said, Mr. President, in delivering out my sentiments, with reference to the difficulties which have arisen lately between our fishermen and Her Majesty's Colonial subjects of North America, and in passing an opinion on the course which it has pleased Her Majesty's Ministers to pursue in relation to those difficulties, I shall endeavour to express myself with the utmost moderation and reserve.

The subject is one of considerable moment and delicacy, involving interests of vast national importance which we can neither barter away nor surrender, and raising questions of momentous bearing, but too well calculated to stimulate and augment the excitement and irritation already produced by the high-handed measures which have occasioned this debate; and it is not to be supposed that I am willing to approach the grave questions which it suggests, without keeping in view the high responsibilities under which I speak. No, Sir; I know too well the unhandy materials with which I have to deal, and you need not apprehend that I will be for a moment unguarded in the use which I may have to make of them.

We live in strange times, Mr. President, that we have to witness occurrences like those through which a nation, with whom we are at peace, and seemingly, at least, on terms of reciprocal kindness and amity, attempts to signify her disregard of the protest which we have so often and so solemnly entered against her assuming the rights which she claims to exercise, to the exclusion of others, over regions of the sea which are of all nations, and which she can only make hers as long as she is permitted to cover them, unquestioned and unmolested, with her armed steamers, her sloops, and her men-of-war, and to ride triumphantly upon their waters in the gorgeous display of her supremacy; and, like that Van Tromp of Holland, to whom my honourable friend from Maine so happily alluded the other day, with a broom at the mast-head of her ships, to sweep away from their approaches, whomever she finds in sight of the shore under colours not her own.

The first notice we have of these unaccountable proceedings on the part of England, is to be found in the letter-proclamation issued by our Secretary of State, and officially dated, State Department, Washington, July 5, 1852.

Among other things copied in that letter, from a circular communication addressed on the 1st of May preceding, by Her Majesty's present Colonial Minister to the Governors of the North American Colonies, I note what follows :—

“Her Majesty's Ministers are desirous of removing all grounds of complaint on the part of the Colonies in consequence of encroachments of the fishing-vessels of the United States *upon waters from which they are excluded by the terms of the Convention of 1818*; and they, therefore, intend to dispatch, as soon as possible, a SMALL naval force of steamers or other small vessels, to enforce the observance of that Convention.”

We find in the same paper, that “in the meantime, and within ten days of its date, an American fishing-vessel called the ‘Coral,’ belonging to Machias, in Maine, has been seized in the Bay of Fundy, near the Grand Manan, by the officer commanding Her Majesty's cutter ‘Netley,’ already arrived in that bay, for an alleged infraction of the Fishing Convention, and the fishing-vessel has been carried to St. John, New Brunswick, where proceedings have been taken in the Admiralty Court with a view to her condemnation and entire forfeiture.”

It informs us, also, that the United States having, by Article I of the Convention of 1818, “renounced for ever any liberty theretofore enjoyed or claimed by their inhabitants, to take, dry, or cure fish within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's Dominions in North America,” not included in “that part of the coast of Newfoundland which extends from Cape Ray to the Rameaux Islands, on the western and northern coast of the said Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also in the coasts, bays, harbours, and creeks, from Mount Jolly, on the coast of Labrador, to and through the Straits of Belleisle, and thence northwardly along the coast;” and that “being permitted to enter the bays or harbours” first named, only “for the purpose of shelter and of repairing damage therein, and purchasing wood, and obtaining water,” *it would appear by a strict and rigid construction of the Article, that fishing-vessels of the United States are precluded from entering into such bays and harbours of the British Provinces, for any other purpose.*

That 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 pursuit inside of said line.

That the opinion delivered by certain officers of the Crown is that by the terms of the Convention, American citizens were excluded from any right of fishing within three miles from the coast of British America; and that the prescribed distance of three miles is to be measured from the *headlands* or extreme points next to the sea; and that, consequently, no right exists, on the part of American citizens, to enter the Bay of Nova Scotia, there to take fish, although fishing, *being within the bay may be at a GREATER DISTANCE THAN THREE MILES, from the shore of the bay.*”

Such is the pretension which England sets up, and which she threatens to enforce with the 150 guns which she carries boastingly, mounted, loaded, and primed, on board the 19 vessels now decking the sea at the entrance and in the environs of the Bays of Chaleurs and Fundy; and we are told, Sir, and told by our Secretary of State, in language most solemn and impressive, that our fishermen must look out and BE UPON THEIR GUARD.

Sir, is England right? Are we wrong in all this? And why is it that from the very outset we look so humble, so dejected, so submissive, so enduring?

It is not denied, is it, that the liberties which England now attempts thus violently to wrest from us have been practised by our fishermen from time immemorial? They were liberties acknowledged in the Treaty of 1783 as pre-existing to it; liberties retained against most insidious and daring pretensions at the Peace of Ghent, where they were not even

suffered to be drawn into question; liberties enjoyed before and after the Convention of 1818; liberties *allowed*, though under an ungracious but unadmitted proffer of favour and grace, in 1845; and yet, all at once, without previous remonstrance, or the least notice, this, our long possession, this our solemnly-stipulated right, without whose recognition the Peace of 1783 could have never been concluded; which our negotiations protected against the attaint of a query or a doubt in 1814; which our Envoys thought they had enervated and strengthened by the Convention of 1818; which Lord Stanley, through sufferance at least, consented to let us enjoy after 1845, as we had enjoyed it before, is to be brutally torn away from us, as usurpation and encroachment upon waters from which it would seem we are to be excluded; our vessels are captured, condemned, and sold before an explanation is sought and obtained, or asked and refused; and all this in the midst of the most profound peace, and when England is incessantly receiving at the hands of our Government most profuse tokens and manifestations of condescendence, and is allowed, there, to turn to her advantage and profit the good will which a sister Republic bears us, and the influence which that good will enables us to wield over her affairs—as in the case of Nicaragua, a State all American in spirit and feelings, unmercifully spoliated to enrich Costa Rica, but a British province in all her associations and tendencies; and here to introduce her bankers in our Treasury, and give them charge of our concerns, and institute them our disbursing agents, as in the case of the two last instalments of the indemnity due to Mexico, that British creditors might get a chance of paying themselves off doubtful claims; and political marauders in Mexico be enabled to pounce *in transitu* upon the emaciated treasure, and, with its remnants, to bring about in that doomed country a crisis and a revolution. Sir, I repeat it again, these are strange times indeed!

Is England right? If we trust the Secretary of State, in the view which he takes of her claims, it would seem as if the terms, the letter of the Treaty, were on her side. This, Mr. Webster most peremptorily admits, while others but debate it upon mere technicalities of language.

Mr. Webster says that “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 these vast inlets or recesses of the ocean ought to be open to American fishermen, as free as the sea itself, to within three miles of the shore.” Here the whole is surrendered; there is no escape from the admission. **IT WAS AN OVERSIGHT TO MAKE SO LARGE A CONCESSION TO ENGLAND.**

The concession was then made, was it not? If so, the dispute is at an end; and yet, even then, it were a hard task to justify the summary process through which England had sought to compel us to compliance with the concession, particularly as she had, to say the least of it, suffered our fishermen to haunt the Bay of Fundy, by express allowance, in 1844, and to make their haunting other bays rightful, by a continuous, open, and public enjoyment of them, ever since the Convention of 1818. But to this I shall presently revert.

“The precise words of the Treaty,” says my friend from Maine, in the remarkable speech he delivered the other day. “may, at first view, seem to carry that construction;” but he denies immediately that the construction be correct; and so does the distinguished Senator from Michigan, who has shed so much light on this controversy, and handled with so rare a dexterity all the questions of secondary right arising under the Treaty of 1818.

The honourable Senator from Massachusetts grants, that “by the terms of the Treaty American fishermen are excluded from the coasts, bays, harbours, and creeks,” &c. “The British Government,” says he, “raise a question of construction, namely, that we cannot fish within three miles of any of these bays; that we are excluded, to a distance of three miles, not only from the coasts, but also from the bays, including in that term the Bay of Fundy and other larger bays.” But with that peculiar energy which characterizes his manner of argument, he also

denies that such be the term of the exclusion, predicates his own understanding of the Article upon the obvious meaning which its whole context bears, and strenuously contends for the American construction placed upon it.

For my own part, Mr. President, I consider that the terms of the Treaty need, in no wise, be defended upon such collateral issues. Their true import stands on firmer ground than that of philological discrimination or inferential argument. They are most clear and precise; the very terms, the appropriate terms, for expressing that which it was intended they should convey. Had our negotiators spoken of bays and harbours, without specifying what bays and harbours they meant we should remain excluded from, there might be room for doubt and for dispute. But they did not so speak. On the contrary, they distinctly pointed to the specific places of exclusion; *the bays, creeks, and harbours OF HIS MAJESTY'S DOMINIONS*; and the question recurs, Which are the bays over which His Majesty could claim dominion?

This question, though not a novel one, still has its merits and attractions, and may, perchance, be deemed not altogether unworthy of notice. I shall proceed briefly to its consideration.

England has from time out of mind attempted to arrogate to herself the sovereignty of the ocean. She once ruled it supreme. But the sceptre has fallen from her hands, and the sea has resumed its freedom. It is of all, and belongs to none. Who dares to claim, at this day, to be the owner of it? Who presumes to command to its waves, and to its currents, and to its storms?

"The earth," says the Psalmist, "was given to the children of men; but the sea is of God alone." The sea is, from its very nature, unsusceptible of human ownership. The idea of ownership implies that of exclusive possession; and, of consequence, the right of using the thing owned at will—and not only that, but the right of excluding others from its possession, and the necessity of so excluding them, that the possessor may make HIS all the advantages it can yield. The sea has none of the characters that could constitute it in ownership of any man or nation. Its immensity, its fluidity, must for ever prevent its being subject to possession. It may be turned to profit it is true, but by each and by all of the human species, without its enjoyment by some, impairing or diminishing its enjoyment by others. Its capacity is incommensurable. There is no volume than can exhaust it. Thousands of fleets may be sunk in it to-day, and to-morrow it will again engulf millions of others, without ever being filled or notably compressed. There are no signs, no marks through which to attest its occupancy. Even those frightful, though majestic, leviathans that now plough it over, in all directions, leave not behind them any trace of their passage. The rolling wave paddled back, as they move on, wafts away from its surface the last vestiges of their march.

To make a thing yours by possession, you must possess in continuity the same thing. Identity in the thing owned constitutes one of the main elements of possession. A field, a forest, may be upturned, and altered, and transformed; they will still be the same field, the same forest. Not so with the ocean, so unceasingly changing in its form, place, and surface; now sinking its upper layers in the uttermost recesses of the deep, and then upheaving others from her lowest bed to the surface, as if to spread them to the light of Heaven in glorious exultancy. Its inexhaustibility renders its exclusive enjoyment not only useless but impossible. You may take from it for years and ages, with thousands and millions of men; you may seize upon its pearls, and its corals, and its salts, and its fishes—you but develop its powers of production and multiply the yieldings of the mine from which you draw. By the decrees of God, the ocean is of all man. Nations may undertake to explain and interpret those decrees; they cannot abrogate them.

However, Sir, nations have claimed ownership over it, or such a supremacy as seemed to constitute it in a sort of monarchy. They would have other nations call them the queens of the sea. Yes, Sir, they have claimed to appropriate to themselves the sea and to subject it to their

exclusive dominion. The discovery of America, and the vast development of commerce and navigation incident on it, gave zest to, and became a powerful stimulus for, such assumptions. Thus Venice arrogated to herself the Adriatic; Genoa, the Ligurian Sea; the Portuguese and the Spanish, the Sea of the two Indies; and, in the eighteenth century, England claimed to be the mistress and sovereign of *all the seas in communication with those* surrounding her coast, which of course was no less than to claim sovereignty over all the seas in the world, as they all communicate with each other. But these arrogant assumptions on the part of powerful States never were assented to by those whom they excluded from the common domain. The history of England furnishes us with a striking example of her own susceptibility, whenever such claims were set up against her. At a time when, though powerful on the ocean, she could not yet pretend to rule her rivals out of it, and when Spain, in the palmiest days of her strength and glory, and aided by the bulls of the Pope, was claiming titles to all the lands and seas of the two Americas, this latter nation sent her Ambassadors to the English Court, and loudly complained of the devastations which an illustrious navigator, Sir Francis Drake, was committing on her domains. Here is the answer which the supercilious and unbending Elizabeth made to her complaints:

“The use of the sea and of the air is common to all. No people nor private person can claim any power over the ocean; for neither its nature nor its public usage will allow its being occupied.”

We find, it is true, in all ages, nations who, being more especially addicted to commerce and navigation, obtained, for a time, what the writers on the Law of Nations would call a *prepotency* over the sea; but, even under that prepotency, they never pretend to be the sole tenants of it. Tyre, Rhodes, Athens, Lacedæmon, Carthage, and Rome herself never claimed its absolute and exclusive enjoyment, but suffered other nations to enjoy it with them. Though it was said of the Carthagenians that they exercised such a power over the sea as to render its navigation dangerous—*adeo potentes mari, ut omnibus mortalibus navigatio periculosa esset*—yet they but aimed at a nominal supremacy; and the reason is that, according to Strabo, “they carried their commercial jealousy so far as to interdict the nations who contested with her for that supremacy, from landing upon their coasts, and to sink all vessels with which her own met, directing their course towards Sardinia, or towards what was called afterwards Gibraltar.”

I read in a most lucid and interesting treatise on the right of property, by Comte, that the shores of the sea, which formed part of the Roman Empire, were considered the property of the Roman people; the use of them was held to be common to all mankind for fishing and navigation purposes; and though the authority of the Prætor was necessary to warrant the construction thereon of any buildings, the want of such an authority did not involve the destruction of the works, if not injurious to fishing or navigation, or the cause of damage to others; and the sole object of the authority required seems to have been to ascertain and establish the sovereignty of the Roman people over coasts which formed part of their territories.

THE SEA AND ITS SHORES ARE AS COMMON AND FREE TO ALL MEN AS THE AIR ITSELF, AND NO PERSON CAN BE PROHIBITED FROM FISHING IN IT. So speaks the Roman Law; and therefore the Emperor Antonius, to whom remonstrances were made against the inhabitants of the Cyclades, who interrupted the navigation of their neighbours, appropriately answered that he was the lord of the land; but that law alone was Sovereign over the sea.

In more modern times, the Dutch gave a remarkable proof of their pertinacity to resist the claims of England over the immediate seas bordering on her coast. It is somewhat curious to see how the records of that struggle speak of the constancy, valour, and energy, with which they asserted their right to haunt every part of the ocean, and to fish within the very waters that washed the proud island. I hold in my hand a short extract from a musty book, exhibiting, in a striking light, the genius and temerity of that once great nation.

I crave the attention of the Senate to its contents. I read from Selden:

“On the 6th day of May, 1609, James I, wishing to put an end to the liberties enjoyed by Holland to fish in the British seas, as they were then called, issued a proclamation wherein, among other things, is what follows:

‘We have resolved to give notice to all the world that our express pleasure is, that from the beginning of the month of August next coming, no person of what nation or quality soever, being not our natural-born subject, be permitted to fish upon any of our coasts and seas of Great Britain, Ireland, and the rest of the isles adjacent, *where most usually heretofore any fishing had been*, until they have orderly demanded and obtained licences from us, or such of our Commissioners as we have authorized in that behalf; which licences, our intention is, shall be yearly demanded for so many vessels and ships, and the tonnage thereof, as shall intend to fish for that whole year or any part thereof, upon any of our coasts and seas aforesaid, upon pain of such chastisement as shall be fit to be inflicted upon such wilful offenders.’

“Notwithstanding this proclamation, the Netherlanders proceeded still in their way of encroachment upon the British seas and coasts through the whole reign of King James, *and were at length so bold as to contest with him and endeavour to quarrel His Majesty out of his rights*, pretending, because of the long connivance of himself and Queen Elizabeth, that they had a right of their own by immemorial possession; which some of their Commissioners of theirs who were sent to London had the confidence to plead *in terminis* to the King and his Council. And though the King, *out of his tenderness to them, insisted still upon his own right*, by his Council to those Commissioners, and by his Ambassador to their superiors, yet they made no other use of his indulgence than to tire out his whole reign and abuse his patience by their artificial delays, pretences, shifts, &c.

“In a letter of Secretary Naunton’s to the British Ambassador, dated Whitehall, December 21, 1618, Mr. Naunton says:

‘The States’ Commissioners and Deputies both having attended to His Majesty at New Market, and there presented their letters of credence, returned to London on Saturday was a sevensnight, and upon Tuesday had audience in the Council Chamber, where, being required to communicate the points of their commission, they delivered their meditated answer at length. The Lords, upon perusal of it, appointed my Lord Bining and me to attend His Majesty for directions, what reply to return to this answer of theirs, which I presented to their Lordships yesterday to this effect: That His Majesty found it strange that they, having been so often required by your Lordship, His Majesty’s Ambassador, &c., to send Commissioners fully authorized to treat and conclude not only of all differences grown between the subjects of both States touching the trade to the East Indies, but withal to take order for a more indifferent course of determining other questions growing between our merchants and them about their draperies and the tare, and more especially to determine His Majesty’s right for the sole fishing upon all the coasts of his three kingdoms, into which they had of late times encroached further than of right they could; and lastly, for the reglement and reducing of their coin, &c., all which they confessed your Lordship had instanced them for in His Majesty’s name; that after all this attention on His Majesty’s part, and so long deliberation on theirs, they were come at last with a proposition to speak only *to the two first points*. They would decline all debate of the fisheries on His Majesty’s coasts. They profess their loathness to call their right in doubt or question, claiming an immemorial possession, SECONDED BY THE LAW OF NATIONS.’

“In his answer Lord Ambassador Carlton says:

‘I told the Prince of Orange that howsoever His Majesty, both in honour of his Crown and person, and interest of his kingdom, neither could or would any longer desist from having his rights acknowledged.’

* * * ‘especially finding the same openly oppugned both by their statesmen and men-of-war, as the writings of Grotius and the taking

of "John Brown," the last year, may testify; yet this acknowledgment of right was no exclusion of grace and favour.' * * * 'and that such was His Majesty's well-wishing to this State (the Netherlands), that he presumed of his permission to suffer them to continue their course of fishing, which they might use thereby with more freedom and less apprehension of molestation than before, and likewise spare the cost of some of their *men-of-war*, which they yearly sent out to maintain that by force which they have of courtesy.'

"The Prince answered that, for himself, at his return from Utrecht, he would do his best endeavour to procure His Britannic Majesty's contentment." * * * "And touching their men-of-war, he said they must still be at the same charge with them, because of the pirates.

"By another letter, of January 21, 1618, from Secretary Naunton to the Lord Ambassador Carlton, the latter was instructed to desire the States not to suffer and tolerate the growing abuses committed on the coasts and seas of Scotland, and to issue a proclamation inhibiting their subjects from fishing within fourteen miles of His Majesty's coast this year.

"Now, what effect the Ambassador's negotiation with the States had, appears by a letter of his from The Hague, of February 6, 1618, to King James himself, where, among other passages, he has this:

'I find, likewise, in the manner of proceeding, that by treating by way of proposition here, nothing can be expected but their wonted dilatory and evasive answers, &c. The way, therefore (under correction), to effect your Majesty's intent, is to begin with the fisheries themselves, by publishing, against the time of their going out, your resolution, at what distance you will permit them to fish, whereby you will force them to have recourse to their Council of Fishery, that Council to the States of Holland, and those of Holland to the States-General, who then, in place of being sought unto, will, for contentment of their subjects, *seek unto your Majesty.*'

"On the 16th of April, 1635, Secretary John Cook, writing to Sir William Boswell, the King's resident then at The Hague, after remarking that, 'Whosoever will encroach upon the King by sea, will do it by land also, when they see their time'—goes on to say: 'To such presumption *mare liberum* gave the first warning voice; which must be answered with a defence of *mare clausum*—not so much by discourses as BY THE LOUDER LANGUAGE OF A POWERFUL NAVY, to be better understood.'

"This was followed by the appearance, on the fishing-ground, of an imposing naval force, and by a new proclamation which was issued on the 10th of May of the next year, 1636."

But the Dutch did not desist from their avocation, and stuck to the British shore, and fished in the British seas, as before.

The Treaty of 1654 is sometimes quoted as containing, on the part of Holland, a full acknowledgment of England's sovereignty over the sea. How impotent must the teachings of history be, that such errors can obtain credit and be received as truths. Holland had sustained a protracted and most disastrous war against England, and from impending exhaustion had agreed to the main conditions of a Treaty of Peace as early as 1651. The Long Parliament insisted upon an Article being inserted in the Treaty, by which England's sovereignty should be recognized, and her flag saluted wherever it might appear on the high seas. This, Holland bravely and peremptorily refused. The war continued three years longer, and the Treaty could not be signed until, in 1654, the obnoxious clause had been stricken out, and another inserted in its place, granting the salute also, it is true, but as a mere mark of deference and courtesy alone.

Thus, as it seems, the concurrence of mankind repelled all attempts at transforming the ocean into a thing manageable and compressible, capable of being reduced to possession, and therefore susceptible of ownership. I have already said that it defies the mastery of men, and that being of none, it remains of all and is common to all.

The use of the ocean belongs to man and nations in so far only as it is being exercised. It is a right to such alone as exercise it, for the time

they exercise it, and within the space over which it is exercised. As soon as it is abstained from, the right ceases—it is at an end—gone. *Cum igitur nil nisi usus maris et littorum occupari possit, facile constat jus hoc utendi tantum durare quamdiu quius utitur, et quatenus utitur.*

The ocean, therefore, is free. Yet will some say: May not its dominion be conferred from one nation to another—by all men to one? It is clear that it cannot. Concede this, and what becomes of its freedom? If its sovereignty can be conferred, it can be conquered; and if so, it becomes at once the property of the first occupant, or of the strongest. Force in the one case, will be as legitimate as injustice in the other. Even its enjoyment could not be of one man and of one nation, without all other nations and men renouncing the rights which Nature has given equally to them all.

But this is no longer insisted upon. It has grown obsolete; it is not as much as thought of, unless, indeed, it be by some incorrigible tyro of the school of Selden, or some fanatic and blind admirer of every dictum that ever fell from the fertile pen of Grotius. The difficulty is not there. But some contend that though the sea—the main, the high sea—be the common thoroughfare of mankind, there are yet parts of it susceptible of and subject to dominion, which, on that account, may rightfully be claimed as the property of the nation having sovereignty over their immediate coasts.

Armed with these principles, and supported by the opinion of her Crown Officers, England presumes to do away with all restrictions injurious to her in the Treaty of 1818, and placing a most untenable construction on the limits which that Treaty assigns to her maritime jurisdiction, claims that those limits are to be measured from headland to headland, thus assuming that under that Treaty our vessels are excluded from the Bay of Chaleurs, the Bay of Miramichi, the Bay of Fundy, and the Straits of Northumberland, within which the greatest quantity of the best mackerel is now taken.

The disasters and loss which such a pretension, if strictly enforced, would entail upon a large portion of the inhabitants of New England, can hardly be computed, although some idea may be formed of them from the short memorial that I send to the Secretary's desk to be read. It was addressed to the lamented Member of the other House, whose untimely and much regrettable loss we had lately to deplore, and has found its way to my hands through the kind indulgence of a friend. [The Clerk read the memorial of fishermen, citizens of Massachusetts, stating the damage which they will sustain in consequence of the late measures adopted by the British Cabinet, unless an armed force of the United States is sent to protect them, &c.]

And thus, if I may be allowed to borrow the pithy language of the "Boston Journal," "two thousand vessels and thirty thousand men and boys are now exposed to the cannon of a British fleet, and the cruelties and horrors of British prisons, for doing just what they have for thirty-four years been accustomed to do without molestation."

But let us see upon what principle this other pretension is founded. Those who sustain it assert that the rights of the territorial Sovereign over the sea extend as far as his power can physically reach; in other words, it is predicated upon a fiction, and because, since the discovery of fire-arms, that power can be extended from the coast to a given distance upon the sea, so as to preclude others from approaching it within that distance, the sovereignty reaches thus far. Such is the foundation, and the only foundation upon which stands that extraordinary right. It is, at best, as you see, but a constructive right; it is nowhere held up as an absolute and original one. Well, be it so. But, then, to what terms will you reduce it? Undoubtedly to these, and none other—that, being founded upon the power of the Sovereign to extend his armed hand beyond the shore, it reaches as far only as that power is felt. The rule of law is, *terra dominium finitur ubi fin finitur armorum vis*—the domain of the land ends where the force of arms terminates. And such seems to be the universally admitted measure of what, in diplomatic parlance, and in the books treating of the Law of Nations, is termed the maritime jurisdiction.

And it is reasonable that it be so. After you have laid down the principle that the ocean is free—that it is of nobody, and therefore of everybody—the exception, if exception there is, must be kept within the terms of the fictitious right under which it is claimed—within the point which the more powerful projector can reach from the shore—within cannon's shot, in a word; and that is within *three marine miles*—EO POTESTAS TERRÆ EXTENDITUR QUO USQUE, TORMENTA EXPLODUNTUR EATENUS QUIPPE CUM IMPERARE TUM POSSIDERE VIDETUR. Galiani, Hubner, Klüber, Vattel, Azuni, Grotius, all concur in assigning those limits to the land power over the circumambient sea. They were solemnly sanctioned by the Treaty of 1780, constituting the armed neutrality. They had been previously acknowledged by the marine regulations adopted by Tuscauy in 1778, by Venice in 1779, and are found reaffirmed in those published by Russia in 1787, and by Austria in 1803; and, indeed, in every convention which has been signed since the closing of the last century. If such be the rule of right, and the measure of supremacy to which a nation may pretend over a littoral sea, we have a meaning for the words used in the Convention of 1818; we know what constitutes a bay or a gulf of His Majesty's Dominion, or a pent-up sea, the true and only *mare clausum*. Such bay, says an eminent writer, "must communicate with the ocean only by a strait so narrow that it must be reputed as being a part of the maritime domain of the State to which the coast belongs; so that you cannot enter it without going through the territorial sea of that State; which means twice the distance of a gun-shot, or six miles. It is required besides, that *all* the coasts bordering on such bay be subject to the bay claiming such strait. The two conditions must unite to give to any part of the ocean the character of an internal sea, or a *mare clausum*."

Our Envoys, then, committed no oversight, and made no such concession in the Treaty of 1818, as is admitted by Mr. Webster. How that eminent statesman could so far have misjudged the sagacity, tact, and subtleness of mind of such men as Messrs. Rush and Gallatin, and of the wisdom and forecast of that far-reaching, astute, alert, and discriminating diplomatist, John Q. Adams, as to suppose that they had all overlooked the untoward remissness of language supposed to exist in it, and surrendered everything, when they thought that, without endangering any substantial interest, they had secured so much that was valuable and good, I am at a loss to conceive. A more matured appreciation of that instrument will reclaim, I have no doubt, Mr. Webster from his error, and redeem our Envoys and their illustrious compeer from the foul stain which for a time seemed to darken their diplomatic escutcheon.

The Convention of 1818, therefore, excludes us from no part of the littoral seas washing Her Majesty's Dominions, without three miles of the coast of such littoral seas, be they bays, gulfs, or other inlets, unless the coast, bordering the same, be *all* under her sovereignty, and unless the strait formed by the headlands at their entrance exceeds six miles in length. The question is here entirely solved and put at rest. It only remains to be ascertained how distant be the headlands at the entrance of the Bays of Fundy, of Chaleurs, and elsewhere. Are they more widely apart than six miles? Then the bays are as open and free as the main ocean itself. Are they within the line of the six miles? They then are private bays, bays shut up from the commerce of the rest of mankind, at the will of the riparious Sovereign, provided he be the Lord of the whole coast surrounding them, and not otherwise. Now, we know that is not the case with the bays just named. Both have an entrance too wide to be claimed as private seas; and independent of this, the Bay of Fundy is bounded in part by the State of Maine—a circumstance which alone would preclude all pretensions on the part of England to make it hers. I am done with this part of my subject.

The next question which naturally calls my attention is, What can have been the object of the British Government in arraying, within sight of the fishing-grounds, the imposing armaments whose appearance has created such alarm among our fishermen, and so much sharpened the susceptibilities of this whole nation? We have no reliable data on which to base even an approximation. Many are the surmisers and many the

surmises. Some suppose that the object was to stir up and stimulate the languid energies of our diplomacy in reference to certain negotiations about to be reopened with the United States of America, for the settlement of the principles on which the commerce of the British North American Colony is hereafter to be carried on. I use the language of Sir John Pakington and of the Vice-Admiral commanding the forces now plying within the waters of Newfoundland and Nova Scotia, as quoted by Mr. Webster himself. Others consider the movement as having originated in the arrogant and inconsiderate policy of Her Majesty's Ministers, and in their desire to manifest, through some bold and striking exhibition of zeal and earnestness, their anxiety to pay a long-arreared debt to the undeviating toryism of the Colonies, by a tender of every protection it may be in the power of the Imperial Government to afford. Others, again, have thought that those demonstrations were made with a view to strike terror in the minds of the colonists, supposed to be disaffected on account of their failing to obtain the privilege they had asked, to build a railroad from Halifax to Quebec; and there are those, lastly, who cannot be persuaded that the whole is not a deeply-laid game to try us in a diplomatic conflict, and ascertain how far we might feel inclined to surrender this main dependence of our naval strength, and important element of our national wealth.

There is that, with nations whose fortune it is to have thrived and prospered under the assumption and exercise of rights which were not theirs, that they grow infatuated with their too-easily-earned successes, and become rash, and daring, and reckless; ever ready to jump over abysses of difficulty in pursuit of a cherished object, and in the extravagant conceit that whatever they wish to attain it is in their power to grasp, and whatever they grasp is legitimately theirs. Such is England. She knows where lies the secret and the great fountain of your power. She loathes to see those naval nurseries of yours, almost stuck to her shore, those hives of whizzing seamen pitched upon the waters of what she would have you call *her seas*, and *her gulfs*, and *her bays*, as so many advanced posts watching over the deep, that none may dare to claim its mastery and hold it in thralldom. She cannot but look with extreme jealousy and concern on the growing prosperity of this country. She may think that it were well for her, if she could bar its progress, while it has not yet reached its acme. Who can say that in some of those wild dreams that come, at times, over the mind and darken the intellect of nations, she has not conceived that by timely interposing she might perchance slacken our march, arrest the tide of our fortune, and assign limits to our greatness? I will not say that she has. Still, how are we to conciliate her well-known sagacity with the intention attributed to her of coercing us into a Treaty by so insulting a premonition of her purposes and designs? Depend upon it, Mr. President, she has been emboldened by *her late triumphs* in the Nicaragua and Mexican questions; and she may expect to deter us from holding on to our rights in the fisheries, as we were deterred, it is said, by omenous warnings, from entertaining the proffer, lately made to persons in high places, of isles impatient to throw themselves in our lap.

Sir, what does England mean? What is she after? But; hush! She is negotiating. So says her Admiral; so says Sir John Pakington. She is negotiating? No! she has negotiated, if we are to believe the semi-official announcement made in a Whig paper of this city, under the caption of ADJUSTMENT OF THE FISHERY DIFFICULTIES. Here it is:—

“We are enabled to announce, upon what we regard as entirely satisfactory authority, that the subject of the recent excitement in regard to the New England fisheries has been arranged between Mr. Webster and Mr. Crampton in a manner that will prove wholly satisfactory to the American people.”

Mr. Seward. Will the honourable Senator allow me to ask him from what paper he reads?

Mr. Soulé. The “Daily Telegraph.” The honourable Senator

understands, I imagine, that when I speak of a semi-official announcement, I mean not to impart a character to the paper, but to the announcement alone. The peculiar language in which the intelligence which it imparts is couched fully justifies the denomination under which I have presented it to the Senate. The honourable Senator, besides, is presumed not to be unfriendly to the paper, and in all probability knows more of its whereabouts than I do.

I was going to remark, when I was interrupted, that the announcement which I have just now read had scarcely gone out from the press, than the magnetic wires were transmitting to us another announcement, which I have also here. I read from the "Union" of the 7th instant:—

"THE FISHERIES DIFFICULTY.—BOSTON, August 6.—Information has been received in this city, that a remonstrance to the British Government against the Americans fishing within three miles of the coast, even if reciprocity be granted, is circulating in Halifax, and has received a great number of prominent signatures. The 'Halifax Acadian' and 'Recorder' considers the question fraught with much danger, and that war between the two nations is not improbable."

And thus, Sir, we may, for aught we know, have negotiated away, by Treaty, a branch of our revenue, with the hope that we would silence the roaring lion; but the lion will still roar, it seems, and roar until he frightens us out of those haunts, the participation in which we acquired by original occupation, if not otherwise; which we retained as a constitutive element of our separate existence as a nation; which war itself could not wrest from us; which we hold under no grace or favour of any one, but under the sufferance of God alone, and under the highest sanctions of the Laws of Nations; for, in the language of the now redeemed negotiators who signed the Convention of 1818, *ours is a right which cannot exclusively belong to, or be granted by, any nation.* Sir, I ask it of you, would that be an attitude becoming this great country? But I believe not in these rumours; it cannot have escaped that wise and clear-sighted person who now holds the seals of the State, and whose great mind and exalted patriotism are equal to any emergencies, that, to negotiate under such circumstances, and sign a treaty, whatever its merits in other respects might be, were to sink in the dust what of pride, what of dignity, what of honour we were grown to, in the rapid race which we have run since we became a nation.

But it may be asked, what would you have this Government to do? Sir, as I cannot suppose that this debate is an idle and unmeaning ceremony—as I know too much of the distinguished Senator who so creditably occupies the chair in the Committee on Foreign Relations, to indulge the least thought that he could have moved in so grave a matter, with no view to some practical end, to the attainment of some object of public interest, I will take it for granted that his aim was to provoke an expression through which the sense of this Senate, and, as far as this Senate may be a proper organ of the nation, the sense of our people might become manifest, and be attended to, where, otherwise, it might have been overlooked and unheeded.

Mr. Seward. Will the honourable Senator allow me to ask him whether we are to understand him as supposing that it was the intention of the honourable Chairman of the Committee on Foreign Relations that the sense of the Senate should be taken before any negotiations were entered into, or before any treaty was made?

Mr. Soulé. There are two attributes of this body under which we act in two different capacities. The one connects us with the Executive, and creates duties which we perform in executive session. The other constitutes us a component part of the Legislative power of the country, and enables us to address ourselves, without any reserve, but that which a proper regard for the interests of the nation may impose, to all questions of public policy, whether internal or external, and to which it may be our wish to call the attention of the country.

Under such promptings, I cannot hesitate to give my humble judgment; which is, that our Cabinet should follow to the letter the course which the great Chatham, on a memorable occasion, recommended to Ministers ready to surrender, in a disgraceful negotiation, what he considered to be the honour of the British Crown.

It was on the occasion of the forcible taking by Spain of the Falkland Islands from the possession of a British garrison. He pointed solemnly to the conduct of Lord Grenville in a like emergency:—

“The French,” said he, “had taken a little island from us called Turk’s Island. The Minister then at the head of the Treasury took the business upon himself; but he did not negotiate. He sent for the French Ambassador, and made a peremptory demand. A courier was dispatched to Paris, and returned in a few days with orders for instant restitution, not only of the island, but of everything that the English subjects had lost.”

Such is the spirited conduct he advised the Ministers to pursue, deeply impressed with the conviction, that while a prompt and warm resentment would infallibly secure peace, tameness and silence would as inevitably lead to a rupture.

Sir, there is a world of storms in the questions which the present difficulty must soon bring to a definite issue. I am fully aware of the great stake which not only this country but the whole world has in their speedy and amicable adjustment. Yet we should insist upon having the last word of them. This is no time for a patched-up accommodation. We owe to ourselves—we owe to all mankind—not to leave undispeled the cloud hanging over our security and peace. We would seek in vain to avoid the contest. If it has to be met at all let it be met now, and be met fairly in all its bearings and intricacies. England has forced it upon us: she must expect that we will face its dangers like men.

Sir, these provincial neighbours of ours constitute no longer a mere colonial dependency. They have grown to be a nation—a nation of hardy, industrious, aspiring men, who will have their place, and claim rank before long, among the independent States of this continent. Whatever be their present views of the relations which it may suit them to form with us hereafter, their interest is too closely linked with ours to be dealt with slightly. While I would wish to see our rights in the fisheries established on a firm and permanent basis, giving security and quiet to our fishermen, I am also for indulging the Colonists in what reasonable concessions they may expect at our hands. I desire to see them contented, and would heartily aid in hastening the conclusion of any arrangement that might be satisfactory to them. But until England has withdrawn her squadron, and given satisfaction for what wrongs she may have perpetrated on us, let no negotiation be entertained; and if, contrary to my expectations, any was being entertained, let it be dropped at once and abandoned. I shall vote for the reference of the papers on the table, in the hope that they will be returned to us with a resolution expressive of such sentiments as behoves this Senate and this great country to speak forth in such an emergency.

Inclosure 2 in No. 41.

Speech of Mr. Seward, of New York, in Senate, August 14, 1852, on referring to the Committee on Foreign Affairs the President’s Message on the Fisheries.

THE Senate having resumed the consideration of the President’s message concerning the North American fisheries, the pending question being on the motion to refer it to the Committee on Foreign Relations—

Mr. *Seward* said: Mr. President, when this debate was arrested on Thursday last, a question had just arisen whether the Executive Administration had been censured here for its conduct in regard to the subject.

The honourable Senator from Virginia (Mr. Mason), Chairman of the Committee on Foreign Relations, when addressing the Senate, remarked that, if the President had done his duty, the whole naval force of the country had been already sent into the north-eastern seas to protect the rights of American fishermen against British cannon. The honourable Senator from Maine (Mr. Hamlin), the honourable and distinguished Senator from Michigan (Mr. Cass), and the honourable Senator from Arkansas (Mr. Borland), declared that they fully concurred in all that had been said by the honourable Senator from Virginia.

Now it is quite certain that the whole naval force of the country has not even yet been sent into those seas, and I suppose it equally certain that at that time none had been sent there.

The honourable Senator from Arkansas (Mr. Borland) expressed astonishment and regret that the President had not, without a call, sent here all the information which he possessed. He complained that the Secretary of State had "treated the subject wrongly in what has been called his 'proclamation,'" that it "casts doubts on the rights of the fishermen." Alluding to rumoured negotiation at Mr. Webster's country residence, he declared his opinion that the place was ill-chosen, and indeed that negotiation there, or even here, under the circumstances, ought to be reprobated altogether. The honourable Senator from Connecticut (Mr. Toucey) asked what was the meaning of the notice published by the Secretary of State—was it designed to induce our fishermen to retire from their pursuits; to invite us to surrender the rights secured to us by the Convention of 1818? The honourable Senator was pleased to express his sorrow that he could not have confidence in the Administration, and also an opinion that it needed to be prompted. The honourable and esteemed Senator from Louisiana (Mr. Soulé) was more cautious, but even he complained that some of our rights in the fisheries had "brutally been torn away" "in the midst of the most profound peace," and "when England was incessantly receiving most profuse tokens and manifestations of condescension, and was allowed to turn to her own advantage and profit the good will indulged towards us by Nicaragua, and had been allowed to introduce her bankers into our Treasury as agents in the payment of our debt to Mexico. These," said the Senator, "I repeat it again, are strange times indeed." Again, that Senator argued that Mr. Webster had erred when he said in the notice published by him, that it was "an oversight in the American Government to have made so large a concession to Great Britain in the Convention of 1818." Further, the honourable Senator said:

"We may, for aught we know, have negotiated away by Treaty a branch of our revenue, with the hope that we would silence the roaring lion; but the lion still roars, it seems, and will roar until he frightens us out of those bounds the participation in which we acquired by original occupation, if not otherwise; which we retained as a constitutive element of our separate existence as a nation; which war itself could not wrest from us; which we hold under no grace or favour from any one, but under the sufferance of God alone, and under the highest sanctions of the Laws of Nations, for, in the language of the now redeemed negotiators who signed the Convention of 1818, ours is a right which cannot exclusively belong to or be granted by any nation. Sir, I ask it of you, would that be an attitude becoming this great country? But I believe not in these rumours; it cannot have escaped that wise and clear-sighted person who now holds the seals of the State, and whose great mind and exalted patriotism are equal to any emergencies, that to negotiate under such circumstances, and sign a Treaty, whatever its merits in other respects be, were to sink in the dust what of pride, what of dignity, what of honour, we have grown to in the rapid race which we had been running since we became a nation."

I disclaim the idea that these restrictions impute want of patriotism or of fidelity to the Administration; but, when taken together with the facts which they assume, they seem to me to import a censure of this effect and extent, viz.: that Her Britannic Majesty's Government has recently

set up a new construction of the Convention of 1818, by which it proposes now to draw lines from chief headland to chief headland, and thus to exclude American fishermen from the Bays of Fundy, Chaleurs, and Miramichi, and also from the Straits of Northumberland and the Gut of Canso, all of which have hitherto been enjoyed by our fishermen; and that Her Britannic Majesty's Government has sent a large naval force into those waters to enforce that new construction, and has so attempted to bring us to negotiate for maintaining national rights at the cannon's mouth; that the Executive has not acted with sufficient promptness and decision; has not properly resented an insult and an indignity received; and has already negotiated, or may be negotiating, or about to negotiate, in the presence of that naval force, in derogation from the interests or dignity or honour of the United States, and that Great Britain has been emboldened and rendered thus insolent by previous diplomatic triumphs over the present Administration.

Sir, I take leave to say that there is a presumption, a violent presumption, against the soundness and the justness of all such censures. There is no want of firmness or of boldness in asserting American rights here or in the House of Representatives. Experience has shown that the Executive Department has generally been quite as firm and as bold as Congress. Sir, the fisheries are a commercial interest. By peculiar fidelity in guarding such interests, this Administration has deservedly gained the confidence of the commercial classes, the conservative classes of the country. The fisheries are practically and peculiarly a Northern interest. In the geographical balance they were once weighed against the free navigation of the Mississippi. The President of the United States and the Secretary of State are Northern men. Each began, and, when he shall have closed his public career, each will rest in the associations of the North.

More than this: the fisheries are an interest of the States of Massachusetts and Maine, which practically are undivided and inseparable in commercial fortunes. The Secretary of State, in whose department this subject properly belongs, is a man of Massachusetts—is it too much to say *the* MAN OF MASSACHUSETTS? The ocean, with its fisheries, washes the shore of the farm on which he dwells. Nay, Sir, he is an angler himself, I am told, and of course he is a good one, for he is not half-and-half in anything. He tills the sea, and I fear his principal harvests are gathered upon it; are gathered with the line and not with the sickle. There is a strong presumption that the Secretary will be faithful to an interest so near to himself and the constituency to whom he chiefly owes the long public life which he has enjoyed. A distinguished artist of our country has enriched our academics with a national painting. It represents the Secretary of State in debate defending the honour and fame of Massachusetts against the eloquence of an eminent orator of South Carolina (Mr. Hayne). That is a heroic piece; let honourable Senators here take care that they do not provoke the artist to produce a comic counterpart, in which the Senators from Arkansas and Louisiana (Mr. Borland and Mr. Soulé) may be presented in the act of rescuing Massachusetts from desolation, brought on through the timidity of her own, her chosen and honoured statesman. Such a picture might enter into a new and interesting series of political illustrations, to be entitled "The Vagaries of a Presidential Election."

Mr. President, the statesman thus impeached for want of boldness and firmness in defending his country's maritime rights is he who replied to Great Britain, when claiming for the last time the right to "search" American vessels, "The ocean is the sphere of the Law of Nations; every vessel on the seas is, by that law, under the protection of the laws of her own nation." "The practice of impressing seamen from American vessels cannot hereafter be allowed to take place." "In every regularly-documented American merchant-vessel, the crew who navigate it will find their protection in the flag which is over them."

Sir, the statesman thus impeached for being unreliable in defending the interests of Massachusetts is he who, in the memorable debate to which I have referred, achieved his triumph with the words:

“ I shall enter on no encomium upon Massachusetts. She needs none. There she is. Behold her, and judge for yourselves. There is her history; the world knows it by heart. The past is at least secure. There is Boston, and Concord, and Lexington, and Bunker Hill—and there they will remain for ever.”

I shall enter into no encomium on the Secretary of State; he needs none. I should be incompetent to grasp so great a theme, if it were needed. The Secretary of State! There he is. Behold him, and judge for yourselves. There is his history; there are his ideas—his thoughts spread over every page of your annals for near half a century. There are his ideas, his thoughts, impressed upon and inseparable from the mind of his country and the spirit of the age. The world knows them all by heart. They are there, and there they will be for ever. The past is at least secure. The past is enough, of itself, to guarantee a future of same unapproachable and inextinguishable.

Mr. President, a simple narrative shall now accomplish the two purposes for which I address the Senate. It shall show that the censures of honourable Senators are erroneous, and it will lead us to an exact knowledge of the issue involved in the question which occupies the Senate.

I pass by the Treaty of 1783. All the world knows that, in common with the people of England, we were subjects of the King of Great Britain, and that in the war which terminated that connexion we secured not only independence, but also an equal right, in common with those who remained subjects, in the fisheries, which had before been enjoyed in common. I pass by the Treaty of 1815. It was a Treaty concluded at the end of our second war with Great Britain. In that Treaty no allusion whatever was made to the subject; and so Great Britain contended that our rights to the fisheries were gone with the war, because they had not been re-established by the Treaty of Peace. We maintained, on the contrary, that we retain *all* those rights, because they had not been surrendered by the Treaty of Peace. The Convention of 1818 was a Convention made for the purpose of settling this great dispute, and did settle it in this way. The United States took, under it, the equal right to fish in common with His Britannic Majesty's subjects, in the waters that wash the southern coast of Newfoundland, from Cape Ray to the Rameaux Islands; on the northern and western coasts of Newfoundland, from Cape Ray to the Quirpon Islands; and also the right to fish along the Magdalene Islands; and from Mount Jolly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwards indefinitely. Here on this map you see these common fishing-grounds. By that Convention the United States renounced all right to fish anywhere within the distance of three miles of the shore, within any other of the coasts, bays, creek, or harbours of His Majesty's Dominions in North America, or to enter them for any cause but distress and want of food and water. The fisheries to which this provision was applicable were, on the excepted coasts of Nova Scotia, New Brunswick, Cape Breton, Prince Edward Island, and a portion of Canada, called Gaspé. You see them all here on the chart.

Will the Senate please to notice that the principal fisheries in the waters to which these limitations apply are the mackerel and the herring fisheries, and that these are what are called “shoal-fisheries;” that is to say, the best fishing for mackerel and herrings is within three miles of the shore. Therefore, by that renunciation, the United States renounced the best mackerel and herring fisheries. Senators, please to notice, also, that the privilege of resort to the shore constantly, to cure and dry fish, is very important. Fish can be cured sooner; and the sooner cured the better they are, and the better is the market-price. This circumstance has given to the Colonies a great advantage over us in this trade. It has stimulated their desire to abridge the American fishery as much as possible; and indeed they seek naturally enough to procure our exclusion altogether from the fishing-grounds. Such was the Convention of 1818, and such the effects of it.

On the 14th of June, 1819, the British Parliament passed an Act for the purpose of carrying the provisions of this Treaty into effect, by which they authorized the King to issue Orders in Council. By Orders in Council

the Government of Great Britain provided for the seizure of persons trespassing within the forbidden fishing-grounds, or abusing the privileges of the Treaty.

The Provincial Government of Nova Scotia, in 1836, passed a very stringent law for the purpose, or under the pretext, of preventing encroachments by American fishermen: and simultaneously with this Act they set up the claim to exclude American fishermen from entering the great Bays of Fundy and Chaleurs, and all other great bays; and also to shut up the Gut of Canso, to prevent American fishermen from using that channel to reach the Straits of Northumberland and the Gulf of St. Lawrence. That province asserted, at the same time, that, by the true and just construction of the Convention of 1818, we were excluded from the British harbours and waters, except in cases of actual distress; and authorized the police to assume to judge absolutely what were cases of distress and when the plea has been allowed long enough; and declared it a cause of forfeiture also, when a fisherman came in for wood or water, if he could not show that he had been well supplied when he left home. The province also declared it an abuse and ground of forfeiture when our fishermen baited fish within three miles from the shore for the purpose of tempting them out into the deep sea; and also when they *prepared*, within three miles of the shore, to fish outside those limits.

Moreover, the Nova Scotia statute rendered it almost impossible for a fisherman to defend a just cause, because it allowed only a month in which to prepare his defence, and cast the *onus probandi* on the party libelled. Mr. Stevenson, and after him Mr. Everett, remonstrated with the Imperial Government against this atrocious Act, and insisted on the same construction of the Act we now demand. The Imperial Government indulged a desire to accommodate, and submitted such a proposition to the Colonial authorities of Nova Scotia. That colony resisted, as I think did all the others; and Nova Scotia requested the opinion of the Law Officers of the Crown on the construction of the Treaty in regard to all the points to which I have thus adverted. Those Law Officers confirmed all the pretensions of the Nova Scotians. Under these circumstances the British Government, declaring their adherence to the construction given by the Law Officers, yielded to the appeal of the United States so far as to grant, as a concession, that the Bay of Fundy should be open to the American fishermen, subject to the limitation of not going within three miles of the shore, and *they declined to concede more*. The American Minister (Mr. Everett) received this not as a concession but as a right. The British Minister insisted that it should be regarded not as a right but as a concession.

Mr. Everett wrote on the 25th of March, 1845, thus:—

“I received a few days since, and herewith transmit, a note from Lord Aberdeen, containing the satisfactory intelligence that, after a reconsideration of the subject, *although the Queen's Government adhere to the construction of the Convention which they have always maintained, they have still come to the determination of relaxing from it so far as to allow American fishermen to pursue their avocations in the BAY OF FUNDY.*”

So, the one party calling it a “concession” and the other defining it as a “right,” the privilege of fishing, or the right to fish within the Bay of Fundy, except within three miles of the shore, was admitted, and so has constituted a departure, in one instance and on one point, from the rigorous construction otherwise pertinaciously adhered to by the Government of Great Britain.

What the British Government had thus conceded as a relaxation the Colonial authorities still declared was unwise; and, although this concession had been made, yet all that time, as well as ever since, the Provincial authorities have insisted upon the technical and rigorous construction of the Treaty, and the United States upon the more liberal and just one. The Imperial Government, although it adopted and has adhered to the Provincial construction, has nevertheless always declined to maintain it practically by force. Such have been the attitudes of the three parties heretofore; such are their attitudes now.

Now, Sir, during all this time—I do not know how long before—the Imperial Government has kept some naval force in those seas, for the

purpose of preventing encroachments and abuses by American and French fishermen; and the Colonies have, at all times, I believe, made some show of naval force for that purpose, or on that pretext.

In the last year a new Administration obtained the control of the Imperial Government, with the Earl of Derby at its head. That Administration was understood to favour the principle of *protection*. The United States pay considerable bounty to their fishermen—bounties amounting to about 300,000 dollars a-year, and they impose a duty of 20 per cent. on foreign fish.

The Colonial fishermen claimed of the new Ministry, as they had been in the habit of claiming of the old Ministry, the assent of the Royal Government to the granting of bounties; and they complained to the new Ministry, as they had been in the habit of complaining to the old one, of the encroachments of the American fishermen. The Colonial authorities last year, by reports and resolutions, threatened retaliation against the United States in some form, if these claims and complaints should be disregarded.

Under these circumstances, the Imperial Government, in 1851, proposed to the President of the United States to negotiate concerning the questions raised by the British Colonies, and submitted through Sir Henry Bulwer a schedule of the terms or principles upon which that Government would negotiate, for the purpose of settling what they were pleased to call the commercial intercourse between the Provinces and the United States. Now, I desire it to be especially remembered that the President of the United States altogether declined to negotiate; that he referred the subject to the Congress of the United States, in his annual message of December last, in these words;—

“Your attention is again invited to the question of reciprocal trade between the United States and Canada and other British Possessions near our frontier. Overtures for a Convention upon this subject have been received from Her Britannic Majesty’s Minister Plenipotentiary; but it seems to be in many respects preferable that the matter should be regulated by reciprocal legislation. Documents are laid before you, showing the terms which the British Government is willing to offer, and the measures which it may adopt, if some arrangement upon this subject shall not be made.”

Thus, in December last, was Congress invited by the President to consider the subject out of which all the present difficulties have arisen; and we then had this notice from the British Minister, viz. :

“Her Majesty’s Government are prepared, on certain conditions and with certain reservations, to make the concession to which so much importance seems to have been attached by Mr. Clayton, namely, to throw open to the fishermen of the United States the fisheries in the waters of the British North American Colonies, with permission to those fishermen to land on the coasts of those colonies for the purpose of drying their nets and curing their fish; provided that in so doing they do not interfere with the owners of private property or with the operations of British fishermen.”

Congress did nothing, said nothing, thought nothing on the subject. The Colonies, in the meantime, continued to complain of encroachments, and continued to demand the consent of the Imperial Government to the granting of bounties. The Imperial Government answered, that to remove the complaints of the Colonies, they would not object to measures being taken by the Colonies themselves for the granting of bounties, and that they would send an additional force to protect them against encroachments. Such a force was sent, and, simultaneously with sending it, the British Minister here, on the 5th of July last, informed the President of its coming, and its objects, in the following communication :

“I have been directed by Her Majesty’s Government to bring to the knowledge of the Government of the United States a measure which has

been adopted by Her Majesty's Government to prevent a repetition of the complaints which have so frequently been made of the encroachments of vessels belonging to citizens of the United States and of France upon the fishing-grounds reserved to Great Britain by the Convention of 1818.

"Urgent representations having been made to Her Majesty's Government by the Governors of the North American Provinces in regard to these encroachments, whereby the Colonial fisheries are most seriously prejudiced, directions have been given by the Lords of Her Majesty's Admiralty for stationing off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing-vessels and steamers as shall be deemed sufficient to prevent the infraction of the Treaty. It is the command of the Queen that the officers employed upon this service should be especially enjoined to avoid all interference with the vessels of friendly Powers, *except where they are in the act of violating the Treaty*, and on all occasions to avoid giving ground of complaint by the adoption of harsh or unnecessary proceedings when circumstances compel their arrest or seizure."

Let us now see what force it is that has been sent into the field of dispute. There is the "Buzzard," a steamer of six guns, the "Sappho," a sloop of twelve guns, and the "Bermuda," a schooner of three guns, sent to the Straits of Belleisle and on the coast of Newfoundland, where we have an unquestioned right of fishing, and where there is no controversy. Then there is the "Devastation," a steamer of six guns, the "Arrow" and the "Telegraph," of one gun each, and the "Netley," of two guns, in the Gulf of St. Lawrence; making, in the whole seven vessels, with a total of thirty-one guns, sent by the Imperial Government into those waters. If you add to this force the flag-ship of Vice-Admiral Seymour, the "Cumberland," with her seventy guns, there are altogether, one hundred and one guns. This is the naval force which has been sent into the north-eastern seas.

Now, I desire the Senate to take notice what force was there *before* this great naval force was sent. Last year there was the flag-ship, the "Cumberland," commanded by the same Sir George Seymour, with seventy guns, a frigate of twenty-six guns, two sloops of sixteen guns, and one steamer of six guns, making, in the whole, sixty-four guns, without the "Cumberland," and including the "Cumberland," one hundred and thirty-four guns.

Then this mighty naval demonstration, which has so excited the Senate, and roused its indignation, and brought down its censures upon the Administration, consists in a reduction of the naval force which Great Britain had in those waters a year ago from one hundred and thirty-four to one hundred and one guns. What the British Government has done has been to withdraw some large steamers, because they were not so useful in accomplishing the objects designed, or because they would be more useful elsewhere, and to substitute in their place a large number of inferior vessels, either more efficient there, or less useful elsewhere.

The Senate will understand me. I do not say this is the whole force which is in those waters. There is an increase, I think, on the whole, which is furnished by small vessels of the different provinces; Canada having sent one, Nova Scotia one, and Newfoundland one. But the question I am upon, and the real question now is, what the Imperial Government has done, and so I say the British Government has reduced the number of guns employed.

Now, when this force was approaching, a letter from Sir John Pakington, bearing somewhat the tone of a proclamation, appeared, and at the moment was magnified and applauded by the Colonial newspapers in a most bellicose manner, and before the letter of the British Minister could have been read or received by the President of the United States, an alarm went abroad throughout the fisheries and along the north-eastern coasts. It was exactly at the season when the fishermen were going to the ocean fields to gather their autumnal harvests. The President, it seems, took pains to obtain information informally, and he caused it to be published, in a notice issued by the Secretary of State, and dated at the

Department of State, July 6, 1852, and which has been called here the "Proclamation" of the Secretary. The Senate will see that the Secretary of State set forth such unofficial information as had been obtained (and all the information was unofficial), and stated the popular inference then prevalent, saying that the Imperial Government "appeared" now to be willing to adopt the construction of the Convention insisted on by the Colonies. Inferring from circumstances the dangers and hazards which would arise, he set forth the case precisely as it seemed to stand. He adverted to the question understood as likely to be put in issue, and, admitting that, technically, the Convention of 1818 would bear the rigorous construction insisted on by the Colonies, he declared the *dissent* of the Government of the United States from it; and then communicated the case to the persons engaged in this hard and hazardous trade, that they might be "on their guard."

I am surprised that any doubts should be raised as to the proclamation being the act of the Government. I do not understand how a Senator or a citizen can officially know that the Secretary of State is at Marshfield, or elsewhere, when the seal and date of the Department affirm that he is at the capital. I would like to know where or when this Government or this Administration has disavowed this proclamation?

In issuing this notice, the Secretary of State did just what the Secretary of State had been in the habit of doing in such cases from the foundation of the Government, viz.: he issued a notice to the citizens of the United States to put them on their guard in case of apparent danger resulting from threatened embarrassment of our relations with a foreign Power. The first notice of the kind which I have found in history is a notice issued by Thomas Jefferson, Secretary of State under George Washington, to the merchants of the United States, informing them of the British Orders in Council, and of the decrees of the French Directory, and of the apprehended seizure and confiscation of American vessels under them; and assuring the American merchants that for whatever they might unlawfully lose the Government of the United States would take care that they should be indemnified. I brought that to the notice of the Senate heretofore; and upon that ground, among others, they have twice sanctioned a bill providing for the payment of losses by French spoliations. The notice published by Mr. Webster was of the same character and effect. Since that time, the "Mississippi," a steam war-frigate of the United States, has been ordered to those waters, to cruize there for the protection of American fishermen in the enjoyment of their *just* rights. Thus ends the whole story of these transactions about the fisheries. The difficulties on the fishing-grounds have "this extent, no more,"—they are the wonder of a day, and no longer.

No negotiation has been had between the President of the United States and the English Government. No negotiation is now in progress between the two Governments. No negotiation has been instituted between the two Governments for any purpose whatever. No overture of negotiation has been made by the British Government since the last year, and no overture has been made by the American to the British Government. So, then, it appears that nothing has been negotiated away at the cannon's mouth, because there has been no negotiation at all, either at the cannon's mouth or elsewhere. There has been no negotiation under duress, because there has been no pretence of a design by the Imperial Government to enforce its rigorous construction of the Convention of 1818, or to depart from the position of neutrality, if I may so call it, always heretofore maintained. All the change is, that in August 1851, the British Government had 134 guns on that station; and now, in August 1852, it has 101 guns; and this famous Sir George Seymour, who sweeps away not only fishermen's smacks, but also the icebergs coming down from Hudson's Bay and off the coast of Labrador, with his "broom," is the Admiral of the whole station of British North America—a field of duty which reaches from Central America to the North Pole. He has two head-quarters, one at Bermuda, in the winter; and the other at Halifax, in the summer. The same Admiral Seymour was in the same seas with his broom last year, just as he is this year, and yet he excited no alarm

then. He has four trusts to execute for his Government with the small force at his command, of which his flag-ship constitutes the largest portion. The first of these is to protect British rights in the vicinity of Cuba, just as the United States last year sent a vessel to maintain their rights and perform their duties there. His next duty is to secure British rights at Greytown, just exactly as the United States ought to have had a vessel there to secure their rights. The third duty is to watch Soulouque, the Emperor of Hayti, to prevent him from subjugating the Dominican colony, which the British Government is bound to do by an arrangement existing between the United States, Great Britain, and France; and the fourth duty is to protect British rights in these fisheries against encroachments and abuses, by whomsoever may come along. The season of fishing is in the summer; and therefore the Admiral arrives at Halifax with his broom during that season, and perhaps, also, he comes north because the weather is more pleasant.

There have been since that time some seizures, four or five, I believe; but in this there has been nothing new. I have before me a list of seizures of American vessels for the violation of the provisions of the Convention of 1818, from the year 1839 to the year 1851. They amount in the whole to twenty-eight vessels, and it is insisted by the Imperial Government that they were all made on the grounds of violation and abuses of the Convention of 1818, as constructed by ourselves. There may have been mistakes, and probably instances of oppression, but the British Government is understood to have disclaimed any such. More or less of these seizure have been brought to the notice of the Government of the United States from 1839 to this time. Yet there has been no war, no declaration of war; but, on the contrary, there has been the most pacific spirit on both sides which could be imagined. In 1836 Mr. Forsyth, the then Secretary of State, was so pacific and friendly, that he informed Mr. Bankhead, *by direction of the President*, that "masters, owners, and others engaged in the fisheries," were to be informed by the collectors "that complaints had been made, and that they were enjoined" to the strict limits assigned for taking fish under the Convention of 1818. So in that year the Secretary of the Treasury addressed a circular letter to the collectors of customs, directing them to instruct the American fishermen not to encroach "upon the fishing-grounds secured exclusively to British fishermen by the Convention of 1818." So in 1839, Mr. Vail, Acting Secretary of State, in an official communication, said:

"Under the supposition that many of the seizures had been upon insufficient grounds, and in order, if possible, to preclude for the future the recurrence of such proceedings, the Acting Secretary of State, in a note dated the 10th of July, called the attention of the British Minister to the cases of seizure which had come to the knowledge of the Department, and requested him to direct the attention of the provincial authorities to the ruinous consequences of the seizures to the owners of the vessels, whatever might be the issue of the legal proceedings instituted against them, and to *exhort* them to exercise great caution and forbearance in future, in order that American citizens *not manifestly* encroaching upon British rights, should not be subject to interruption in the pursuit of their lawful vocations."

Sir, I think you now see that this present Administration has roared, in tones of defiance of Great Britain, at least as loud as these utterances of the Administrations of Mr. Van Buren and of General Jackson. It has been a ground of censure, and a cause of complaint and excitement here, that no notice was given by the British Government to the United States that they had changed their construction of the Treaty. That is all right. It is a good ground of complaint, provided the condition holds. If they had changed the construction of the Treaty, they ought to have given us notice: but if they had not changed, then the complaint of want of notice must fall.

It has been complained here that the President withheld information. It is enough to know that he had nothing official worth communicating; and that when requested he furnished all that he had.

If I have been successful, I have shown the Senate that there is not, in the present difficulties about the fisheries, any ground of alarm—precisely for the reason that nothing new has occurred; that circumstances remain just exactly as they were; that there is no ground to apprehend a war, because the dispositions of the British Government remain just as pacific as they were before; and the dispositions of the Colonies to retaliate were well known before; and that if there were reasons for censure in any quarter, it must fall elsewhere, and not on the Administration. The President transferred the subject to Congress last December. The Senate implies that this was right, because it rejects the idea of negotiation. Who, then, has a right to complain? Is it Congress, that the Executive has not acted? or is it the Administration, that Congress has been silent?

I shall be told, indeed, that the notice of the British Minister was ambiguous. But it was no more ambiguous than the well-understood reserve practised by that Government for a dozen and more years past.

The Executive is not to be censured for not having resisted the British force, for there has been none there in hostility to resist. It has not resented indignity, because there has been no indignity offered. This is so, unless the Government of the United States shall claim a right to prescribe to the Government of Great Britain what portion of her naval force, and of what kind, she shall maintain on this station and what on that. I should like to see how the Senate of the United States would regard a notice from the British Government that we must send not more than one, or two, or five, or ten war-steamers or ships-of-the-line off the coast of Nicaragua or into the Mediterranean. The Executive has acted with all sufficient promptness, and, when it seemed necessary, the "Mississippi" was sent into those waters. From accounts received, it appeared that Commodore Perry found the British authorities adhering practically to our own construction of the Convention of 1818. What is the "Mississippi" to do? She must not protect fishermen who, according to our own construction, are encroaching, and those who are not seem to need no protection.

Sir, it has been complained by the honourable Senator from Louisiana (Mr. Soulé), that Mr. Webster conceded too much in his official notice of July 6, 1852. Now, here is Mr. Webster's language. After quoting the Treaty, he says:

"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," &c.

And, in the same connexion, he adds:

"It was undoubtedly an oversight in the Convention of 1818 to make so large a concession to England."

That is to say, it was an oversight to use language in that Convention which, by a strict and rigid construction, might be made to yield the freedom of the great bays.

It is, then, a question of mere verbal criticism. The Secretary does not admit that the rigorous construction is the just and true one. And so he does not admit that there is any "concession" in the sense of the term which the honourable Senator adopts. Now, other honourable Senators, if I recollect aright—and particularly that very accurate and exceedingly strong-minded Senator, the gentleman from Massachusetts (Mr. Davis),—conceded that the Treaty *would bear* this rigorous construction, insisting, nevertheless, just as the Secretary of State did, that it was a forced and unjust one. The Senator from Louisiana dissents from him and other Senators, and maintains that it will not bear that construction at all; because he says that the other portions of the Convention show that the "bays" described must be bays within the British dominions. He adds, that in order to bring a bay within the dominion of any Power, it must be such that its passage to the sea shall not exceed six miles in width, and that the shores on both sides belong to the Power claiming

dominion over the water. I cannot assent to the force of this argument of the honourable Senator from Louisiana. I am the more inclined to go against it because I believe it is getting pretty late in the day to find the Secretary of State wrong in the technical and legal construction of an instrument. Let us test the argument. The honourable Senator says that where the Government occupies both sides of the bay, and where the strait through which the waters of the bay flow into the ocean is not more than six miles wide, then there is dominion over it.

Now, then, the Gut of Canso is a most indispensable communication for our fishermen from the Atlantic Ocean to the Northumberland Straits and to the Gulf of St. Lawrence, for a reason which any one will very readily see by referring to the map; yet the Gut of Canso is only three-quarters of a mile wide. I should be sorry to adopt an argument which Great Britain might turn against us to exclude us from that important passage.

Again, I recall the honourable Senator's argument, viz.:

"Two things unite to give a country dominion over an inland sea. The first is, that the land on both sides must be within the dominion of the Government claiming jurisdiction, and then that the strait is not more than six miles wide; but that if the strait is more than six miles wide no such jurisdiction can be claimed."

Now, Sir, this argument seems to me to prove too much. I think it would divest the United States of the harbour of Boston, all the land around which belongs to Massachusetts or the United States, while the mouth of the bay is six miles wide. It would surrender our dominion over Long Island Sound—a dominion which I think the State of New York and the United States would not willingly give up. It would surrender Delaware Bay; it would surrender, I think, Albemarle Sound, and the Chesapeake Bay; and I believe it would surrender the Bay of Monterey, and perhaps the Bay of San Francisco, on the Pacific Coast.

Sir, it seems to me that we have been labouring for the last fortnight under a strange misapprehension: that we have been arguing here the freedom of the seas—of open and broad seas—the freedom of great bays, which freedom is not practically denied, or newly brought in question. It is true that the British Government deny our right to enter the great bays, but it is equally true that they have done so for thirty years; and it is equally true, moreover, that for thirty years we have practically exercised the right, and that we are exercising it now just we have done throughout all that period.

Now, how has all this confusion come into the Senate, and how is it that we alarming, perplexing, and bewildering the country in so idle and cruel a manner? What ground has there been for assuming that the British Government had determined to revise the Convention of 1818, and to enforce its construction by arms? On what did Senators base their apprehensions and build this excitement? The honourable Senator from Michigan (Mr. Cass) quoted from three newspapers, but neither of them was an organ of the Imperial Government, nor even a British newspaper. He quoted from merely provincial journals; and I believe that two of the three journals were anti-Ministerial papers. Moreover, such as they were, they did not assume to speak by authority, but only on report, and by way of conjecture. Perhaps with those newspapers "the wish was father to the thought;" and they thought that their brethren "down South" would soon take a new lesson from the presence of an assumed extraordinary force in the fisheries. My honourable friend from Louisiana based his censure on the Administration, for possibly negotiating away valuable national rights on what he called a "semi-official announcement" of the fact in the "Telegraph," a small newspaper of this city, which is not, as I understand, an organ of this Administration, but can pretend to no more than a desire, perhaps, if it should survive, as I fear it may not, to become the organ of a future one. The honourable Senator, however, most candidly confessed, when called upon to name the paper, that he called the announcement "semi-official," not from any official character that the paper bore, but from the authoritative manner which it assumed.

A case may be easily made out against the Administration, if you will quote from the papers, friendly or otherwise, which make up their articles from telegraphic reports. Now, if provincial newspapers are authority on one side of a case, I am sure that they are equally so on the other. I am very happy to produce such, for the purpose of restoring the equanimity of the Senate. I read from the "New Brunswicker," a provincial paper of the date of August 3, 1852:

"Nearly all the American papers we have seen labour under the erroneous impression that the Imperial Government is about to enforce the *legal* construction given to the Convention of 1818 by the Crown Officers of England, and prevent Americans from fishing, except at the distance of three marine miles outside of lines drawn from headland to headland. We have good authority for asserting that such is not the case. It is quite true, that since the opinion of the Attorney-General and Advocate-General of England was given upon the case submitted by the Legislature of Nova Scotia, the Government of that colony, upon the urgent request of the fishermen, has evinced a desire to carry out the extreme *legal* view of that Convention; but the Imperial Government has steadily refused to take that view of the case, conceiving that American fishermen might properly claim to fish anywhere outside of three miles of any part of the coasts of British North America, even within bays more than six miles wide.

"Acting under this impression, the Imperial Government has for some years sent a few sloops-of-war, or other smaller armed vessels, to cruize during the fishing season along the shores of the Colonies, to prevent foreign vessels from fishing within three miles of the land. But these vessels had each such a large extent of coast to watch over, that the duty of keeping foreign fishermen three miles from the land was indifferently performed; and the trespasses and encroachments have consequently increased every year, until they could be borne no longer. The Colonies found they must take the affair into their own hands, or else abandon their shore fisheries to the people of the United States, who, by the Convention of 1818, 'renounced *for ever* any liberty theretofore enjoyed or claimed to take, dry, or cure fish in or within three marine miles of any of the coasts, bays, creeks, or harbours, of Her Majesty's Dominions in America.'

"It was owing to these determined movements on the part of the Colonies that the Imperial Government resolved upon giving efficient assistance to protect the North American fisheries; and this assistance was offered, as our neighbours will soon learn, not with the view of enforcing the rigid *legal* construction given to the Convention, but absolutely to prevent the Colonial cruizers from carrying out that very construction, thereby incurring the risk of unpleasant collisions with the vessels of a foreign but friendly Power. It was to insure the continuance of peace, and prevent the possibility of hostile encounters, that the Imperial Government has dispatched its vessels to the shores of North America."

Sir, there was a presumption, which, it seems to me, we ought to have admitted, that would have prevailed against the sounding forth of these idle alarms. For one, I want no evidence that England desires and is determined to maintain her power wherever she can, and to fortify and extend it over the world wherever she may consistently with the rights of other nations, and, perhaps, without a very careful regard in all instances to those rights. But, on the other hand, I want no evidence to satisfy me that England desires peace with the United States.

The vast commerce of the world is practically divided between these two capital maritime Powers, and is as yet largely in the hands of England. The British Nation is a mercantile one. We also are a mercantile people, with whom England deals largely, and we are agents in carrying on a large portion of the commerce of England with other countries. The trade between the two countries employs ten thousand American vessels, and nine thousand British vessels, with an aggregate tonnage of three millions of tons. The comfort and welfare and happiness of the British Nation depend, as do our own largely, on the preservation of that commerce. War between the two nations would sweep it from the

ocean. The Ministry that should involve that nation in war with the United States would be driven from power by public indignation, arising out of universal calamity and distress.

England is a manufacturer. Her imports in all her domains are valued by hundreds of millions annually, and her exports are equivalent. She needs raw materials—cotton and wool and other articles, and bread-stuffs and provisions. And to get these, while extending the markets for her manufactures, she bends all the policy of her commercial and fiscal systems. We furnish those indispensable supplies lavishly, and we consume her fabrics of iron, cotton, flax, wool, silver, gold, everything in preference to manufacturing for ourselves. A war with the United States would close these relations at once, and the artisans and labourers of England would be involved in calamities such as they have never yet known.

England is a creditor nation. We are debtors to her. Heaven knows how much capital is not accumulated in England. It is a capital that has been gathered through a thousand years, by a nation of wonderful and world-searching sagacity, industry, and enterprise. We employ of that capital all that we can obtain, for we have need of all to bring at once into sudden development and perfection vast and perpetually-extending regions, which for near six thousand years were by civilized man untrodden and unknown. A large portion of our public debt is owned in England. Large masses of our State debts are owned there. In addition to that, our merchants are indebted to England I know not how much; but I have known the time when the whole public and private debt of the United States was not less than two hundred and fifty millions of dollars. The interest on this debt constitutes the support of a considerable portion of the British community.

England, then, cannot wisely desire nor safely dare a war with the United States. She knows all this and more; that war with the United States about these fisheries would find the United States able to surround the British Colonies. She would find that the dream of conquest of those colonies, which broke upon us even in the dawn of the revolution, when we tendered them an invitation to join their fortunes with ours, and followed it with the sword; that dream which returned again in 1812, when we attempted to subjugate them by force, would come over us again, and that now, when we have matured the strength to take them, we should find the Provinces willingly consenting to captivity. A war about these fisheries would be a war which would result either in the independence of the British Provinces, or in their annexation to the United States. I devoutly pray God that that consummation may come—the sooner the better; but I do not desire it at the cost of war or of injustice. I am content to wait for the ripened fruit, which must fall. I know the wisdom of England too well to believe that she would hazard shaking that fruit into our hands, for all that she could hope to gain by insisting on or enforcing with armed power the rigorous construction of the Convention concerning the Colonial fisheries.

Sir, what is the condition of England for a war with the United States at this moment? Her power has been extended over the East, and she employs nearly all her armies in India and in Africa to maintain herself against the natives of the one continent and the savages of the other. At this very moment, those who understand her condition best say that her home defences are inadequate to protect her against an invasion by France. Wise and able statesmen now representing the ruling and prevailing interest of the country demand of the Parliament to add to their defences by reorganizing and increasing the militia; and it is a great party question in that kingdom, whether the safety of England shall be secured by such an increase, or whether it shall be left exposed to an invader.

What is the condition of English power in Canada and in the British Provinces? They have never, since the war of 1812, had so small a military force in those provinces as now. The Imperial Government has maintained heretofore some show of naval defence upon our lakes. But within the last six months it has broken up the whole naval force there,

and now none whatever exists. While thus showing the supposed motives to peace on the part of Great Britain, I confess that peace is no less the interest and the instinct of our own country. The United States might aggrandize themselves by war, but they are sure to be aggrandized by peace. I thank God that the peace of the world is largely subject to the control of these two great Powers; and that, while they have common dispositions towards harmony, neither has need of war to establish its character for firmness or for courage. Each has had enough of

“The camp, the host, the fight, the conqueror’s career.”

Some honourable Senators have averred that they could not trust this Administration, because of its antecedents; that Britain was induced to assume a bold tone on this question, by triumphs which she had obtained in negotiations with this Administration. One general remark meets all these objections; and that is, that they are extraneous issues, each one sufficient for a discussion in itself. Any Senator who thinks the interests of the country have been sacrificed can bring it before the Senate and the country, and present it distinctly for examination.

But, Sir, what are these charges in regard to Cuba? Why, as I understand, that this Administration interposed to prevent an expedition which it was alleged was fitted out in this country for that island, in violation of our neutrality laws. Was this all? If it was, let Senators dissatisfied repeal the neutrality laws if they can, and not censure the President for executing them. What complaint is made in regard to Mexico? Why, that the Secretary of State employed a British banker as an agent to pay the instalments on the debt of this Government payable in the city of Mexico. I see nothing wrong in that. An agent was necessary, and a foreign one. I believe the money was honestly paid to Mexico, and that she was satisfied. But it is said that British creditors got a portion of the money. I know not what obligations we were under to take measures to defeat British creditors, or any others, or the British Government, from obtaining satisfaction of any of their debtors. Indeed, in some of the States, there is a system of remedies founded on the principle that the creditor has a right to attach money belonging to his debtor *in transitu*.

What has the Administration done, or neglected to do, in regard to the Sandwich Islands? It is understood that this imagined shortcoming of the Administration consists in the President’s not having entertained, as is supposed, a proposition from the Government of the Sandwich Islands to put themselves under the protection, or subject themselves to the jurisdiction, of the United States. I submit to honourable Senators that they begin at the wrong end. It was settled by the last precedent, that the function of annexing belonged, not to the President but to Congress. Congress have power “to admit new States.” Let Senators who desire annexation introduce the Bill. I am ready to entertain the question for examination, and to act as prudence, wisdom, and the great interests of the country shall be found to require. But I cannot prejudge a question so great, so momentous.

These alleged and mistaken triumphs of England, then, form no cumulative evidence to support the censures bestowed upon the Administration in regard to the transaction in question.

And now, what is the real question before Congress in regard to these fisheries? That question is simply this: The British Colonies insist upon the rigorous construction of the Convention of 1818, so as to exclude us from entering the large British bays, and distract and annoy our fishermen; and the people of the United States resist that construction, and they never will yield it. The British Government approve in words, and yet, so far as their acts are concerned, refuse to support it. The controversy is thirty years old, and seems an endless one. While that question is kept up, the American fisheries, which were once in a most prosperous condition, are comparatively stationary or declining, although supported by large bounties. At the same time the Provincial fisheries are gaining in the quantity of fish exported to this country, and largely gaining in their exportations abroad. In 1844 those Colonies sent us products of the

fishery valued at 264,000 dollars; in 1851 the value of their fish which we received was 781,000 dollars. In 1844 they exported through our ports to other countries fish valued at 3000 dollars; in 1851 their exported products were valued at 173,000 dollars.

Our fishermen want all that our own construction of the Convention gives them, and want and must have more; they want and must have the privileges of fishing within the three inhibited miles, and of curing fish on the shore.

Consider for a moment the magnitude of the interest of the fisheries—that it employs a fleet of 1200 sail, managed by 12,000 men, and a capital of \$4,000,000; and that, together with the whale fishery, it constitutes the basis of our naval power.

Shall we not try to quiet and end this long and injurious dispute, and to procure for the fishermen not only peace and security, but also an extension of the fishing-ground and its privileges? That is the question, and I am for it.

Sir, there ought to be a decision on this matter some time or other. At all events, delay is injurious and dangerous. We think the right is with us, and so I am sure it is. But nevertheless it is a question. The British Government are our equals, and they hold it an open question. They quote American authorities, especially that of Chancellor Kent, against us. This shows us that they are as confident in maintaining their position as we are in maintaining ours. We can dictate no terms to Great Britain; we will not allow her to dictate terms to us.

Now, Sir, can we, in any event, yield our right to navigate the Gut of Canso, and with it the fisheries of the Straits of Northumberland? No! Can we enjoy our fisheries as we ought while these disputes exist? No! Are we to leave them open, and if so, shall our fisheries be carried on hereafter under the surveillance of an armed British squadron, and the guardianship of a naval fleet of our own?

The indications are abundant that it is the wish of the Senate that the Executive should not treat upon this subject, and I think wisely. I agree on that point with my honourable and distinguished friend from Massachusetts (Mr. Davis). What the Colonies require is some modification of commercial regulations which may affect the revenue. That is a subject proper to be acted upon by Congress, not by the President, if it is to be acted upon at all. It must not be done by treaty. We seem to have courted the responsibility, and it rests upon us. Let us no longer excite ourselves and agitate the country with unavailing debates; but let us address ourselves to the relief of the fishermen, and to the improvement of our commerce.

Now, Sir, there is only one way that Congress can act, and that is by reciprocal legislation with the British Parliament or the British Colonies of some sort. I commit myself to no particular scheme or project of reciprocal legislation, and certainly to none injurious to any agricultural or manufacturing interest. I, for one, will give my poor opinion upon the subject, and it is this:—That so long hereafter as any British force shall be maintained in those north-eastern waters, an equal naval force must be maintained there by ourselves. When Great Britain shall diminish or withdraw her armed force, we ought to diminish or withdraw our own; and that, in the meantime, a commission ought to be raised, or that some appropriate Committee of this body—the Committee on Foreign Relations, the Committee on Finance, or the Committee on Commerce—should be charged to ascertain whether there cannot be some measure adopted by reciprocal legislation to adjust these difficulties and enlarge the rights of our fishermen, consistently with all the existing interests of the United States.

Mr. Crampton to the Earl of Malmesbury.—(Received September 5.)

(No. 134.)

My Lord,

Washington, August 23, 1852.

THE official communication in regard to the measures taken for the protection of the British fisheries, which Mr. Webster informed me he was about to make to this Legation, has not yet been addressed to me.

The subject, nevertheless, continues to occupy much of the attention of Congress and of the public.

This hesitation on Mr. Webster's part is no doubt to be attributed to the embarrassing position in which the United States' Government now finds itself placed, in respect to this question; the excitement in regard to it is still very great. Mr. Webster would, no doubt, be very willing to arrange the matter by a negotiation with Her Majesty's Government, embracing the whole subject of reciprocity of trade with the North American Colonies; but a strong objection is felt to this mode of arrangement in many quarters, and a strong feeling seems to prevail against it in Congress,—which, on the other hand, being about to separate, is not prepared to take any legislative measures for a settlement of the question.

Under these circumstances, some other means of putting the matter upon a footing satisfactory to the American interests engaged in it, were looked for; but the more correct information which has lately been obtained in regard to the real facts of the case, and their bearing on those interests, has added very much to the embarrassment already felt in regard to an independent solution of the difficulty.

The position which I have reason to think was intended to be taken by the United States' Government in their proposed communication to me, was—

First, to contest the correctness of the British construction of the Convention of 1818, as regards the definition of "bays," and to insist on the justice of an extension of the relaxation of that construction which was conceded by Her Majesty's Government in 1845, as it regarded the Bay of Fundy, to the Gulf of St. Lawrence.

Secondly, to endeavour to obtain for American fishing-vessels the right of passing through the Gut of Canso, as necessary to a free access to that gulf; and

Thirdly, to urge as a motive for these concessions, the disposition of Congress to impose a prohibitive duty, in case of refusal, on British-caught fish, on importation into the United States.

These intended demands, and the accompanying threat, were based upon the two following assumptions:

1. That the close fishing within three miles of the shore of the Gulf of St. Lawrence, and the privilege of landing and curing fish thereupon, was not what the American fishermen required. It was stated that they were in the habit of taking their fish in the great bays, at a greater distance than three miles from shore; of pickling it on board their vessels, and carrying it home to the American market. It was thought, therefore, that it would be sufficient to procure for the American fishermen the liberty of entering those bays to fish.

2. It was supposed that the only, or at least the principal, market for British-caught fish was the United States, where it is consumed in considerable quantity, though subject to a duty of 20 per cent. *ad valorem*, and that consequently an intimation that a prohibitive duty might be imposed upon it, would compel Her Majesty's Government to accede to the terms proposed.

Both these assumptions, however, turn out, upon more accurate investigation, to be entirely unfounded in fact.

The close fishing, or the power of following the fish within a mile or half-a-mile of the coast, is absolutely essential to the successful prosecution of the mackerel fishery, which is now the chief and most lucrative

branch of the trade, and were American fishermen to be effectually excluded from this, they would be obliged to abandon the pursuit altogether. No interpretation, therefore, of the Convention of 1818, which could by possibility be contended for, or the extension of the privilege accorded in regard to the Bay of Fundy to the other British waters, would be of the least service to the American fishing interest, and of this the United States' Government is now, I believe, perfectly aware.

As regards the market to which British-caught fish is brought, they now find that they have equally been in error. The United States is by no means the exclusive or most important market for the commodity: by far the greatest consumption of it takes place at Messina, Naples, in Portugal, in Brazil, and the Spanish and British West India Islands. The demand for mackerel, on the other hand, in the United States, has very much increased, and the fisheries in which it is taken in American waters are very inadequate to its supply; were American fishermen, therefore, prevented from taking it in British waters, the consumer in the United States would either be deprived of the article altogether, or obliged to pay a very heavy duty on British-caught fish.

These considerations have rendered the United States' Government more than ever anxious to arrange this matter in the only way in which it can be arranged satisfactorily to the American interests concerned in it,—that is to say, by negotiation upon the basis which has been proposed by Her Majesty's Government; and I understand that strong efforts will be made in the course of the present week, to procure the passage of a resolution by Congress, which will empower the President to arrange the matter in this mode.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 43.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, September 6, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the accompanying copy of a despatch from the Acting Governor of New Brunswick, reporting a visit of Commodore Perry, of the United States' Navy, in the "Mississippi," and the reception which was given to him; and I am to request that you will acquaint me, for Sir John Pakington's information, whether there are any suggestions which Lord Malmesbury may desire to make on this letter.

I have, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 43.

Lieutenant-Colonel Murray to Sir J. Pakington.

Sir,

Government House, Fredericton, N.B., August 14, 1852.

I HAVE the honour to inform you that I received a telegraphic despatch on the 9th instant, from the officer commanding the troops at St. John, apprizing me of the arrival in that port of the United States' steam-frigate "Mississippi," bearing the broad pendant of Commodore Perry, and that the Commodore would proceed to Fredericton on the following day to deliver a "friendly message" from the President of the United States, which he was instructed to communicate to the Governors of the British North American Provinces.

On the Commodore's arrival I received him with the usual guard of honour, and a salute of 13 guns, as the bearer of a message from the head of the Government of the United States; and on the following morning

received his official visit to communicate that message, which was to the effect that the Government of the United States was desirous of maintaining the amicable relations now so happily existing between Her Britannic Majesty's Government and their own.

I replied that Her Britannic Majesty's Government was animated by the same friendly spirit, and was equally desirous of maintaining the most amicable relations between the two countries.

The Commodore expressed the satisfaction he would have in communicating my answer to the President. He then touched upon the subject of some seizures which have lately been made of the American fishing-vessels "Coral" and Hyades," for infringing the Convention of 1818, on the coast of New Brunswick, admitted those seizures to be justifiable under the term of the Treaty, and said that he had warned the fishermen of the United States, that although he was prepared to protect them in their just rights, he cautioned them against intrusion on our fishing-grounds.

The interview was most friendly, evincing the absence of all irritation or acrimonious feeling on either side; and everything that was said by me in support of our rights was cheerfully admitted.

I have the honour to inclose a slip from a newspaper, showing that the account of the Commodore's visit is given by the public press of this province in the same friendly spirit.

The "Mississippi" sailed for Halifax, Nova Scotia, on the 13th instant, at noon.

I have, &c.
(Signed) FREEMAN MURRAY.

Inclosure 2 in No. 43.

Newspaper Extract.

Commodore Perry's Movements.—The gallant Commodore of the United States' steam-frigate "Mississippi," with Captain Adams and Lieutenant Contee, proceeded to the seat of Government on Tuesday last, and was received on landing by a guard of honour of the 72nd Regiment, and a salute of 13 guns. On the same evening, these gentlemen were the guests of Lieutenant-Colonel Murray and the officers of the 72nd. On Wednesday, they breakfasted with the Honourable the Attorney-General, and dined with the Honourable John R. Partelow, Provincial Secretary. On Thursday morning, the Commodore returned to this city, and in the afternoon his Honour the Administrator of the Government, with the Provincial Secretary and Attorney-General, dined with him on board the "Mississippi." On the same evening, the Commodore and his officers were present at a ball and supper, given to them by our fellow-citizens, at the Saint John Hotel. The whole affair was admirably arranged, and the supper table was covered with all the delicacies of the season, reflecting much credit on the Messrs. Scammell. The music was furnished by the splendid band of the 72nd, which was ordered down from Fredericton for this express purpose. The wit, beauty, and fashion of our city graced the happy occasion, and all passed off as "merry as a marriage bell."

The Mississippi left yesterday morning for Halifax, under steam, the pilot being Captain Robert Finley, of this city.

We learn that the Commodore and the officers of the steamer expressed themselves highly pleased with their visit to New Brunswick. —Indeed we feel assured that on the part of the members of the Government, and that of the community at large, there was every desire manifested to render their visit agreeable.

No. 44.

Lord Stanley to Mr. Elliot.

Sir,

Foreign Office, September 8, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 6th instant, inclosing, for any observations which his Lordship may have to make thereupon, a copy of a despatch from the Acting Governor of New Brunswick, reporting the arrival at Fredericton of Commodore Perry in the United States' steam-frigate "Mississippi;" and I am to request that you will express to Secretary Sir John Pakington, Lord Malmesbury's satisfaction at the friendly tone of the communications which took place on both sides on the occasion in question, and his sense of the judicious conduct of the Acting Governor of New Brunswick, as shown in his manner of receiving and treating Commodore Perry.

I am, &c.
(Signed) STANLEY.

No. 45.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, September 8, 1852.

WITH reference to my letter of the 27th ultimo, I am directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the accompanying copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing the copy of a corrected return made by the Registrar of the Court of Vice-Admiralty at Halifax, of vessels seized and prosecuted in that court, for fishing or preparing to fish in British waters, from the year 1817 to 1851, with the dates of their seizure and condemnation or restoration respectively.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 45.

Sir Gaspard Le Marchant to Sir J. Pakington.

Sir,

Government House, Halifax, August 16, 1852.

REFERRING to Colonel Bazalgette's despatch of the 31st ultimo, I have now the honour to inclose copies of a corrected return, made by the Registrar of the Court of Vice-Admiralty at Halifax, of vessels seized and prosecuted in that court, for fishing or preparing to fish in British waters, from the year 1817 to 1851, with the dates of their seizure and condemnation or restoration respectively.

I have, &c.
(Signed) J. GASPARD LE MARCHANT.

Inclosure 2 in No. 45.

*Return of American Vessels seized since 1817.**Registry of the Court of Vice-Admiralty at Halifax,
August 12, 1852.*

Sir,

I HAVE the honour to inclose herewith, for the information of his Excellency the Lieutenant-Governor, a return of the Vessels prosecuted in this court, belonging to American citizens, and seized for fishing, or preparing to fish, in British waters, from the year 1817 to 1821, both inclusive. Also a return of the number of American vessels seized for

violation of the Convention made between the Government of Great Britain and the United States of America, in the year 1818, and prosecuted in this court, with the dates of their seizure and condemnation or restoration. Amongst the papers in the cases of the *Betsy* and *Polly*, is a notice indorsed on the fishing-licences of these vessels, of which I beg permission to inclose a copy.

I have, &c.

(Signed) SCOTT TREMAIN, *Regr.*

To the Hon. Joseph Howe, Provincial Secretary,
&c. &c. &c.

Court of Vice-Admiralty at Halifax.

A RETURN of American vessels seized and prosecuted in this Court, for fishing, or preparing to fish, within British waters, from 1817 to 1821. Also a return of the number of American vessels seized for violation of the Convention made between the Governments of Great Britain and the United States of America, in the year 1818, and prosecuted in this Court, with the dates of their seizure and condemnation or restoration.

Name of Vessel.	Date of Seizure.	Condemnation or Restoration.
Schooner <i>John</i> (seized by His Majesty's ship <i>Dee</i> at Ragged Island)	June 5, 1817	Restored.
„ <i>General Jackson</i>	June 5, „	„
„ <i>Isabella</i>	June 5, „	„
„ <i>Enterprise</i>	June 5, „	„
„ <i>Exchange</i>	June 5, „	„
„ <i>Defiance</i>	June 5, „	„
„ <i>Lucy</i>	June 5, „	„
„ <i>Welcome Return</i>	June 5, „	„
„ <i>Superb</i>	June 5, „	„
„ <i>Random</i>	June 5, „	„
„ <i>Native</i>	June 5, „	„
„ <i>Rising Sun</i>	June 7, „	„
„ <i>Jefferson</i>	June 7, „	„
„ <i>Oliver Cromwell</i>	June 7, „	„
„ <i>Nine Sisters</i>	June 7, „	„
„ <i>Rambler</i>	June 7, „	„
„ <i>Violet</i>	June 7, „	„
„ <i>Fox</i>	June 16, „	„
„ <i>Boat Hake</i>	June 16, „	„
„ <i>Prudence</i>	June 16, „	„
„ <i>Salley</i>	June 28, „	„
„ <i>Raven</i>	July 8, 1818	August 24, 1818.

Name of Vessel.	Date of Seizure.	Condemnation or Restoration.
Schooner Nabby (seized by His Majesty's ship Bellette, off Pope's Harbour, coast of Nova Scotia, claimed, defence put in)	July 28, 1818	August 24, 1818
" Washington (seized by His Majesty's ship Saracen)	.. ..	August 24; "
" Betsey (seized and sent into Halifax)	August ..	Restored.

Indorsement on schooner "Betsey's" Fishing-Licence before mentioned.

It is hereby notified, that it is the earnest desire of Rear-Admiral Sir David Milne, Commander-in-chief of His Majesty's ships and vessels in North America and in the Lakes of Canada, in endeavouring to preserve the maritime rights of His Majesty from infringement, to avoid, as much as possible, subjecting the vessels and people of the United States of America engaged in the Fisheries, to any loss or interruption which they may have made themselves liable as to the just rights which belong to the maritime dominions of His Majesty in North America. You are therefore allowed to pursue your voyage without further detention, taking notice, however, that if you are again found trespassing on His Majesty's rights, you cannot expect to receive further indulgences; and you are requested to notify to the vessels of your nation, as far as in your power, to avoid interfering with these Fisheries, which exclusively appertain to His Majesty's subjects, as they will be hereafter proceeded against as the law directs. Given under my hand, at Halifax, 58th year of His Majesty's reign, 1818.

(Signed) DAVID MILNE, *Commander-in-chief.*

Name of Vessel.	Date of Seizure.	Condemnation or Restoration.
Schooner Polly (seized on south side Bay of Fundy. N.B.—Similar indorsation to above on the Polly's licence)	June 1821	
" Nancy	May 27, ..	August 22, 1821
" Rising States (seized at Gulliver's Hole, Bay of Fundy)	May 26, ..	August 22, ..
" Golden Rule (seized by Government brig Chebucto)	July 1, ..	Restored.
" Milo (seized at Gulliver's Hole, Bay of Fundy, by His Majesty's ship Bellette)	May 27, ..	August 21, ..
" Caroline (claimed)	June 9, ..	Restored.
" White Oak .. .	.. .	August 21, ..
" Hero	June 1, 1838	January 28, 1839
" Combene	November 1, ..	January 28, ..
" Shetland	June 4, 1839	July 8, ..
" Java	May ..	August 5, ..
" Independence	May 25, ..	August 5, ..
" Magnialo	May 25, ..	August 5, ..

Name of Vessel.	Date of Seizure.	Condemnation or Restoration.
Schooner Hart	May 1839	August 5, 1839
„ Battelle	June „	July 8, „
„ Hyder Ally	June 14, „	July 8, „
„ Eliza	June 14, „	July 8, „
„ May Flower	June „	Restored.
„ Papineau	June 2, 1840	July 10, 1840
„ Mary	June 2, „	July 10, „
„ Alms	September 11, „	December 8, „
„ Director	September 18, „	December 8, „
„ Ocean	October 1, „	December 8, „
„ Pioneer	May 6, 1841	August 18, 1841
„ Two Friends	May 20, „	Restored.
„ Mars	September 20, „	November 2, „
„ Egret	September 20, „	November 2, „
„ Warrior	October 13, „	November 9, „
„ Hope	October 13, „	Restored.
„ May Flower	October 13, „	December 7, „
„ Washington	May 7, 1843	August 1, 1843
„ Hyades	May 10, 1848	September 5, 1848
„ Leonidas	May 11, 1849	June 29, 1849
„ Harp	September 15, 1850	January 28, 1851
„ Tiber	October 29, 1851	

August 12, 1852. (Signed) SCOTT TREMAIN, *Regr.*

No. 46.

Mr. Crampton to the Earl of Malmesbury.—(Received September 9.)

(No. 135.)

My Lord,

Washington, August 24, 1852.

MR. WEBSTER read to me this morning a despatch dated the 10th instant, and which he had just received from Mr. Lawrence, reporting the substance of two conversations upon the subject of the fisheries which Mr. Lawrence had held with your Lordship, the one on the 7th, and the other on the 9th instant.

Mr. Webster has authorized me to express to your Lordship the satisfaction of the Government of the United States in regard to the friendly and conciliatory spirit which has been evinced in regard to this matter by Her Majesty's Government, and to state, that the instructions which your Lordship had informed Mr. Lawrence it was intended to address to the Colonial authorities, and to the Admiral in command of Her Majesty's Naval Forces on the North American station, are in his (Mr. Webster's) opinion of a nature to allay the existing irritation, and to place the question upon such a footing as will enable the United States to take

such measures as may be necessary for the arrangement, upon a permanent and satisfactory footing, of the commercial relations of the United States with the North American Colonies.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 47.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, September 10, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 18th ultimo, asking his Lordship's opinion as to the steps which it might be proper that the Lieutenant-Governor of Prince Edward Island should take with respect to American fishermen who refuse to pay the anchorage dues to which they are liable under the provisions of an Act which has recently been passed in that colony.

I am directed to state to you in reply, for the information of Secretary Sir John Pakington, that Lord Malmesbury has found it expedient to consult the Queen's Advocate upon this matter, and I transmit his opinion herewith. In so far as that opinion bears upon points merely Colonial, Lord Malmesbury desires to leave it to Sir John Pakington to deal with the suggestions of the Queen's Advocate as he may think fit. With respect, however, to those points which involve the international relations between Great Britain and the United States, I am directed to say, that Lord Malmesbury is of opinion that the fewer questions are stirred between the two countries and their Governments upon minor Colonial matters, the better it will be for all parties; and his Lordship would deem it wise on the part of the Government of Prince Edward Island, at the same time that national rights are fully upheld, rather to forego small pecuniary advantages, than by levying additional burthens on United States' shipping, to risk increasing the excitement which at present prevails in the United States with reference to the fisheries in those quarters.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 48.

Mr. Crampton to the Earl of Malmesbury.—(Received September 12.)
(No. 140.)

My Lord,

Washington, August 29, 1852.

ON the receipt of your Lordship's despatch No. 78, of the 10th instant, upon the subject of the fisheries, I sought an interview with Mr. Webster, for the purpose directed by your Lordship, of reading to him that despatch, of leaving him a copy of it, and of assuring him of the desire of Her Majesty's Government to adjust, by amicable negotiation, the system of commercial intercourse between the United States and Her Majesty's North American Possessions.

Mr. Webster, who was at his own house, and was suffering from indisposition, said that he would prefer to postpone reading the despatch till the next day, and added, that if I would leave with him the copy I had prepared, he would peruse it, and at our next meeting make any observations which might be necessary. In the meantime he would beg of me to call at the Department of State, where the Chief Clerk would show me the last despatch which had been received from Mr. Lawrence, dated the 13th instant, reporting the substance of a conversation which had taken place between him and your Lordship, at the Foreign Office, on the 11th instant, in the presence of Sir John Pakington. In regard to this despatch Mr. Webster authorized me to say to your Lordship, on his part, that he considered the tone and tenour of your Lordship's remarks on that occasion, as well as in your Lordship's previous conversations with Mr. Lawrence, to be quite satisfactory, so far at least as regarded the temporary position of the fishery question, and their

tendency to allay the excitement which had arisen in regard to it. A more permanent arrangement of the matter would, however, be required, and to the best means of effecting this he was now directing all his attention, and collecting all the information he could procure upon the matter.

On going to the Department of State, Mr. Lawrence's despatch was shown to me by Mr. Hunter, the Chief Clerk. Mr. Lawrence therein states, generally, that your Lordship's observations were to the same effect as those made at his previous interviews with you; that Her Majesty's Government designed to leave the parts of the Treaty in regard to which the two Governments disagree, as they were before; and he seemed to understand that instructions had been sent to the Colonial authorities, and to Vice-Admiral Sir George Seymour, to abstain from making any seizures of vessels trespassing on the fisheries at more than three miles from the shore, and to deal very leniently even with those trespassing within three miles. Mr. Lawrence added, that he had reason to hope that the instructions which had been addressed to Her Majesty's Legation here, would be of such a nature as to permit me to advise the Colonial authorities, and the Commanders of Her Majesty's Naval Forces, not to make any seizures whatever during the present fishing season, upon the consideration of the loss and suffering to the American interest which had engaged in this year's fishery, and to whom it would be necessary, in order to enable them to "make up their fares," to fish close in shore during the two ensuing months.

I thought it right to state to Mr. Hunter, that I did not feel authorized by any instruction which I had yet received from Her Majesty's Government, to make such a suggestion to Vice-Admiral Sir George Seymour, or to the Governors of the North American Colonies.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 49.

Mr. Elliot to Mr. Addington.—(Received September 14.)

Sir,

Downing Street, September 11, 1852.

WITH reference to your letter of the 7th ultimo, I am directed by Secretary Sir J. Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a letter from the Council Office, forwarding copies of Orders which have been made having reference to the Convention of 1818 between Great Britain and the United States of America, and also to the Act of Parliament 59 Geo. III, cap. 38.

I also transmit copies of the instructions which were addressed by Earl Bathurst in 1819 to the Governors of the several North American Colonies, in forwarding copies of the Convention of 1818 for their information.

I also inclose copies of the several Acts relating to the fisheries which, according to the records in this Department, have been passed in the Colonies since the date of the Convention.

I am, &c.

(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 49.

Mr. Greville to Mr. Elliot.

Sir,

Council Office, Whitehall, September 2, 1852.

WITH reference to your letter of the 19th ultimo, requesting to be furnished with copies of all Orders in Council passed since the 14th of June, 1819, with regard to the North American Fishery Convention of 1818, and the Act of Parliament of the 59th Geo. III, cap. 38, I have the honour to transmit to you the following Orders: viz.,

Order, dated 19th June, 1819, for carrying into effect certain stipulations in a Convention respecting fisheries, between His Majesty and the United States of America.

Order, dated 15th June, 1836, specially confirming an Act passed in Nova Scotia in March 1836, "relating to the Fisheries, and for the Prevention of Illicit Trade in the Province of Nova Scotia and the coasts and harbours thereof."

Order, dated 6th July, 1836, declaring that the clauses and provisions of the above Act passed in Nova Scotia, shall be the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbours of the said province.

Order, dated 21st September, 1836, disallowing an Act passed in Newfoundland in May 1836, "to prevent encroachments of Aliens on the Fisheries of this island, and for the further protection of the said Fisheries."

Order, dated 3rd September, 1844, specially confirming an Act passed in Prince Edward's Island in April 1843, relating to the fisheries, "and for the prevention of illicit trade in Prince Edward's Island, and the coasts and harbours thereof;" and

Order, dated 3rd September, 1844, declaring that the clauses and provisions of the above Act shall be the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbours of that island.

I am, &c.

(Signed) C. C. GREVILLE.

Inclosure 2 in No. 49.

Order in Council of June 19, 1819.

At a Court at Carlton House, the 19th June, 1819.

Present:

His Royal Highness the Prince Regent,	
Lord Chancellor,	Viscount Castlereagh,
Lord President,	Viscount Sidmouth,
Lord Privy Seal,	Mr. Wellesley Pole,
Duke of Montrose,	Mr. Canning,
Lord Chamberlain,	Mr. Bathurst,
Marquis of Winchester,	Mr. Chancellor of the Exchequer,
Earl of Liverpool,	Lord Chief Justice Abbott.
Earl of Mulgrave.	

WHEREAS an Act has been passed in the present session of Parliament intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing of 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," wherein it is enacted, that "Whereas a Convention between His Majesty and the United States of America was made and signed at London on the 20th day of October, 1818, and by the 1st Article of the said Convention 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 the Rameaux 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 northward 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, it shall and may be lawful, from and after the passing of the said Act, 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, any Act or Acts of Parliament, or any law, custom, or usage to the contrary in anywise notwithstanding. It is ordered by His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty’s Privy Council, in pursuance of the powers vested in His Majesty by the said Act, that the Governor of Newfoundland do give notice to all His Majesty’s subjects, being in or resorting to the said parts, that they are not to interrupt in any manner the aforesaid fishery so as aforesaid allowed to be carried on by the inhabitants of the said United States, in common with His Majesty’s subjects, on the said coasts, within the limits assigned to them by the said Treaty; and that the Governor of Newfoundland do conform himself to the said Treaty, and to such instructions as he shall from time to time receive thereon, in conformity to the said Treaty and to the above recited Act, from one of His Majesty’s Principal Secretaries of State, anything in His Majesty’s Commission under the Great Seal constituting him Governor and Commander-in-chief in and over the said Island of Newfoundland in America, and of the islands and territories thereunto belonging, or in His Majesty’s general instructions to the said Governor, to the contrary, notwithstanding; and His Royal Highness, in the name and on the behalf of His Majesty, doth hereby annul and make void each and every of the said general instructions, which are or shall be deemed contrary to the intent and meaning of the said Convention and of the said Act; and the Right Honourable Earl Bathurst, one of His Majesty’s Principal Secretaries of State, is to take the necessary measures herein accordingly.

Inclosure 3 in No. 49.

Order in Council of June 15, 1836.

At the Court at St. James’s, the 15th day of June, 1836.

Present:

The King’s Most Excellent Majesty in Council.

WHEREAS the Governor of His Majesty’s Province of Nova Scotia with the Council and Assembly of the said province, did in the month of March 1836, pass an Act, which has been transmitted, intituled as follows: viz., “An Act relating to the Fisheries, and for the prevention of illicit Trade, in the Province of Nova Scotia and the Coasts and Harbours thereof:” And whereas the said Act has been referred to the Committee of the Lords of His Majesty’s most Honourable Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations, and the said Committee have reported as their opinion to His Majesty, that the said Act should receive His Majesty’s special confirmation; His Majesty was thereupon pleased, by and with the advice of his Privy Council, to declare his special confirmation of the said Act, and the same is hereby specially confirmed, ratified, and finally enacted accordingly. Whereof the Governor, Lieutenant-Governor, or Commander-in-chief for the time being of His Majesty’s Province of Nova Scotia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) W. L. BATHURST.

Inclosure 4 in No. 49.

Order in Council of July 6, 1836.

At the Court at St. James's, the 6th of July 6, 1836.

Present :

The King's Most Excellent Majesty in Council.

WHEREAS by an Act passed by the Lieutenant-Governor, Council, and Assembly of the Province of Nova Scotia, on the 12th day of March 1836, intituled "An Act relating to the Fisheries, and for the prevention of illicit Trade, in the Province of Nova Scotia 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 His Majesty's assent be signified thereto, and an Order be made by His 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 Province of Nova Scotia: And whereas His Majesty hath by an Order in Council, bearing date the 15th June, 1836, signified his Royal Assent to the aforesaid Act, by specially confirming the same: And whereas it is expedient that in pursuance of the said recited enactment, the rules, regulations, and restrictions respecting the Fisheries in the said Act mentioned, should be confirmed; His Majesty was this day pleased, by and with the advice of his 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 Province of Nova Scotia. Whereof the Governor, Lieutenant-Governor, or Commanner-in-chief of His Majesty's Province of Nova Scotia, for the time being, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) W. L. BATHURST.

Inclosure 5 in No. 49.

Order in Council of September 21, 1836.

At the Court of St. James's, the 21st September, 1836.

Present :

The King's Most Excellent Majesty in Council.

WHEREAS the Governor of His Majesty's Island of Newfoundland with the Council and Assembly of the said island, did in the month of May 1836, pass an Act, which has been transmitted, intituled as follows: viz. No. 63, "An Act to prevent the encroachments of Aliens on the Fisheries of this Island, and for the further protection of the said Fisheries;" And whereas the said Act has been referred to the Committee of the Lords of His Majesty's most Honourable Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations, and the said Committee have reported as their opinion to His Majesty, that the said Act should not receive His Majesty's Royal confirmation; His Majesty was thereupon this day pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly. Whereof the Governor, Lieutenant-Governor, or Commander-in-chief of His Majesty's Island of Newfoundland for the time being, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) C. C. GREVILLE.

Extract from Report of the Committee in Council for Trade and Foreign Plantations, recommending the disallowance of a Newfoundland Act (No. 63), passed in May 1836.

BECAUSE it interferes with your Majesty's prerogative in negotiating treaties for securing to the subjects of foreign States a participation with your Majesty's subjects in these fisheries; and because it encroaches upon the province of Parliament, by assuming to the local Legislature the right to regulate interests of this description.

Inclosure 6 in No. 49.

Order in Council of September 3, 1844.

At the Court at St. James's, the 3rd day of September, 1844.

Present:

The Queen's Most Excellent Majesty in Council.

WHEREAS the Lieutenant-Governor of Her Majesty's Island of Prince Edward, with the Council and Assembly of the said island, did in the month of April 1843, pass an Act which has been transmitted, intituled as follows: viz., "An Act relating to the Fisheries, and for the Prevention of Illicit Trade, in Prince Edward's Island and the Coasts and Harbours thereof:" And whereas the said Act has been referred to the Committee of the Lords of Her Majesty's most Honourable Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations, and the said Committee have reported as their opinion to Her Majesty, that the said Act should receive Her Majesty's special confirmation; Her Majesty was thereupon this day pleased, by and with the advice of her Privy Council, to declare her special confirmation of the said Act, and the same is hereby specially confirmed, ratified, and finally enacted accordingly. Whereof the Governor, Lieutenant-Governor, or Commander-in-chief for the time being of Her Majesty's Island of Prince Edward, and all other persons whom it may concern, are to take notice and govern themselves accordingly. (Signed) C. C. GREVILLE.

Inclosure 7 in No. 49.

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's Island, on the 15th of April, 1843, intituled "An Act relating to the Fisheries, and for the Prevention of Illicit Trade in Prince Edward's 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 herewith, 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 enactment, 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.

Inclosure 8 in No. 49.

Earl Bathurst to the Earl of Dalhousie.

My Lord,

Downing Street, April 7, 1819.

I AM commanded by His Royal Highness the Prince Regent to transmit to you a Convention which has been agreed upon and ratified between His Royal Highness, in the name and on the behalf of His Majesty, and the United States of America. This Convention cannot be fully carried into effect without the aid of legislative provisions; but as the fishing season will have commenced before it will be possible that your Lordship should receive any instructions founded upon such provision as Parliament may find it necessary to enact; I am commanded to transmit to your Lordship those provisional instructions for the guidance of your conduct in the execution of the said Convention.

Your Lordship will observe that under the Treaty, the fishermen of the United States are excluded from fishing within three marine miles of any part of the coasts of His Majesty's Dominions in North America, with the exception of the Magdalen Islands, and of those parts of the coast of Newfoundland and Labrador which are particularly described in the First Article of the Convention. Their right also to dry and cure fish is limited to the unsettled bays, harbours, and creeks on the southern coast of Newfoundland from Cape Ray to the Rameaux Islands, and to that part of the coast of Labrador on which they have, under the Convention, a right of fishery. I am therefore to signify to your Lordship the pleasure of His Royal Highness, that if any vessels or inhabitants of the United States should be found fishing or preparing to fish within three marine miles of any part of the coasts of Nova Scotia, or should attempt to use any part of the coast of that province, for drying and curing fish, or for other purposes connected with the fishery, you should take the necessary measures for enforcing a due adherence on their part to the stipulations of this Convention, by instituting the necessary legal proceedings against those who may be found acting in violation of its provisions.

I am, &c.

(Signed) BATHURST.

[A despatch similar to this was addressed to the respective Governors of Newfoundland April 8, 1819; New Brunswick, April 8, 1819; Prince Edward Island, April 7, 1819; and Cape Breton, April 7, 1819.]

Inclosure 9 in No. 49.

Earl Bathurst to Sir C. Hamilton.

Sir,

Downing Street, June 21, 1819.

IN my despatch of the 8th of April, I had the honour of transmitting to you a Convention which had been entered into between His Majesty and the United States of America, part of which refers to the taking and curing of fish by the citizens of the United States on the coasts of certain of His Majesty's possessions in North America; I have now to inclose you a copy of an Act to give effect to that Convention, which has since received the Royal Assent, and of an Order in Council which His Royal Highness has been pleased to issue in the name and on the behalf of His Majesty. As the inhabitants of the United States will undoubtedly proceed without delay to exercise the privilege granted to them under that Convention, His Royal Highness has commanded me to call your special attention to some points upon which it is probable that in regulating your conduct under the Convention, you may desire to receive instructions.

You will in the first place observe that the privilege granted to the citizens of the United States is one purely of fishery, and of drying and curing fish within the limits severally specified in the Convention. It is the pleasure of His Royal Highness that this privilege as limited by the Convention should be fully and freely enjoyed by them without any hindrance or interference. But you will at the same time remark, that all attempts to carry on trade or to introduce articles for sale or barter into His Majesty's Possessions under the pretence of exercising the rights conferred by the Convention, is in every respect at variance with its stipulations. You will therefore promulgate as publicly as possible, the nature of the indulgence which you are under the Convention instructed to allow to them; and in case any of the inhabitants of the United States should be found attempting to carry on a trade not authorized by the Convention, you will in the first instance warn them of the illegality of such a proceeding, and in the event of their being afterwards engaged in it, you will not hesitate to adopt, with respect to them, the same means of control and the same punishments and forfeitures as would be legally applicable in the trade of any other foreign nation possessing no privilege of fishery whatever.

With respect to the fishery which the citizens of the United States are authorized to carry on upon the coast of Labrador, you will take care that it be carried on by them within the specified limits in the same manner as previous to the late war with the United States, taking every precaution, however, against that introduction of contraband articles into Newfoundland, or His Majesty's Possessions in North America, to which it was previous to the war notoriously perverted.

The right of drying and curing on the southern part of the coast of Newfoundland stands in some degree upon a different footing. It is a new privilege conferred for the first time by this Convention, and is more limited than that assigned to them on the coast of Labrador, inasmuch as the inhabitants of the United States have no privilege, even with the consent of the settlers, of drying and curing in any bay, harbour, or creek of Newfoundland, which may have been settled previous to the signature of the Convention, while a fair construction of the Treaty leaves open to them in Labrador every harbour not settled previous to the Peace of 1783. I am aware that some difficulty may arise in deciding the extent to which a settlement in any bay, harbour, or creek is necessary to constitute an exclusion of American fishermen under the Convention.

It is obvious from the terms of the Convention, that a single settlement in a bay, harbour, or creek, is not in itself a sufficient ground for such an exclusion; but, on the other hand, it is equally clear that if the settlements in any particular bay, harbour or creek, be so numerous as to leave but little interval between the British establishments already formed, the American fishermen can have no fair ground for occupying any part of such bay, harbour, or creek; and you will so regulate your proceedings in this respect, as while you give the inhabitants of the United States, on the one hand, every facility for curing and drying their fish on the specified part of the coast of Newfoundland, you afford, on the other, to His Majesty's subjects, every reasonable protection against an unfair interference and intrusion inconsistent with the spirit of the Treaty.

You will take care also, that the inhabitants of the United States do not become settlers in the colony, and that they do not make such establishments as may interfere with the future settlement of the land on which they may be made. The intention of the Treaty being merely that they should dry in His Majesty's territory for the purpose of curing their fish in common with British fishermen, and not that they should remain permanently established within His Majesty's dominions, to the prejudice of His Majesty's subjects.

You will also give such directions as may be necessary for securing to the American fishermen the privileges of entering the harbours of Newfoundland for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, but for no other purpose whatever; and I must on this point also direct your particular attention to the necessity of exercising great vigilance, in order to prevent the abuse of

these privileges in any manner whatever, and more especially for the purpose of carrying on an unauthorized fishery or an illegal trade.

With respect to any difficulties which may arise in carrying the Convention into effect, His Royal Highness relies entirely upon your discretion for adopting the most conciliatory line of conduct towards the inhabitants of the United States, giving to them on all occasions the full benefits of a liberal construction of the Treaty, but always guarding against any invasion by them of the privileges exclusively reserved to His Majesty's subjects.

If any difficulties should occur, you will communicate them to me with every necessary detail, and I will not fail to take the earliest opportunity of submitting them to the Prince Regent for His Royal Highness's further consideration.

I have, &c.

(Signed) BATHURST.

Inclosure 10 in No. 49.

Colonial Statute (Nova Scotia) 6 William IV, cap. 8.

An Act relating to the Fisheries, and for the prevention of Illicit Trade in the Province of Nova Scotia, and the Coasts and Harbours thereof. (Passed March 12, 1836.)

Preamble.

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 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 purpose 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 province 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 and 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 province, and the fishery carried on contrary to said Convention and Statute:

Power given to revenue officers, &c., to board and seize vessels touching on coast, &c.

I. 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 His Majesty's customs, the officers of the impost and excise, the sheriffs and magistrates throughout this province, and any person holding a commission from that purpose from his Excellency the Lieutenant-Governor for the time being, to go on board any ship, vessel, or boat, within any port, bay, creek, or harbour, in this province; and

also to go on board of 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 province, 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 laws 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 province, 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.

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 His 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 the 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.

Penalty for opposing officers.

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 and comptroller of the 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 His Majesty's Customs.

Officers of customs to take charge of goods and vessels seized.

IV. And be it further enacted, That all goods, ships, vessels, boats, or other thing which shall have been condemned at forfeited under this Act, shall, under the direction of the principal officer of the customs or excise where such seizures shall have been secured, be sold by public auction to the best bidder, and the produce of such sale shall 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 province, all costs incurred having been first deducted therefrom: Provided always, that it shall be lawful for the Commissioners of the Revenue to direct that any of such things shall be destroyed or reserved for the public service.

Sale of forfeited property and disposal of proceeds.

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 province.

Prosecutions.

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

Bonds may be taken for property seized.

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 His 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 the 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 above directed.

Suits, by whom prosecuted, &c.

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 His Majesty, and shall be prosecuted by His Majesty's Advocate or Attorney-General, or in his absence by the Solicitor-General for this province; 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, *viva voce* evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

Proof of illegality of seizures.

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 lie 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.

Claim to property seized.

IX. And be it further enacted, That no claim to anything seized under this Act, and returned into His Majesty's Court of Vice-Admiralty for adjudication, shall be 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.

Claimants to give security.

X. And be it further enacted, That no person shall be admitted to enter a claim to anything seized in pursuance of this Act, and prosecuted in this province, 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.

Notice of action against officers of customs, &c. Issue of writs.

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 his 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, 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.

Time limited within which actions shall be brought.

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 any of His Majesty's Courts of Record in this province, 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 or 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 thereof, and the judge or court before whom the cause shall have been tried, shall certify on the record that there was probable cause for 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 such seizure; and if any 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 thing seized, or the value thereof, shall be entitled to no more than 2*d.* damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than 1*s.*

Verdicts in favour of claimants.

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.

Amends may be tendered to parties complaining.

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 2*d.* damages, nor to any costs of suit.

Justification of seizing officers.

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 committed, by reason whereof such penalty or forfeiture shall be incurred, any law, usage, or custom, to the contrary notwithstanding.

Recovery of penalties.

XVII. And be it further enacted, That no appeal shall be prosecuted from any decree or sentence of any of His Majesty's courts in this province, 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.

Appeals.

XVIII. And be it further enacted, That this Act shall not go into force, or be of any effect, until His Majesty's assent shall be signified thereto, and an order made by His 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 Province of Nova Scotia.

Act reserved for His Majesty's pleasure.

Inclosure II in No. 49.

Colonial Statute (Prince Edward Island) 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 15, 1843.)

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 and 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 the island, and any person holding a commission for that purpose from his Excellency the Lieutenant-Governor for the time being, to go on board any ship, vessel, or boat within any port, bay, 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,

Officers of customs and excise, sheriffs and magistrates, and any person holding a commission from Lieutenant-Governor for that purpose, authorized to board vessels, &c., within three marine miles of coast of this island.

Power of such officer, &c.

Further power of such officers, &c.

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.

Penalty on master, &c., not truly answering questions.

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 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, excise, magistrates, &c.

Penalty on persons molesting or obstructing officers of customs, excise, magistrates, &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 custody of the collector of the 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 or directed to be secured by the Commissioners of Her Majesty's Customs.

Goods, vessels, &c., seized under this Act to be delivered to nearest collector of customs.

Collector of customs to keep and secure 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 under this Act, to be sold under direction of officers of customs or excise at public auction.

Appropriation of proceeds of such goods and vessels, &c.

Lieutenant-Governor may direct articles condemned to be destroyed or reserved for public service.

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.

Mode of recovery of penalties imposed by this Act.

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 may be delivered and kept in 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 on consent of seizing party release the same on security being given therefor.

Requisites of bond to be taken for same.

Amount of bond to be distributed by collectors of customs, if goods, vessels, &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

Regulates the mode of prosecuting suits for penalties under this Act.

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, *viva voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

Onus of proof of illegality of seizure to be on claimant.

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.

No claim to anything seized under this Act to be admitted until certain requisites be complied with.

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 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 misdemeanour, and shall be liable to the pains and penalties to which persons are liable for a misdemeanour.

No claim to be admitted until security be given.

X. And be it further 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.

Amount of security and condition thereof.

Defines mode of proceeding against any officer of customs, excise, magistrate, &c., for anything done under this Act.

XI. And be it further enacted, That no writ shall be sued out against nor the 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 his 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 or verdict and costs, or judgment of nonsuit shall be awarded against the plaintiff, as the court shall direct.

Limits time for bringing any action against any officer of customs, &c., for anything done under this Act.

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, or 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.

Regulates mode of proceeding in such actions.

If verdict be found for any claimant on certificate of Judge or Court, of probable cause of seizure, no costs to be allowed to claimant, nor

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 thereof, 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 thing 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.

seizing officer liable to any action, &c.

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 such 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.

Seizing officer may tender amends within one month after notice of action, and plead such tender, &c.

If jury find amends sufficient, verdict to be given for defendant.

And in such case, or in case of nonsuit, or judgment on demurrer in favour of officer, &c. same costs to be given as if he had pleaded the general issue.

Officer, &c. may pay money into Court.

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.

If Judge or Court certifies probable cause of seizure, plaintiff only to be entitled to twopence damages and to no costs.

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.

All penalties or forfeitures under this Act may be recovered within three years after the offence committed or forfeiture incurred.

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 sentence or decree was pronounced.

No appeal allowed from sentence of any Court under this Act, unless applied for within twelve months after.

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 said Island of Prince Edward.

Suspending clause.

Inclosure 12 in No. 49.

Colonial Statute (Newfoundland), 6 William IV, cap. 3.

An Act to prevent the Encroachments of Aliens on the Fisheries of this Island, and for the further protection of the said Fisheries. (May 6, 1836.)

WHEREAS foreigners have of late years been in the practice of unlawfully resorting in great numbers to the various harbours and coves of Fortune Bay and other places adjacent thereto eastward of Cape Ray, for the purpose of cutting down and carrying away timber and brushwood, and of procuring caplin and other bait for the use of their fishery, to the great injury and detriment of the trade and fisheries of His Majesty's subjects carried on in this colony: And whereas it is necessary to adopt

Preamble.

prompt and effectual measures for suppressing the unlawful practices above mentioned, and for preventing similar encroachments in future;

No alien to take bait or fish on any part of the coast of Newfoundland or Labrador.

I. Be it therefore enacted, by the Governor, Council, and Assembly of Newfoundland, That no alien or stranger whatsoever shall at any time hereafter take bait or use any sort of fishing whatsoever in Newfoundland or the coasts, bays, or rivers thereof, or on the coast of Labrador, or in any of the islands or places within or dependant on the Government of the said colony; always excepting the rights and privileges granted by treaty to the subjects or citizens of any foreign State or Power in amity with His Majesty.

Except such as are allowed by Treaty.

Penalty.

II. And be it further enacted, That if any such alien or aliens shall take caplin, herring, mackerel, lance, clams, or other bait, or use any such fishery as aforesaid, or shall cut down or carry away any timber or brushwood upon or from any part of this island or its dependencies (excepting as before excepted), such alien or aliens, and all and every person or persons aiding or assisting them, shall on conviction thereof in any court of record in this island forfeit and pay to our Lord the King a fine not exceeding one hundred pounds nor less than ten pounds, at the discretion of such court to be disposed of in manner hereinafter mentioned; and that all and every the ships, vessels, boats or other crafts, with the tackle, apparel, and furniture thereof, and all seines, nets, lines, hooks or other fishing craft used or employed in the taking, receiving or transporting of such bait or timber, or other materials, aforesaid together with such bait or timber, shall be forfeited to His Majesty, and the same shall be sold at public auction and the proceeds thereof applied in the manner hereinafter directed.

To be recovered on conviction in any Court of Record.

With forfeiture of vessels, boats, tackle, &c.

Sale of bait to foreigners prohibited.

III. And whereas it is of the utmost importance to protect and encourage the Fishery carried on by His Majesty's subjects in this colony, at present greatly depressed by the injurious privilege enjoyed by foreigners of taking and curing fish on the shores thereof, and to preserve for the use of His Majesty's subjects, the shoals of bait which visit the coasts of this island and its dependencies, and to that end it is above all things necessary to prohibit the selling and disposing of bait to foreigners, who are thereby enabled to prosecute their fisheries much more advantageously than they otherwise might, to the great detriment of the trade and fisheries carried on by His Majesty's subjects in this colony; Be it therefore further enacted, that from and after the passing of this Act, it shall not be lawful for any person or persons to sell or dispose of any such caplin or other bait as aforesaid, to any alien or aliens, or to any person or persons, for their use; and that it shall not be lawful for any person or persons to export from this island or its dependencies, or knowingly sell or dispose of, to the end that the same may be exported from this island, for the purpose of being used or employed in any fishery or fisheries carried on by aliens or any other persons other than liege subjects of His Majesty, any such caplin or other bait whatsoever.

Penalty.

IV. And be it further enacted, That if any person or persons shall so sell or dispose of to any alien or aliens, or so export or cause to be exported from this island or its dependencies, or knowingly sell or dispose of, to the end that the same may be exported from this island or its dependencies, other than for the purpose of being used and employed in the fisheries so carried on by His Majesty's subjects as aforesaid, any such caplin or other bait whatsoever, he or they so offending shall, on conviction thereof in any court of record in this colony, forfeit and pay to our Lord the King a fine not exceeding one hundred pounds, nor less than ten pounds, at the discretion of such court, and shall also forfeit all and every of the ships, vessels, boats or other craft used or employed in such exportation, with the tackle, apparel, and furniture thereto belonging, together with the bait or the money, goods, or effects for which the same shall have been sold or exchanged, or which may be found on board any such ship, vessel, or other craft, belonging to the owners, master, or crew

And forfeiture of vessels, boats, &c.

of such ship, vessel, boat, or other craft, as aforesaid, to His Majesty, and the proceeds thereof shall be applied in the manner hereinafter directed.

V. And be it further enacted, That it shall and may be lawful for any officer of His Majesty's Navy, or of His Majesty's Customs, or for any justice of the peace, constable, or other peace officer, to seize and detain all and every such ships, vessels or boats, nets, seines or other fishing craft as may be in any manner used or employed in the unlawful taking or exportation of bait, or the transporting or carrying away of wood or timber, in contravention of this Act, together with the bait, timber, brushwood, and all other goods, chattels, money, and effects found on board the same, or recently removed therefrom to avoid seizure, and to detain and keep the same, subject to the order, judgment, or decree of any court having jurisdiction therein.

Persons authorized to make seizures under this Act.

VI. And be it further enacted, That all fines and penalties imposed by this Act shall and may be sued for and recovered in any court of record in this island; and in default of payment thereof, the offender or offenders shall be committed by such court to the nearest gaol, there to remain for any period not exceeding six months; and the monies arising from all fines and forfeitures imposed by this Act shall, as to one moiety thereof, be paid to the treasurer of this colony, to and for the use of our Sovereign Lord the King, his heirs and successors; and as to the other moiety thereof, the same shall be paid to the use of such person or persons as shall inform and sue for the same.

Recovery and appropriation of penalties.

VII. And be it further enacted, That upon an affidavit being made before any of His Majesty's justices of the peace, or before a Commissioner of the Supreme Court appointed by His Majesty's Chief Justice of the island to take affidavits in the said court, setting forth that any alien, or stranger not residing in this colony, has committed any offence which by the provisions of this Act is subjected to any penalty imposed by this Act, it shall and may be lawful for any such justice to issue his warrant for the apprehension of such person, and to hold him to bail to appear at the next term of the Supreme or Circuit Court, to answer for such offence, and in default of bail, to commit him to prison, there to remain until delivered by due course of law.

Offenders against this Act may be apprehended and held to bail, or in default committed to prison.

VIII. And be it further enacted, That all seizures made under this Act which shall, upon the oath of two competent sworn appraisers, be valued under fifty pounds, may be heard and determined in a summary way before any court of sessions of the peace in the district where the seizure shall be made.

Seizures under £50 value may be heard and determined summarily in any Court of Sessions.

IX. And be it further enacted, That if any officer of His Majesty's Navy, or of His Majesty's Customs, justice of the peace, constable, or other peace officer, or person aiding or assisting them or any of them in the seizure of any ship, vessel, boat, net, seines, or other fishing-craft or tackle, or of any bait, timber, brushwood, goods, chattels, money, or effects or other thing whatsoever, shall be sued or prosecuted for anything done under and by virtue of the powers and authority of this Act, he may plead the general issue and give this Act and the special matter in evidence; and if in such suit the plaintiff shall be nonsuited, or judgment be given against him, the defendant shall recover double costs; and in case any information shall be commenced and brought to trial on account of the seizure of any ship, vessel, boat, net, seine, craft, tackle, bait, timber, brushwood, goods, chattels, money, or effects whatsoever, as seized or forfeited under this Act wherein judgment shall be given for the claimant, and it shall appear to the court or justices before whom the same shall be tried, that there was a probable cause of seizure, the court or justices shall certify on the record that there was a probable cause of seizing the same, and in such case the defendant shall not be entitled to any costs whatsoever; nor shall the person who seized, or those acting in his aid, be liable to any action or prosecution on account of such seizure;

Seizing officers prosecuted for anything done under this Act may plead the general issue.

Judge may certify probable cause of seizure.

and in case any action or prosecution shall be commenced and brought to trial against any person whatsoever, on account of any such seizure as aforesaid, and whether the cause of such seizure shall have been heard and determined or not, if the court before whom such action shall be brought shall certify as aforesaid that there was a probable cause for such seizure, then the plaintiffs (besides the ship, vessel, boat, or other thing seized, or the value thereof when the same shall not have been restored) shall not be entitled to more than one shilling damages, nor to any costs of suit.

Inclosure 13 in No. 49.

Colonial Statute (New Brunswick) 58 Geo. III, cap. 2.

An Act to prevent the destruction of the Cod and Scale Fisheries in the Bays and Harbours of this Province. (Passed March 11, 1818.)

Preamble.

WHEREAS the valuable and extensive cod and scale fisheries of Grand Manan, and other parts of this province, have been greatly injured by throwing into the sea the heads and other offal of such fish; for the prevention thereof,—

Persons throwing any heads, bones, or offal of fish in places where fish are usually taken to pay a fine not less than 10s. nor more than £5.

Recovery.

For want of goods offender to be committed to gaol.

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, that from and after the passing of this Act, any person or persons who shall throw on or about the coasts of Grand Manan, or into any other bay or harbour of this province, at such place or places where such cod or scale fish are usually taken from or out of any boat, barque or vessel, any heads, bones, or other offal of the fish they may take, purchase, or bring from elsewhere, every person so offending shall forfeit or pay a fine not less than ten shillings and not exceeding five pounds, with costs, to be paid to the informer upon due conviction thereof, by the oath of one or more credible witness or witnesses, before any one of His Majesty's justices of the peace for the county where or next adjacent to which such offence shall be committed, to be levied by warrant of distress, and sale of the offender's goods and chattels, rendering the overplus, if any, to such offender; and for want of sufficient goods and chattels, the said justice is hereby required to commit such offender to the common gaol of the county wherein or next adjacent to which such offence shall be committed, there to remain for a term not less than three days, nor exceeding twenty days.

Limitation.

II. And be it further enacted, That this Act shall continue and be in force for four years, and thence to the end of the next session of the General Assembly.

(This Act was made perpetual by a subsequent Act passed March 2, 1822.)

No. 50.

The Earl of Malmesbury to Mr. Crampton.

(No. 87.)

Sir,

Foreign Office, September 16, 1852.

I HAVE and laid before the Queen your despatch No. 134, of the 23rd ultimo, in which you report the state of the Fisheries Question, as it stood at that date, and the embarrassment felt by the United States' Government as to the mode in which that question should be further dealt with by them.

In the present position of that question I have little to add to the instructions which I have already addressed to you respecting it. I have, however, specially to instruct you not to hold out in any shape to the United States' Government, the slightest hope that by any act of indulgence analogous to the relaxation granted by Lord Aberdeen in respect to the Bay of Fundy, Her Majesty's Government will be disposed

to admit United States' fishermen to fish within three miles of any part of the coasts of the British Colonies in North America, which is not already opened to them by treaty.

With respect to the question of the assumed right of American fishermen to fish under the provisions, or rather in spite of the provisions of the Fisheries Convention of 1818, on all the coasts of the British North American Provinces, provided they do not approach within three miles of the land, Her Majesty's Government are glad to learn by your despatch, that the views of the American Government appear to have undergone some change on that point, if not with regard to the assumed right itself, at least with regard to the utility which may result to American fishermen from the assertion of that right.

Her Majesty's Government continue to maintain that under the provisions of the Convention of 1818, the United States' Government clearly and distinctly renounced all right on the part of their countrymen to fish within three miles, not only of the coasts of the British Provinces, saving those specially excepted by treaty, but also of the bays, creeks, and harbours of those provinces; and from that view Her Majesty's Government cannot, under any circumstances, depart.

You will not fail to remind the Government of the United States, that all civilized nations in both hemispheres recognize as an undisputed point of international law, the jurisdiction, founded on territorial possession, of every nation over the waters in the immediate vicinity of its own coasts; and that in this respect the rights of Great Britain in no way depend upon, although they are expressly recognized and confirmed by, the Treaty of 1818.

And with reference to the practical adoption of this principle, I have to desire that you will, at an early moment, inform me to what extent the United States' Government assert, at this moment, an exclusive right and power over the large bays of the United States, such as Cape Cod Bay, the Sound (Long Island), Delaware Bay, the Chesapeake Bay, and others of the same description.

If, however, as I have already intimated, the United States' Government should be disposed to enter into a general negotiation for the adjustment of questions, commercial and other, which yet remain to be arranged between the two countries; and if, as an element of adjustment, the United States' Government were to propose the concession of rights undoubtedly belonging to them, against an equal concession of rights undoubtedly belonging to Great Britain, Her Majesty's Government would, in that case, be quite willing to meet them in a liberal and conciliatory spirit, on a wide field of negotiation.

I am, &c.
(Signed) MALMESBURY.

No. 51.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, September 16, 1852.

I AM directed by the Earl of Malmesbury to transmit to you, for the information of Secretary Sir John Pakington, a copy of a despatch* from Her Majesty's Minister at Washington, upon the Fisheries Question; together with a copy of a despatch† which will be sent to Mr. Crampton by to-morrow's mail.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 52.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, September 17, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the accompanying copy of a letter from the Board of Admiralty, forwarding copies of a letter and of its inclosures from Vice-Admiral Sir George Seymour, reporting his proceedings on visiting Prince Edward Island, and relating to the fisheries in the Gulf of St. Lawrence.

Sir John Pakington would suggest for Lord Malmesbury's consideration, whether Commander Campbell's conduct in forbearing, under the circumstances related, to capture the American fishing-vessels who were seen by himself and Commodore Perry fishing within British limits, off Prince Edward Island, should not be approved.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 52.

The Secretary to the Admiralty to Mr. Merivale.

Sir,

Admiralty, September 13, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send to you herewith, for the information of Secretary Sir John Pakington, copies of a letter from Vice-Admiral Sir George Seymour, dated the 31st August, and of its inclosures, reporting his proceedings in visiting Prince Edward Island, and relating to the fisheries in the Gulf of St. Lawrence.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 2 in No. 52.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, August 31, 1852.

I BEG to acquaint you, that deeming it advisable to communicate personally with the Lieutenant-Governor of Prince Edward Island, I proceeded to Charlotte Town by way of Picton, on the 23rd instant, from whence I visited the north part of the island and re-embarked in Her Majesty's steam-sloop "Basilisk" off Richmond Bay, on the 26th, as I was desirous of observing the effect of the "Mississippi's" visit to the fishing-grounds. I did not meet that ship, but Commander Campbell, of the "Devastation," had fallen in with her on the preceding day, when Commodore Perry had found several United States' vessels fishing within three miles of the coast, and had warned them that they were liable to seizure.

2. I inclose a copy of Commander Campbell's report of the circumstances, and have approved of his conduct.

3. I received when in the Gulf a reply to the declaration I had delivered to Commodore Perry on his quitting Halifax, against the interference of the United States' vessels of war with vessels detained for adjudication before a court of Vice-Admiralty for contravention of the Convention of 1818, a copy of which is also inclosed.

4. Their Lordships will observe that although the Commodore's letter contains every assurance of his disposition to unite with me to calm rather than to increase the angry feelings which have arisen on the fisheries (and with which his conduct, so far as has come within my know-

ledge, has been in unison), still the reference to his instructions shows that they would authorize the Commanders of United States' vessels to exercise a judgment as to the detention of the vessels which would cause a collision if persevered in.

5. It appears from the admission made by Commodore Perry, as to his own opinion regarding the headlands which form the Bay of Chaleur and George's Bay at the western end of the Gut of Canso, that if he represents the views of his Government, there is not the wide difference of interpretation respecting the extent of the bays from which the United States' fishermen are excluded, which has existed in the extreme views entertained on either side, of which I furnished their Lordships with an instance in the chart which I inclosed by the last packet, in which the headlands of different islands were supposed to mark the British claims for bays.

6. It is however evident that the establishment of well-understood limits becomes of consequence to our peaceable relations with the United States.

7. The north side of Prince Edward Island swarms with fine schooners under the United States' flag, though I saw none fishing within three miles.

8. I visited Fort Hood in Cape Breton, and communicated there with the "Bermuda" schooner and two Provincial cruizers, and returned to Halifax by Picton on the 28th, leaving the "Devastation" and "Basilisk" in the Gulf with two tenders.

I have, &c.
(Signed) G. F. SEYMOUR.

P.S.—I should acquaint you that the master of the United States' schooner "Golden Rule," which had been detained for infraction of the Convention by the "Telegraph" schooner, supplicated his release from me on my arrival at Charlotte Town, and I did not consider a third example essential for the present, and on consideration of the master having been put to great expense in the repair of his vessel last year in the island, and of his engagement not to repeat the offence, which he acknowledged, I desired Lieutenant Chetwynd not to institute legal proceedings, and to release her.

I inclose the master's petition with Lieutenant Chetwynd's account of her detention.

Inclosure 3 in No. 52.

Commander Campbell to Vice-Admiral Sir G. Seymour.

(Extract.)

Prince Edward Island, August 26, 1852.

HAD made Prince Edward Island fourteen miles to the westward of this point; while standing along shore observed eighteen sail of American fishing-vessels within about two miles of the land, hove-to and apparently fishing. While nearing them, observed the American Commodore coming along shore in the opposite direction.

The distance which the steamers were from each other was very short at this time, as the weather was thick, and when this sloop was within hail of the "Mississippi," the intruders, or those of them that had not stood off were in shore of both vessels; at this time the distance of the "Devastation" from the shore was about $2\frac{1}{2}$ miles.

Commodore Perry in alluding to the fisheries, told me that he was fully aware that the United States' fishermen frequently violated the Treaty, and pointed out what he considered the limits in nearly the same words as he used while speaking to you in my presence on board the "Cumberland." I did not enter upon the subject with him more than I could help, but on his asking me what I considered the sea boundary of the Bay of Chaleur, I told him that I thought from Miscon Point to Point Macquereau, but that I was merely giving my private opinion.

The Commodore then told me that all the fishermen he had seen complained more of the exclusion from Chaleur Bay than any other part

of the Gulf, but that he told them distinctly they could not fish in that bay without clearly violating the Treaty, and that they must take the consequences if they attempted it. He then informed me that the "Telegraph" had detained another vessel called the "Golden Rule," but that it was "quite right," and that he had been told by the other American fishermen, that that vessel was taken fishing within the three miles. The only other remark he made on this head was, that he had been informed that the "Telegraph" was disguised at the time of this capture.

When this conversation was over I called the Commodore's attention to the position of the fishing-vessels immediately inside of his ship, and observed that he himself must see the open violation of the Treaty.

I then remarked that my present duty, always a delicate one, became doubly so while in company with him, but that I felt it incumbent on me to request him to have the terms of the Treaty enforced, by at least obliging the intruding vessels immediately to stand off the land, with a warning not to return to their present position. He immediately ordered the boats to be manned and sent for the officer in my presence, desiring them to visit each vessel and warn her to stand out, and to say that she was violating the Treaty by being so close. I then said that after such orders from him I should not interfere with any vessel while he was in sight.

On returning to the "Devastation" I had the satisfaction to see that every vessel made sail and stood off after being boarded, and none remained within three miles.

The Commodore remarked that he was going to New York immediately, and from thence personally on to Washington, and was prepared to inform the Government that the United States' fishermen had no just ground of complaint, and that considerable forbearance had been shown them.

I neglected to mention that the Commodore remarked that the Treaty excluded his countrymen from fishing in the bay of which Cape St. George and Port Hood are the headlands; but that he is at the same time clearly of opinion that the Treaty by no means provides against their navigating the Gut of Canso.

Inclosure 4 in No. 52.

Commodore Perry to Vice-Admiral Sir G. Seymour.

*"Mississippi," at sea, off the Coast of Nova Scotia,
August 20, 1852.*

Sir,

YOUR communication of yesterday, the receipt of which I now have the honour to acknowledge, did not reach me until the moment of the sailing of the "Mississippi" from Halifax.

It is true that I informed you that I had come into these seas to warn the American fishermen not to encroach upon the limits prescribed by the Convention of 1818, between Great Britain and the United States, as recognized by general interpretation and usage for the last thirty-four years, but I also informed you that I should deem it my duty to protect from visitation or interference, all vessels of the United States that might be found in those waters, the jurisdiction of which, under the Convention, was left in any doubt, and for reasons, as I intimated to you, that according to the representations made to me, there were enough actually trespassing upon the acknowledged jurisdiction of Great Britain, whose seizure would answer all the purpose of salutary admonition and example, without the unnecessary resort to doubtful authority of capture; and I urged the policy of abstaining from such captures, upon the ground of a probable mutual disposition of the two Governments to come to some more definite understanding upon the points at issue.

Up to this time I have heard of no unnecessary exercise of rigour or harshness by the officers under your command; on the contrary, I have every reason to believe that they have in the execution of your instructions exhibited a degree of forbearance, as honourable to themselves as to the enlightened views entertained by yourself upon the question which has recently produced so much discussion.

It is not for me to reply to the second paragraph of your letter, in which you declare against any interference on the part of the naval force of the United States whilst the two countries are at peace, in preventing any vessels charged with infraction of the Convention of 1818 being detained for adjudication before the civil courts, which by the received practice of nations forms the proper tribunal by which the facts can be ascertained, and in the first resort judgment pronounced. My instructions certainly do not authorize any improper interference with the admitted right of seizure and adjudication by Her Majesty's authorities, of American vessels detected in a positive violation of the Convention, but such as these instructions are, my duty is to obey them. Yet I am free to repeat in this formal manner, the assurances made to you personally, that whilst they enjoin the most careful watchfulness over the just rights and interests of the American fishermen, they hold forth the strongest solicitude of the President to adhere most faithfully to all the stipulations of the Treaty.

In conclusion, permit me to thank you for the courteous manner in which you have met my personal communications, and to assure you that I duly appreciate and cordially reciprocate those motives which should prompt us both so to administer the duties respectively entrusted to our direction, as to calm rather than provoke the excited feelings which seem to have grown out of this vexed question of the fisheries, and which I trust may soon be amicably disposed of, and in a way alike honourable to the two nations.

I have, &c.
(Signed) M. C. PERRY.

Inclosure 5 in No. 52.

Petition of Israel Bartlett.

To his Excellency Vice-Admiral Sir George Seymour, &c.

The petition of Israel M. Bartlett, Master of the schooner "Golden Rule," of Gloucester, Massachusetts, in the United States,

Most humbly sheweth,

THAT your petitioner has for several years past been engaged in prosecuting the fisheries in and about the Gulf of St. Lawrence, in common with many of his countrymen, and he was induced again to visit this coast in the prosecution of his calling, this spring.

That on Wednesday morning last, when off Cape Kildare, in this island, the schooner under his charge was boarded by an officer and boat's crew belonging to the Government schooner "Telegraph," and was seized and brought into this port for a violation of the Fishing Convention subsisting between the British Government and the Government of the United States.

That your petitioner has no doubt that the said schooner "Golden Rule" was within three miles of the coast of the island when so taken, and cannot impute blame to the officers by whom he was so taken, or charge them with anything like severity in the execution of their orders.

But from the known clemency and high character of your Excellency, your petitioner is humbly led to hope that in the discharge of your high commission you will rather exemplify the lustre and dignity of the British Crown by the exercise of mercy, than the rigid exaction of justice towards your humble petitioner.

That by the unfortunate storm of last October, his vessel was driven ashore, and in getting her off and refitting her, he sustained a loss of \$1500.

That the only property which your petitioner now owns in the world is his interest in the said vessel, and if called on to surrender her he must surrender his all, and thereby entail destitution upon his family.

May it please your Excellency to take this humble petition into merciful consideration, and cause such order and direction to be given regarding this your petitioner's case, as will have the effect of restoring to your petitioner his vessel, and if such should be the fortunate result of this

application to your Excellency, your petitioner can assure your Excellency that in future he will not be found in any manner infringing a Treaty which your petitioner admits should be honourably and strictly regarded; and as in duty bound, your petitioner will ever pray, &c.

(Signed) ISRAEL M. BARTLETT.

Charlotte Town, August 23, 1852.

Inclosure 6 in No. 52.

Lieutenant the Hon. W. Chetwynd to Vice-Admiral Sir G. Seymour.

Sir,

"Telegraph," Charlotte Town, August 20, Saturday.

I HAVE the honour to acquaint you that on the morning of the 18th instant, about quarter-past eight, whilst standing off and on the land between Leguith River and Cape Kildare, watching a fleet of about 30 American vessels that were fishing between four and eight miles from the shore, an American vessel stood in for the land, passing about 150 yards astern of the "Telegraph," tacked and stood along the shore, not knowing whether she was standing down the coast or going to fish. I made sail in company with her, being about a quarter of a mile broad upon her lee bow. After standing on nearly a mile she hove-to and commenced fishing. I immediately tacked and stood towards her, and on rounding to close under the stern, saw her crew fishing. I then hove-to and sent Mr. Sutton (mate) to board her; he found her to be the "Golden Rule," of Gloucester, United States; ten men, one boy, 94 tons. Mr. Sutton immediately anchored her; I anchored also, about 50 yards further in shore than the "Golden Rule," and took the following bearings—Cape Kildare south-west quarter west, Leguith R. C. Church north-north-west, and sounded in six fathoms. The bearings taken by Mr. Sutton on board the "Golden Rule" were Leguith Church north by west, Cape Kildare west by south half-south, and sounded in six and a half fathoms.

There being so much difference in the bearings taken on board the two vessels, I sent Mr. H. O'Brien (pilot) on board, to acquaint Mr. Sutton of it and to take them again. They found that there was a difference of one point between his compasses, when Mr. O'Brien said to the master, "I will take the bearings by the compass you say is correct;" pointing one out, he replied, "that is the one I steer by, and I think it is correct." They took the bearings again, and found them to be, Siquish Church, north by west $\frac{1}{2}$ west, and C. Kildare west by south $\frac{1}{2}$ south, in six and a half fathoms, which would have made her rather closer, not in six fathoms water and a mile and a quarter from the "Telegraph," whereas she was not more than 30 yards to the south-east.

Knowing that the direction of my own compasses, and the pilot, two seamen, and myself, having taken the bearings, I have no hesitation in saying those taken on board the "Telegraph" were correct. This being such a flagrant case of wilful infraction of the Treaty, I detained her, and having placed Mr. Sutton and nine men on board, I repaired to this place, where I arrived about 8 o'clock this morning.

Two other American vessels that I presume stood in for the same purpose just after the "Golden Rule," upon observing the "Telegraph," stood out again.

I am, &c.

(Signed) WM. CHETWYND.

No. 53.

Mr. Crampton to the Earl of Malmesbury.—(Received September 21.)

(No. 141. Confidential.)

My Lord,

Washington, September 6, 1852.

MR. WEBSTER called upon me on the evening of the 31st ultimo, and said that Congress having now separated, after a fatiguing session of nine months, he felt so exhausted by the various duties which he had been called upon to perform, and so much affected in his health, as to render it

absolutely necessary for him to leave Washington and proceed to the North, with the intention of remaining there until he had recruited his strength, and until the heat of the weather had somewhat abated. Before setting out, however, he desired to have some conversation with me upon the subject of the fisheries, and to throw out some suggestions as to the best way by which this matter might be satisfactorily arranged. He premised, however, that I was to consider what he was about to say as unofficial, as he had not even communicated with the President on the subject.

He was about to address an official note to Her Majesty's Legation with regard to this matter, in which he would enter into it historically; and he was now collecting all the information he could obtain on the subject, which he intended to make the object of a thorough study; he would, however, now throw out such ideas as had occurred to him for the temporary arrangement of the difficulty which had caused so much excitement in the United States, with a view of avoiding the occurrence of collision between the citizens of the United States and the British authorities.

In the note which he proposed to write, he thought he could support by sound argument, two positions: the one, that Lord Bathurst had not taken a correct view of the Treaty of 1783, in his correspondence with Mr. John Quincy Adams, which led to the Convention of 1818; the other, that the application made by the Colonies, of the Convention of 1818, as regarded the definition of the word "bays" in that Convention, in which definition they included the great Bays of Fundy, Chaleurs, &c. was very doubtful. With regard to the distance of three marine miles from the shore, within which the right of fishing had been renounced by the United States, Mr. Webster remarked, there never had been, nor, in his mind, could there be, the least doubt of the waters within that limit being part and parcel of the British Dominions, as much as the shore itself; and that whatever rights the United States had within three miles of the shore must depend upon the Convention of 1818.

Mr. Webster then proceeded to say that it was certainly matter of fact, that although seizures had been made of American vessels fishing within those limits, nevertheless, either through indulgence, or from whatever cause, great numbers of them had been in the habit, for many years, of resorting to British waters and taking great quantities of fish, so much so, that a very important interest had grown up in the United States dependent upon the successful prosecution of those fisheries. Capital was invested in the business; great numbers of vessels and men were employed in it; and whatever might be the question of right, it must be admitted that it was natural that the sudden interruption of this occupation, at the beginning of the season, when all the necessary preparations for fishing were already made, should have excited discontent in a large class of the population who were mainly dependent upon it for their support. It was, therefore, Mr. Webster observed, that he felt great regret that a longer notice had not been given by Her Majesty's Government, of the more stringent measures for the protection of the fisheries in the Gulf of St. Lawrence; which, it was said, had lately been adopted.

Many circumstances tended to show that the fisheries in question had been long carried on, so to say, in common, by the citizens and subjects of both nations. It was very well known that great numbers of Nova Scotians were employed on board American fishing-vessels which resorted to those waters; that several hundred of those vessels were actually commanded by Nova Scotians; that thus, while this was done in violation of the American law, on the one hand, these vessels, under American colours, encroached upon British waters in violation of British law, on the other. The two populations, therefore, appeared to have a common interest in this pursuit; but it would no doubt be desirable that it should be carried on by both, legally and harmoniously, under an amicable and satisfactory arrangement of their respective rights between their two Governments. He thought that there were circumstances which tended to show that such an arrangement might without much difficulty be made; and that even were American fishermen to be permitted to avail themselves of the mackerel fishery by carrying that fishery on within

three miles of the shore during the short season when it is necessary for them to resort there for such purpose, there were circumstances which would seem to place both parties pretty near upon an equality. In the first place, the quantity of British-caught fish consumed in the market of the United States is very considerable, and is admitted on what he conceives to be a moderate duty (of 20 per cent). The herring fishery commences too early in the season to be partaken of, under any circumstances, by American fishermen. The Colonists have also the advantage of being upon the spot, while the Americans are obliged to perform a tedious voyage, usually during very bad weather, both in going to and coming from the fishing-grounds. As they cannot resort thither until the ice is broken up, and as they are obliged to retire from thence at the first prospect of its re-formation, they thus lose a considerable portion both of the early and of the late fishing. Another advantage which the Nova Scotians enjoyed was the less cost of their vessels and the cheaper rate of labour.

These advantages on the side of the Colonists, in Mr. Webster's opinion, pretty nearly counterbalance the duty levied on British-caught fish in the United States, and would, he thinks, prevent the possibility of any permanent injury being inflicted on the British fishing interest, by a participation on the part of the Americans, in the close fisheries of the Bays of Chaleurs and of Fundy.

With regard to the question of reciprocal trade between the British North American Colonies generally and the United States, Mr. Webster said that he was in favour of the measure, and that he would do all he possibly could to promote it. A Report had been made and a Bill prepared for this purpose by the Chairman of the Committee of Commerce in the House of Representatives; but that gentleman, in view of the excitement now prevailing on the subject of the fisheries, had not thought that it would be conducive to the success of the object in view now to communicate his Bill to Congress. The Report would, however, Mr. Webster hoped, be shortly made public; and even if the Bill in question was not found in every respect well adapted to the purpose intended, the publication of the considerations upon which it was founded would tend to remove prejudice, and clear the way for the adoption by the Government of the United States, of a measure to be submitted to Congress, on its re-assembling in December next, of a more practical character. To the consideration of such a measure, Mr. Webster would, during his absence from Washington, give his best attention; and, on his return to the seat of Government, so soon as his health and the season permit, he would be prepared to confer with me upon the subject, and submit it to the consideration of the President.

He could not but feel anxious, however, that the measures adopted by Her Majesty's Government should, during the present month, be carried into execution in a manner so lenient as to prevent the occurrence of any collision or difficulty with respect to the fisheries. The season for the mackerel fishing was about to commence, and he feared that it would be found difficult to restrain the American fishermen who had already fitted out their vessels for that purpose, from attempting to engage in it; and he requested me to impress as much as I could upon the Admiral commanding on the North American station, and upon the Colonial authorities, the importance of avoiding as much as possible giving cause for further irritation in regard to this question.

Mr. Webster concluded by saying that a vast majority of the vessels in the fishery interests in the United States was held by citizens of Massachusetts; that as soon as he reached Boston, he should convene some of the leading gentlemen concerned in that branch of business, and urge upon them the propriety of giving such instructions to the masters of their vessels as should be calculated to prevent collision.

Mr. Webster in the course of our conversation inquired whether I would feel myself authorized to suggest to Sir George Seymour to abstain for the present from seizing American fishing-vessels, "even within three miles from the shore;" and asked me whether I thought that vessels so fishing would actually be seized. I replied, that the right of British

fishermen appeared to be so clear, with regard to the fisheries within three miles of the shore, that I was convinced that it would be enforced by Sir George Seymour strictly, though with temper and moderation, and that I did not feel myself authorized to suggest to him any departure from his instructions in this respect.

I am clearly of opinion, indeed, that even with the view of avoiding collision between our authorities and the American fishermen, it is desirable that such an intimation should be distinctly made. Any doubt on this point would induce a great number of vessels to continue their usual encroachments, which would otherwise be deterred from so doing; and thus, unless we were totally to abandon our rights, increase the chances of collision. With a view to the ultimate arrangement of the question also, it is clear that proper firmness on this point is very essential: were it once admitted that we could not, or would not, guard our fisheries to the extent, at least, of seriously interfering with the operations of those who have been in the habit of encroaching upon them, every motive would be taken away from the American people for coming to a fair and amicable arrangement of the matter.

I am informed that a salutary effect has already been produced by our measures, and that a great number of American fishing-vessels have already returned to Massachusetts, whose masters declare that the pursuit must be abandoned as unprofitable and uncertain, unless the close fishing is opened to them on a fair and legal footing.

With regard to the suggestions thrown out by Mr. Webster, for placing the American and Nova Scotian fishermen on a footing of equality, I need scarcely observe that no mention is made of any equivalent to the latter for the cession of the advantages which they are asked to concede; which advantages evidently appertain to them as a natural right, resulting from the legal jurisdiction of Great Britain over the seas adjoining the shores of the country which they inhabit.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 54.

Mr. Crampton to the Earl of Malmesbury.—(Received September 21.)

(Private.)

My dear Lord,

Washington, September 6, 1852.

I HAVE received your Lordship's private letter of the 19th ultimo, and I need not say that it is extremely gratifying to me to learn that Her Majesty's Ministers have approved of the course I have pursued in regard to the Fisheries Question.

Mr. Webster is gone to Marshfield for his health; and the President is also gone out of town for a day or two, but so soon as he returns, I will make known to him Lord Derby's opinion, that it would be desirable to conduct the negotiations regarding the fisheries in London; and also discuss, as fully as possible, with him, the whole question, with a view of ascertaining definitively, whether the present Administration of the United States really means to do anything in the whole matter of reciprocal trade between the United States and the Colonies, including the fisheries; or whether they would wish to settle the Fishery Question alone, and if so, what terms they are prepared to offer.

I am enabled to do this the better at present, from the President's being now much better informed upon the subject, in all its bearings, than he has hitherto been. His frank avowal that he had not sufficiently examined it, and his evident want of information in regard to it, had indeed more than once prevented me from being able to discuss the matter with him in such a manner as to lead to any definite conclusion. He, on several occasions, requested me to supply him with information of a practical and statistical nature in regard to our fisheries, and this the presence at Washington of Mr. Perley, of New Brunswick, has enabled me to do in the most satisfactory manner. Mr. Perley's reports, and the maps which

he has constructed, illustrate the matter completely ; and the information which he has given, both to Mr. Webster and to the President, as well as to many leading members of Congress, has very much tended to produce a more reasonable feeling upon the whole question, and to prevent the adoption of some false steps which the American Government and Congress were more than once inclined to take in regard to it.

I may, indeed, observe generally, that in regard to the Reciprocity Question and the Fishery Question, that the great obstacles I have had to contend with have been a very general apathy and ignorance which have generally prevailed with regard to the great importance of the interests concerned, except, of course, in the localities immediately interested, where the views entertained on the matter are, as might be expected, very narrow and confined. My chief reliance that anything will now be done rests on the fact that the general attention of the country has at length been roused. The interests of certain Massachusetts fishermen were not in themselves sufficient to induce the South and West to act; indeed the jealousy felt by those sections of the Union of the "Yankees," was rather likely to have the contrary effect; but the notion that a collision and rupture with England might grow out of the matter, has presented it in a very different light, and one which, whatever may be the language of orators and newspapers, creates a very serious and disagreeable alarm among the great commercial and landed interests in this country.

With regard to what Mr. Lawrence stated to your Lordship and Sir John Pakington, as to Mr. Webster's having made his manifesto about the fisheries with a view of going to London to settle a Treaty, I think I can assure your Lordship that Mr. Lawrence was misinformed as to this matter. Mr. Webster might, no doubt, have taken the Mission to England at any time he pleased, and it was thought by some persons that he would do so immediately after the Baltimore Convention. I know, however, from the best source, that he had made up his mind not to go to England, long before the Fishery Question arose. It was, no doubt, said by many people at Boston, that the manifesto was made with the intent Mr. Lawrence supposes; but I have good reason to think that Mr. Webster's chief motive, or rather feeling, in making it, arose from other motives connected with his own political position in regard to the Presidential election. Great mortification has been felt by Mr. Webster, and great indignation by his adherents, at what they thought the treachery and defection of many of the Webster delegates at the Baltimore Convention, so much so, that Mr. Webster's friends, both in the North and South, determined to reject the decision of that Convention, and get up a separate organization to run Mr. Webster as an independent candidate. They were, at the time of the manifesto, at work at this, and still are so; and whether Mr. Webster avails himself of their efforts or not, he is evidently much pleased at the feeling which has been called forth. He would have little or no chance of success, it is true; but his being brought forward as a candidate would ensure General Scott's defeat; and he has observed an ominous silence as to whether he will accept the nomination or not.

In this state of things, it is easy to understand that he would not like to damp the ardour of his Massachusetts friends, by any appearance of lukewarmness about their fishing interests. There is also this consideration, which is continually acted upon by the most conservative of the statesmen of this country, namely, that in order to conduct public feeling into safer channels afterwards, it is necessary to run with it at first. Men in Mr. Webster's position feel that if they hang back, the ground will be immediately taken possession of by demagogues, who neither could, nor perhaps would, desire to calm the waves they had excited. The practice is, no doubt, neither very safe nor very creditable, but it is continually adopted. Mr. Webster's violent speech about Kossuth is an instance. It "killed off" Kossuth, as they say here; for the Democrats, finding that they were out-talked about him by the great Whig leader (and nothing more than talk was intended by either party), saw that nothing further was to be made out of Kossuth as a democratic electioneering cry, to gain the German and foreign votes, and consequently dropped him.

With respect to the arrangement of the Fishery Question, I shall be better able to judge of our prospects of settling it, when I shall have received your Lordship's instructions by next packet, and spoken to the President. In the meantime, for the better comprehension of the present position of the question, as I view it, I would recapitulate shortly what has taken place since it was first proposed to make the fisheries a subject of negotiation, and state as far as I am able to judge, the present circumstances of the question.

In 1847,* in consequence of a petition to that effect to the Queen by the Canadian Parliament, Her Majesty's Legation here proposed to the United States' Government to establish a reciprocal free trade between Canada and the United States in certain "natural productions"—wheat, timber, minerals, cattle, &c., being the principal articles.†

Mr. Walker, at that time Secretary of the Treasury, was in favour of the measure, and as the best way of effecting the object in view, proposed that a Bill taking off the duties on the articles in question imported from Canada should be submitted to Congress, it being provided that the provisions of such Bill should come into force so soon as the Canadian Parliament had, on their side, passed a similar Bill regarding the same articles imported into Canada from the United States.

The Bill was accordingly introduced into the House of Representatives, and passed without debate. It went up to the Senate, but failed, not by opposition, but from delay principally caused by the illness of Mr. Dix, the Senator, who had charge of the Bill, who, however, made a very able speech on the subject.

In 1849‡ the Bill was again brought into the Senate; but on this occasion, from an opposition having been got up against it by the Protectionist party, on the one hand, and by the Southern, on the other, who were then very bitter against the North on the subject of Slavery, and who opposed the Reciprocity Bill without examination, on no other ground than because it was a "Northern" measure. The Bill, however, was not defeated in debate, but got rid of by delay, as on the previous occasion.

Her Majesty's Legation then applied to General Taylor's Administration, which had just come into power, to know whether they would settle this matter by negotiation as a treaty, or whether they would give it their cordial support as a Bill in the next Congress.§

Mr. Clayton, the new Secretary of State, after some delay, replied to me (then Chargé d'Affaires), that the United States' Government did not think it, on constitutional grounds, a matter for negotiation, and also declined, upon grounds of commercial policy, to support the Bill in Congress. Mr. Clayton, however, added, in conversation with me, and by private note to Mr. Merritt, of Canada, that the United States' Government would, nevertheless, not be indisposed to entertain the question of a general commercial arrangement on the basis of reciprocity, in which all the British North American Colonies should be included, with the *sine quâ non*, however, that the reserved right of fishing secured to the Colonies should be included in the cessions on their side; and Mr. Clayton offered to enter into negotiations with me on this basis, if I felt myself empowered to do so.

Being without any knowledge either of the determination of Her Majesty's Government, or of the wishes of the Colonies possessing the fisheries, I could of course only refer the matter home. It was taken into consideration by Her Majesty's Government; the Colonies interested in the fisheries were consulted, and an instruction drawn up and addressed to Sir Henry Bulwer, then about to proceed to his post, dated the 1st of November, 1849, No. 3, by which he was authorized to enter into a negotiation, by which the exclusive right of the fisheries was to be ceded to the United States by the Colonies (except Newfoundland, which objected to yield its

* See Mr. Pakenham's No. 66 of 1847 and Mr. Crampton's No. 55 of 1848.

† Vide Bill passed by Canada Parliament in anticipation of the American Bill.

‡ Vide Mr. Crampton's No. 26 of 1849.

§ See Mr. Crampton's note to Mr. Clayton, March 22, 1849, in Mr. Crampton's No. 33 of 1849

fisheries on any terms), with certain restrictions, in exchange for reciprocity of trade with the United States in all natural productions, as well as fish, that is to say, wheat, timber, &c. It was to be intimated, that in case this arrangement was made, the navigation of the St. Lawrence would be opened to the Americans, subject, however, to a power of withdrawal of that privilege on political grounds, of which the British Government was to be the sole judge.

Such is the outline of the proposal made to the United States by Sir Henry Bulwer, and which, as it has never been withdrawn, is, I presume, still supposed to exist. The terms were favourably received by the United States' Government, but some delay occurred in consequence of the death of General Taylor in July 1850, and the consequent change of Administration.

When the subject was again taken into consideration, the same difficulty again presented itself to the United States' Government, as to whether the measure could be better carried by legislation or by treaty. The President doubting whether it was a proper subject for negotiation, it was at last determined to bring a Bill on the subject into Congress. This was done in 1850; and, as Sir Henry Bulwer's despatches inform Her Majesty's Government, the Bill again failed. Sir Henry again pressed the United States' Government to settle the matter. After considerable delay the President again declined negotiation, but promised to recommend the subject to the consideration of Congress at the opening of the ensuing session. This promise he fulfilled, as will be seen by reference to his message in December last, at the opening of the session now just closed. Nothing, however, has been done by Congress on the subject, except the drawing up of a Report and draft of a Bill by the Chairman of the Committee of Commerce, which Report and Bill, however, he has not thought it would be conducive to the success of the measure to present. The excitement in regard to the fisheries came at a time which increased our difficulties; but the country, I think, desires the settlement of the question, and is now alive to its importance.

Such is the position of affairs; and in view of the excitement which, however causelessly, has been raised in regard to the measures adopted by Her Majesty's Government for the better protection of the British fisheries, and the danger which might arise from the strict execution of these measures, however just, it of course becomes a question as to whether it would or would not be desirable, or possible, to arrange the question of the fisheries at once, and independently of the question of reciprocity of trade, with which it was first connected.

That such an independent and immediate settlement would be desirable, could the subject be separately dealt with, cannot, I think, be doubted; but there appear to me, I confess, to be some very grave objections, as well as practical difficulties, in the way of such a course. Among these I should place, first, the difficulty of finding any equivalent, other than reciprocity of trade, which the United States could grant the colonies principally interested in the fisheries, which could at all satisfy them for the relinquishment of what they naturally regard as their principal staple interest. Secondly, the discontent which would be felt by the colonies less, or not at all, interested in the fisheries, as Lower and Upper Canada, at the abandonment to the United States of the chief inducement which could be held out to them to grant that reciprocity in other articles which they are all so desirous to obtain.

Your Lordship will observe by my despatch to-day, No. 141, that Mr. Webster seems to take ground that the duty of 20 per cent. on British-caught fish ought to be maintained; and with respect to the long voyage to California, even were it to be granted by the United States, it would not, I think, be considered as an adequate equivalent by the Colonies. But I very much fear that there is an objection to the voyage to California ever being made other than a coasting-trade, which it will be very difficult to get over, namely, the provision of the Constitution of the United States, by which it is stipulated (Article I, section 9), "That no preference shall be given by any regulations of commerce or revenue, to

the ports of one State over those of another; nor shall vessels bound to or from one State, be obliged to enter, clear, or pay duties in another." Now, California being a State and not a colony, Congress would not have the power to make the conditions of navigation from that State to any other State different from those which exist between all the States. When the Constitution was drawn up it was no doubt not contemplated that a State on the Pacific would so soon, if ever, make its appearance; but without a revision of that instrument, the legal objection could not be got of; such at least is the opinion of the most eminent constitutional lawyers here. The allowing of American merchants to take out American registers for British-built ships might perhaps be more to the purpose, as it would do away with the inequality in the prices of fishing-vessels alluded to by Mr. Webster, as an advantage possessed by the colonists over the American fishermen; and it would be a great advantage to Nova Scotia, New Brunswick, and Prince Edward Island, as all the vessels used by the Americans would probably be built in those colonies.

It would seem, therefore, difficult to separate the arrangement of the question of the fisheries from that of a general reciprocity of trade in natural productions. I have consequently hitherto pressed the settlement of the latter question upon the United States' Government, and I have great hopes that they will ultimately adopt this course. The more the subject is examined the more apparent become the advantages which the United States would derive, in at least an equal degree with the Colonies, from the measure. A very elaborate report, which is now printing, drawn up by Mr. Andrews, the United States' Consul in New Brunswick, cannot fail to carry conviction to every one, of the great importance to the United States, of their commerce with the North American Colonies, and the immense development of it which would result from a more free interchange of products.

The considerations which have hitherto rendered the present Administration slow to enter into negotiation on the subject of reciprocity have been: first, the objection felt to the measure by that part of the Whig party which object to it as one of free trade, which might lead to a further extension of that principle. I would here remark, confidentially, that I believe Mr. Lawrence to be one of those who entertain this opinion, and that he would consequently be found rather to advocate a separate settlement of the fishery question. The other objection is one held on the ground that a subject embracing a change of the Revenue Laws is one which could not, in accordance with constitutional principles, be settled by the Executive through a treaty with a foreign Power. This objection is I believe strongly felt by the present President. I think, however, that the plan which Mr. Webster himself has suggested would get rid of this difficulty; namely, that all the arrangements should be made between the two Governments in the first instance, leaving their execution contingent on the passing by Congress of such a Bill as may be necessary to adapt the Revenue Laws to the stipulations agreed upon. As part of these stipulations would necessarily be of such a nature as only to be satisfactorily settled by treaty engagements, such as the cession of the free navigation of the St. Lawrence, while others regard a change in the rates of duties, no exception could be taken to this course, either by the Legislative or the Executive Branch of the Government, each of which would have exercised the functions assigned to it by the Constitution.

The Democratic party are, as matters now stand, very sanguine as to the success of their candidate at the next Presidential election, and it has been intimated to me very clearly, that they would be anxious to take the credit of settling this whole question so soon as they may get possession of office. This is, I believe, well known to Mr. Webster, and I have great hopes that this consideration may impel him to decisive action in the matter, as it is clear that he would be anxious to wind up his official career by an act of great importance to the country generally, and one in which the interests of his own immediate neighbours and adherents in Massachusetts are deeply involved.

Commodore Perry is returned with the "Mississippi" from the fishing-

grounds, and his report is, I understand, entirely satisfactory as to the conciliatory and friendly conduct of Sir George Seymour and the officers under his command, in the execution of the delicate duties confided to them. The United States have now no vessel of war in those seas, nor does it appear that they have any immediate intention of sending any. The two vessels mentioned in the newspapers as fitting out for the fisheries, are intended, the one for the Mediterranean, and the other for the Pacific, and are now under orders to proceed to those seas.

I have to claim your Lordship's indulgence for so long and, I fear, tedious a letter. I hope, however, that it may, in some sort, be useful by saving the reference to a great number of despatches and other documents in regard to this subject.

Believe me, &c.
(Signed) JOHN F. CRAMPTON.

No. 55.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, September 21, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a letter from the Board of Admiralty, inclosing the copy of a letter from Vice-Admiral Sir George Seymour, acknowledging the receipt of the instructions of Her Majesty's Government respecting the fisheries in North America, a draft of which accompanied the letter addressed to you from this department on the 21st ultimo.

I have, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 55.

The Secretary to the Admiralty to Mr. Merivale.

Sir,

Admiralty, September 13, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Secretary Sir John Pakington, a copy of a letter from Vice-Admiral Sir George Seymour, dated the 1st instant, acknowledging the receipt of orders relative to the North American fisheries.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 2 in No. 55.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax September 1, 1852.

I HAVE the honour to acknowledge the receipt of the order of the Lords Commissioners of the Admiralty, dated 20th ultimo, inclosing a letter from Sir John Pakington, Principal Secretary of State for the Colonies, explaining the views of Her Majesty's Government with regard to certain points connected with the British fisheries in North America, in which I had requested instruction.

It may be satisfactory to state that the principles laid down by Her Majesty's Government have governed the orders which I have issued to Her Majesty's ships in all proceedings connected with the protection of those fisheries, and I have invariably inculcated the necessity of avoiding

any harsh or unnecessary measures in the execution of their required duties, and to avoid interference with the ships of foreign Powers, unless in clear undoubted violation of the Treaties.

I have, &c.
(Signed) G. F. SEYMOUR.

No. 56.

Mr. Merivale to Mr. Addington.

(Confidential.)

Sir,

Downing Street, September 22, 1852.

WITH reference to your letter of the 11th and to Mr. Elliot's reply of the 19th ultimo, I am directed by Secretary Sir J. Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Lieutenant-Governor of Nova Scotia, relative to the publication in Colonial newspapers, of the official correspondence of Her Majesty's Government on the subject of the Newfoundland fisheries.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 56.

Sir Gaspard Le Marchant to Sir J. Pakington.

(Confidential.)

Sir,

*Government House, Halifax, Nova Scotia,
September 1, 1852.*

I HAVE the honour to acknowledge the receipt of your despatch marked confidential, bearing date the 11th ultimo, and in reply thereto I beg to acquaint you, that as the official letter of the Admiral commanding on the North American station, addressed to me at St. John's, contained certain queries relative to the hiring of vessels for the protection of the North American fisheries, that could only be replied to by communicating with the merchants in the island, I caused the despatch to be forwarded to the Chamber of Commerce of St. John's, and the document must, through that channel, have been made publicly known.

I also must observe, that I considered the despatch as an answer, in some degree, from the Home Government to the numerous representations made from time to time, both by the Chamber of Commerce as also by the two branches of the local Legislature, on the inadequacy of the naval force employed in the protection of the fisheries on the coasts of Newfoundland and Labrador; and I may add, that the declaration contained in that despatch was hailed with the greatest satisfaction by all classes throughout the island.

Had, however, any desire been expressed, or even wish hinted at, that the letter was to be treated as a private and confidential communication, I need not assure you that the same would have been guarded with the greatest secrecy and care; and I must regret that the publication of the document in this inadvertent manner should have caused either inconvenience or embarrassment to Her Majesty's Government.

I have, &c.
(Signed) J. GASPARD LE MARCHANT.

No. 57.

Mr. Merivale to Mr. Addington.

Sir, *Downing Street, September 22, 1852.*
 WITH reference to my letter of this date, forwarding the copy of a confidential despatch from Sir Gaspard Le Marchant, respecting the publication in a Colonial newspaper, of the letter on the subject of the fisheries which was addressed to him by Vice-Admiral Sir George Seymour, on the 24th June last; I am directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a letter from Sir George Seymour, which has been forwarded to this Department by the Board of Admiralty.

I am, &c.
 (Signed) HERMAN MERIVALE.

Inclosure in No. 57.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty

(Confidential.)

Sir, *"Cumberland," Halifax, September 1, 1852.*

IN reply to your letter of the 12th ultimo, forwarding a letter from Sir John Pakington, Her Majesty's Secretary of State for Colonial Affairs, in which a copy of the "Times" newspaper was inclosed, containing a letter I had addressed to Sir Gaspard Le Marchant, Governor of Newfoundland, on the 24th June, relative to the increased means which Her Majesty's Government had directed to be applied to the protection of the fisheries; I beg to acquaint you, for the information of the Lords Commissioners of the Admiralty, that I addressed that letter to the Governor of Newfoundland in compliance with my instructions to communicate with the Governors of the colonies on subjects relative to Her Majesty's service, and for his information in regard to the co-operation I knew him to be desirous to afford.

I saw the letter some time afterwards in the Halifax "British North American" of 7th July, in which it appears to have been taken from the St. John's papers.

I in consequence ascertained the circumstances from Sir G. Le Marchant, who has informed me that he read the letter in question to the gentlemen who form the Chamber of Commerce of St. John's, Newfoundland, as bearing upon their interests, and I conclude it became public at St. John's, in consequence.

The publication occasioned me much regret. I do not recollect the word "Confidential" to have been placed upon the letter, but it was intended solely for the Governor's own information, and related to circumstances affecting the arrangements I was directed to make.

I have, &c.
 (Signed) G. F. SEYMOUR.

No. 58.

The Earl of Malmesbury to Mr. Crampton.

(No. 90.)

Sir, *Foreign Office, September 24, 1852.*

IN your despatch No. 140, you state that Mr. Webster had allowed you to peruse the reports made to the United States' Government by Mr. Abbott Lawrence, of a conversation which he had held with me and Sir John Pakington upon the Fishery Question.

It appears therefrom that Mr. Lawrence was under the impression

that I had informed him that no seizures would be made of American vessels trespassing on British fisheries, beyond three miles from the shore; and that he had reason to hope that you would be instructed to advise the Colonial authorities and the Commanders of Her Majesty's ships not to make any seizures whatever during the present fishing season, in order that American fishermen might "make up their fares," by fishing close in shore during the two ensuing months.

As Mr. Lawrence appears to have totally misunderstood the tenor of my observations, it is necessary that I should inform you that I did not say that seizures would not be made beyond the three-mile distance of the shore within bays; but I said that the President of the United States had proposed to you that Her Majesty's ships should abstain from making such seizures. Moreover, no mention was made, either by Mr. Lawrence, Sir John Pakington, or myself, of permission to American fishermen to "make up their fares," by fishing close in shore during two months. On the contrary, I repeatedly remarked that the intimation given by Her Majesty's Government to the United States left everything as to rights and instructions to Commanders, in *statu quo*; that Her Majesty's Government claimed no new right, and laid down no new principle, nor did they abrogate any previous relaxation; that the British proceeding was in fact one merely of police; but that we had specially enjoined upon Her Majesty's Officers forbearance and judgment in the execution of their instructions.

You will take an opportunity of pointing out to Mr. Webster the misconceptions into which Mr. Lawrence has fallen with regard to the tenor and intent of my observations on the occasion in question.

I am, &c.

(Signed) MALMESBURY.

No. 59.

The Law Officers of the Crown to the Earl of Malmesbury.

My Lord,

Doctors' Commons, September 25, 1852.

WE are honoured with your Lordship's commands signified in Mr. Addington's letter of the 16th instant, stating that with reference to the Queen's Advocate's letter of the 30th of July last, requesting to be furnished with certain documents relating to the North American fisheries, to enable the Law Officers of the Crown to furnish your Lordship with a report upon certain points connected with that subject, he was directed to transmit to us therewith two letters and their inclosures, from the Admiralty and from the Colonial Office, containing the information specified in the Queen's Advocate's letter above referred to; and Mr. Addington is pleased to request that we would report to your Lordship at our earliest convenience, upon the points stated in Vice-Admiral Sir George Seymour's memorandum, which was referred to us on the 26th of July last.

In obedience to your Lordship's commands we have the honour to report—

First. That we are of opinion that the commanding officers of Her Majesty's ships or vessels are empowered to seize fishing-vessels only in the cases mentioned in the 2nd section of the 59th Geo. III, chap. 38, viz., if found fishing, or to have been fishing, or preparing to fish, within the prescribed limits; and that they do not require any commission from the Governors or officers administering the Government of the colonies, to carry out the stipulations of the Convention of 1818, but that they may by virtue of their instructions enforce the terms of the Convention, by interrupting intruders, warning them off, and compelling them to desist from fishing.

Secondly. With respect to the resort of fishing-vessels of the United States to British harbours, in violation of the Convention, but without the taking or curing or drying of fish, we are of opinion that the vessels so offending cannot be seized by Her Majesty's naval officers, but that such offence is only punishable under the 4th section of the Statute 59 Geo. III,

chap. 38. Whether persons so offending may or may not be detained during the proceedings, depends upon the local laws of each colony.

We are also of opinion that, independently of the express provisions of the statute, vessels so offending may be warned off, and in default of obedience, may be compelled to depart by the exercise of whatever force is reasonably necessary for that purpose; and this may be done either by the Governor, or those acting under his orders, or by the commanders of Her Majesty's ships acting under the instructions to Sir George Seymour.

If it be deemed expedient that a power to seize vessels in such cases should be conferred upon naval officers or others, this must be done by Order in Council.

Thirdly. We are of opinion that neither the drying and curing fish at the Magdalen Islands, nor the fishing from the shores of those islands (if the persons so fishing are on the land when fishing), will render vessels liable to seizure for infraction of the Treaty.

Upon the general question as to the right of fishing from the shores of the Magdalen Islands, we are disposed to agree with the opinion thereon expressed by Sir John Dodson and Sir Thomas Wilde, in their report dated August 30, 1841.

If it should be considered advisable to prevent the commission of any such acts upon the Magdalen Islands (which are, in our opinion, in contravention of the Convention), it may be done after warning, and without seizing vessels, by interrupting the fishermen and compelling them to depart.

With reference to the further or additional queries or points subjoined to the memorandum of Vice-Admiral Sir G. Seymour, we have the honour to report as follows:

First (additional). We presume that the harbour of Nova Scotia here referred to is among the waters forbidden by the Convention. If this be so, a fishing-vessel of the United States cannot lawfully enter it at all in serene weather, or otherwise than for shelter. If such a vessel should enter in violation of the Convention it may be dealt with (not by seizure) but by interruption, or compelling the fishermen to depart, or by proceeding under section 4 of 59 Geo. III, c. 38.

Second (additional). An American fishing-vessel, if found either actually fishing or preparing to fish, or to have been fishing, within the waters prohibited, may be pursued by any officer having competent local authority, under the Statute 59 Geo. III, cap. 38, in any vessel (whether Colonial or of Her Majesty's Navy), beyond the limits of prohibition, and may be by any such officer seized on the high seas; but we should recommend this course to be adopted only in very clear cases, and with extreme caution.

Third (additional). We think that under the Colonial Act (Nova Scotia) 6 Wm. IV, chap. 8, and the Order in Council of June 15, 1836, the right to enforce the observance of the regulations in question is limited to the officers specified in that Act, and to the coasts of that colony, and that it cannot be exercised beyond those limits, by any vessel commissioned by the Governor of Nova Scotia only.

We have, &c.
(Signed) J. D. HARDING.
FRED. THESIGER.
FITZROY KELLY.

No. 60.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, September 23, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the accompanying copy of a letter from the Board of Admiralty, forwarding copies of a letter and of its inclosures from Vice-Admiral Sir George Seymour, relative to the protection of the North American Fisheries.

I am also to inclose a copy of the despatch which Sir John Pakington thinks it would be desirable to address to the Lieutenant-Governor of New Brunswick, in consequence of Mr. Perley's unauthorized interference, and which will be forwarded to New Brunswick by the next mail unless the Earl of Malmesbury should previously signify his dissent from that proceeding.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 60.

The Secretary to the Admiralty to Mr. Merivale.

Sir,

Admiralty, August 30, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of Secretary Sir John Pakington, copies of a letter from Vice-Admiral Sir George Seymour, dated the 18th instant, and its inclosures, relative to the protection of the North American Fisheries.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure 2 in No. 60.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, August 18, 1852.

I BEG to acquaint you that since my letter of the 6th instant, I have not received any reports from the "Buzzard" or "Sappho," of their proceedings in the Straits of Belleisle. The "Arrow" and "Telegraph" tender have been employed in the Gulf of St. Lawrence; the latter has made two seizures of the United States' vessels, the "Union" and "Florida," for fishing within three marine miles of Prince Edward's Island, against which proceedings are in progress in the Court of Vice-Admiralty at Charlotte's Town. The "Telegraph" has proceeded on the north side of the same island, where the United States' fishing-vessels visit in numbers.

The "Devastation" has returned to Picton for fuel, and I inclose two reports from Commander Campbell, of his proceedings, dated the 15th instant, that their Lordships may perceive they have been characterized by exertion to prevent encroachments, whilst he has carried forbearance towards the United States' fishing-vessels to its utmost limit. Commodore Perry arrived at Eastport, Bay of Fundy, in the United States' steam-frigate "Mississippi," on the 3rd instant, where Lieutenant Kynaston, of the "Cumberland," commanding the "Netley" tender, waited upon him; and the Commodore, so far from objecting to his proceedings, acquainted him that he had heard he had performed his duty, and was commended for the forbearance he had shown in its execution, which Commodore Perry has confirmed to me personally since his arrival.

I have reason to believe that after the exaggerated reports which had prevailed in the United States, of the force of the British squadron and its violent proceedings in that quarter, the American officers were somewhat surprised to find that the protection of the fisheries had been effectually carried on by the buoy-boat from Halifax, under the command of an active and discreet officer.

The "Mississippi" went on to St. John, New Brunswick, and from thence arrived at Halifax on the 15th instant, for the purpose of communicating with me. Commodore Perry has acquainted me that he had been sent to this quarter and the fishing-grounds, to warn the United States' fishing-vessels against encroaching on the limits prescribed by the Convention of 1818, and to inquire into the difficulties which had occurred, and read me an extract from his orders, in which he is

instructed "to visit the Admiral or other officer who may be in command of the British naval force employed in the duties referred to in the communication of the British Minister, herein above recited, and you will earnestly impress upon him the desire of the President to adjust by all proper amicable means, any difficulty which may have arisen out of the subject complained of by the British authorities, as well as his determination to protect the citizens of the United States against any irregular or unlawful exercise of force in the arrest or seizure of any vessel of the United States employed in the fisheries; and you are directed also to assure him of the solicitude of the President to maintain and enforce the exact and faithful observance of the Treaty."

7. Commodore Perry, however, stated that he had no authority to propose any definite stipulation with regard to the different construction placed by the British and American Governments on the term "bays," and I informed him that I had none to modify my instructions to carry into effect the provisions of the Convention of 1818; but that I had every disposition to carry out the desire of Her Majesty's Government, that no vexatious proceedings should be taken, and had instructed the officers under my orders to prefer warning to seizure, except in cases of clear and undoubted infraction of the Convention.

8. In consequence of Mr. Crampton's letter of the 20th of July, acquainting me with the President's suggestions, I had previously sent a confidential letter to the commanding officer of the vessels in the Gulf of St. Lawrence, of which I forwarded a copy, dated the 8th instant; but I did not deem it proper to communicate to Commodore Perry my having given this direction, as any restriction on the language of the Convention, even of a temporary nature, by the subordinate authority I exercise, might hamper future negotiations on the disputed boundaries of the bays.

9. The bays alluded to in the Convention must have some signification, whether the English construction is accurate or not; and it certainly is necessary that Her Majesty's Government should define in what bays or between which headland, foreign vessels fishing are liable to seizure.

10. If, as is stated by the Commodore, 40,000 persons are actually engaged in American vessels in their home fisheries, of which a large proportion have pursued their avocation with little disturbance near our shores during the autumnal months for some years past, it is very clear that no endeavour will be wanting on the part of the American Government, to extend the sphere of their operations to the utmost point the wording of the Convention can be argued to bear.

11. Commodore Perry having admitted that other vessels of war had been in preparation to follow him, I have distinctly acquainted him that adherence to my instructions must be what I principally regard; but the conciliatory spirit of the communications which had passed between us, makes it unlikely that he should encourage more vessels being sent unless any unforeseen event should again arouse the excitable spirit of the United States' people, and their Government should give it as little public discouragement as was the case in the last month.

12. The disposition to carry the objects of the United States by a display of naval force in the Gulf of St. Lawrence, and that which has been evinced by Mr. Webster in public speeches to object to the Colonial courts, appeared to me so fraught with mischief, that I considered it necessary to make a declaration to Commodore Perry this morning, of which I inclose a copy.

13. The Commodore considered that as we could establish no definite points, a record of our conversation was unnecessary, but I made a note of the observations which passed on the geographical points which were referred to, which I also inclose for their Lordships' perusal.

14. The "Mississippi" is about to sail to-day for the Gulf of St. Lawrence and Bay of Chaleur, where Commodore Perry has expressed his desire Commander Campbell should meet him in the "Devastation," which I have directed. I sent for Commander Campbell over from Picton yesterday, while his sloop was coaling, and the Commodore has repeated to me before that officer, the assurance that he shall endeavour, during his progress, to prevent, and not to cause difficulties. Commodore Perry

says he shall return to the United States the first week in September when he expects to receive his orders for Japan.

15. I am about to place the "Basilisk" steam-sloop under the direction of Commander Campbell, of the "Devastation," and I shall go to the Gulf of St. Lawrence myself, if necessary.

I have, &c.

(Signed) G. F. SEYMOUR.

Inclosure 3 in No. 60.

Commander Campbell to Vice-Admiral Sir G. Seymour.

Sir,

"Devastation," Picton, August 15, 1852.

I BEG to inform you that on leaving Charlotte Town on the 28th ultimo, I proceeded to Port Hood and found there the Colonial schooner "Halifax;" finding that she was stationed on the coast, and that the Americans had not commenced fishing there, I stood over to the east point of Prince Edward's Island, and ran along the land for eighty-seven miles, then stretched over to Bay Chaleur.

On coming in sight of Miscon, thirty-three American vessels weighed in the harbour and came out, several of them the same as those which came out on the 25th ultimo.

On the 31st, stretched over to Port Daniel and anchored for the night; weighed and stood over to the opposite shore early next morning, then went into Passebiac, in which round no Americans were seen.

On the morning of the 2nd, weighed and proceeded to Gaspé Basiel, heaving-to off Douglas Town to communicate with Mr. Jenkins in the cutter. Left Gaspé the same evening, and in passing reprovisioned the cutter.

On the morning of the 3rd, arrived off Miscon and found several Americans close in shore, evidently just commencing fishing, thinking we had left the bay for a time. Out of these vessels, the "Harriet Newell," of Gloucester, has been boarded three times in harbour, and once close to the land, in ten days.

I inclose a separate statement as to her, with the reasons of the master for being in such positions; and have to state that the weather was of the finest description during the whole time.

Finding that the Americans were so determined to fish on the shores of this bay, I crossed over to Port Daniel, and having secured lodgings for the crews, left the pinnace there under Lieutenant Newport. Miscon would have been a better position, but no quarters could be procured for the men there. On the morning of the 4th, weighed and proceeded to the northward, heaving-to off Point Peter; then proceeded to Seven Islands Bay, and having communicated, finding no Americans there, and that few were in the neighbourhood, weighed the same evening, and stood in for Mingan. On the morning of the 5th, fell in with the "Arrow," and finding Lieutenant Malcolm very ill, took him on board. A thick fog coming on, was obliged to anchor ("Arrow" in company) near St. John's River.

On the morning of the 7th, weighed, but the fog coming on again, anchored.

Landed the net and got a sufficient quantity of the finest sea-trout for the whole ship's company.

In the evening weighed and steamed into Mingan Harbour ("Arrow" in company); found here the Canadian schooner "Alliance" with Mr. Fortin, a magistrate, on board; he immediately complied with my suggestion that he should remain between Mingan and Seven Islands, till about the end of month.

I was anxious to make this arrangement, to enable me to take the "Arrow" south for a time, as I had an officer to place in temporary command (two being away, and two being sick). On the morning of the 10th, having completed water, weighed with and took "Arrow" in tow; anchored for a few hours off Saint John's River, and proceeded.

At 10 P.M., the wind being fair, but a heavy swell on, the towing

hawser carried away, and the time for taking up my boats, for meeting "Telegraph," and proceeding to Picton being at hand, I had no hesitation in leaving Mr. Harris in charge (our pilot being still on board), with orders to proceed to Gaspé.

On the forenoon of the 11th, arrived at Saint Peter's; lifted the cutter and proceeded round to Mal Bay.

On the morning of the 12th, weighed and stood out of the bay round Cape Rozon, and saw two American schooners stand out from the land. Having observed one of them to be the "Columbia," which I had spoken the morning before, suspected her, and when the wind fell in the evening, having returned, found her within three miles, but she had not commenced fishing, and a breeze springing up, I obliged her to stand off. On the same evening, stood into Point Peter, and left Mr. Jenkins, mate, with an order to take temporary command of "Arrow" on her arrival. On the 12th, weighed and steamed round to Point Daniel, where I picked up the pinnace. I was sorry to take up the boats, as they had been useful beyond my most sanguine expectations; the cutter has completely kept the Americans off from Cape Gaspé to Percé, a part of the coast upon which they used to be by hundreds. The consequence is, that the British fishermen have met very extraordinary success, and attribute it entirely to the presence of the boat.

I have much cause to approve of the zeal and exertion evinced by Mr. Jenkins while on this duty, and consider that his firmness and discretion peculiarly fit him for the delicate duty he has had and will have to perform. I therefore trust you will approve of my having placed him in the "Arrow." I have ordered Mr. Jenkins to leave Mr. Harris in charge of his whale-boat, at Point Peter, and to proceed to Chaleur Bay without delay, as I should be sorry to have these important points unguarded, and would wish, with your permission, to leave the boats at both places again as soon as possible. I inclose Lieutenant Newport's list of vessels boarded, as well as that of Mr. Jenkins. The often-repeated visits of this sloop seem to have banished the Americans from Chaleur Bay for some days; but as will be seen by Lieutenant Newport's list, they came in 15 together on the 11th, and the pinnace having followed them into Miscon Harbour, at 11 p.m., was at anchor among them at daylight. The effect of this will be good, as they cannot know for some time that the boat has been lifted; I trust she may be back in time to meet their next effort. I feel convinced from the great success which our boats have had in keeping off the Americans, that they are the only efficient means of performing this service, and that with 12 boats, or 18 at most, the whole coast may be efficiently guarded. So efficient are they that the Americans seem at once to leave any part of the coast on knowing that a boat is there, and the parts of the coast on which the fishing is carried on are so isolated that the system would be easily carried out, while the prevention would in a great measure obviate the necessity for seizure. If a steam-vessel were allowed extra men for this service, and boats to place in the required positions, she could constantly go round and support them and supply their wants and relieve the sick.

I regret to say that while Lieutenant Newport was away on one of his expeditions, the house in which the men were lodged was burnt down; it appears that one man was sick and left behind with another man to attend him, and that, in the morning about 4, they were alarmed by smoke, and escaped just in time. I was happy to find that no blame whatever could be attached to either of the men, the fire having originated, as is supposed, in a wooden beam which went through the chimney. The house was of wood, very old, and useless, and is no loss; but the men, I am sorry to say, found all their clothes burnt on their return. I hope some allowance can be made them as compensation. I can well spare the men for boat-duty, but the officers not so conveniently.

Arriving off Richmond, Prince Edward's Island, on the forenoon of the 14th, where I had ordered the "Telegraph" to meet me, did not find her, nor could I hear from the English vessels on the coast, anything of her. A great number of American vessels stood out at our approach, and I was informed by the English fishermen, that they were just commencing to fish when we were in sight.

While running along the land towards East Point observed a great number of Americans, so that this coast will require immediate attention.

At 9 A.M. this day, anchored off George Town, and finding no communication from Lieutenant Chetwynd, left for this place, and arrived at 7-30 P.M. this day.

I have received commissions of the peace from the Governments of Prince Edward Island and Nova Scotia, and have been advised that one will be sent from Canada during this month, after an Act of the Legislature is passed annulling the necessity of a property qualification which is now required.

I beg to inclose a letter of proceedings from Lieutenant Malcolm, as well as a list of all fishing-vessels seen, spoken, and boarded since last communication.

I have, &c.
(Signed) COLIN CAMPBELL.

Inclosure 4 in No. 60.

Commander Campbell to Vice-Admiral Sir G. Seymour.

Sir,

"Devastation," Picton, August 15, 1852.

I BEG to inform you, that in consequence of the extraordinary determination evinced by the American fishermen to encroach upon the shores of the Bay of Chaleur, I left the pinnace of this sloop at Port Daniel under Lieutenant Newport, from 3rd to 13th instant, to keep them in check. Although the Americans have never (on being warned out of that bay by me) asserted their right to be there, I fear an idea has arisen among them that such is the case, and I have deemed it my duty in consequence, clearly to point out that the Treaty of 1818 excludes them from all bays on this part of the coast, except for the purposes therein specified.

The doubt has arisen from the fact of the fishing having been carried on by those people in defiance of the Treaty, in former years, in consequence of the vessel of war having so much ground to go over as to render one or two short visits to each port all she could accomplish.

I hear from the people of the country, that for years after the Treaty of 1818 was ratified, the Americans never did attempt to fish in any part of Chaleur Bay, and that they have only done so within the last twelve or fifteen years, or since the mackerel fishery has been followed by them with so much advantage. The obvious inference then is, that it was not till long after the Treaty of 1818 was concluded that the fishing in the Bay of Chaleur was valued by them, consequently no exception as regards the word "bays" seems to have been thought of, and none would ever have been thought of, had not the lucrative mackerel fishery become known.

Surely then since they are excluded by the Treaty from fishing, &c., within three miles of any coasts, bays, creeks, or harbours whatever, they can have no right to fish in any part of Chaleur Bay. A contrary interpretation to this would be fatal to the interests of a vast number of Her Majesty's subjects on both sides of the bay, on the waters of which they meet each other while fishing, a proof that there is no room for foreign fishermen, and therefore that the reservation of the exclusive right to them was a just and necessary one.

The mischief done to the fisheries by the Americans is not perceived at once in all its bearings. They, with characteristic energy, pursue the mackerel to the spawning-grounds, and such is their power of attracting the fish that they leave few along the shores, and will certainly soon, if allowed, exterminate them.

On the cod-fishing the effect of their depredations is not to be calculated, for, not content with catching the mackerel close to the shore, they clean them there also, often in the very harbours; the consequence is, that the cod fish become gorged and will not take bait; so that not only do our own fishermen lose the mackerel as bait, but the fish are prevented by feeding from taking the small quantity they can procure. As a proof of

this I found that no sooner had the cutter of this sloop been stationed at Point Peter, than (from the Americans being effectually kept off) the cod-fishery improved vastly ; indeed I am assured on all hands, that the fishery is better than it has been for a great many years, and the people are surprised at discovering how much harm the Americans have done them in former years. It is the poorer fishermen who suffer most from the want of bait, while the Americans infest the coast, for they cannot compete in capturing the mackerel with the American vessels, which are fitted out at a great expense and have the means of attracting all the fish, leaving none for those who cannot afford to pursue them on the same system.

If the Bay of Chaleur is to be open to the Americans, all the evils I have mentioned, with many others, must remain and increase, for it is in vain to attempt to keep them three miles from the shore, the fish being all close to the land for the purpose of spawning, and they will follow them to the very beach, the instant a ship of war is out of sight.

I trust you will pardon my dwelling at such length on this subject, but its extreme importance is my excuse, having witnessed the very prejudicial effects of the depredations of the Americans, as well as having heard the well-grounded complaints of the people, at the Americans fishing in a bay from which they believe them to be excluded by Treaty.

I am, &c.

(Signed) COLIN G. CAMPBELL.

Inclosure 5 in No. 60.

Vice-Admiral Sir G. Seymour to Commander Campbell.

(Confidential.)

Sir,

"Cumberland," Halifax, August 8, 1852.

HAVING been acquainted by a letter of the 20th July from Her Majesty's Minister at Washington, that an arrangement by negotiation has been proposed relative to the points at issue between the two Governments as to the limits to which United States' fishing-vessels are restricted on the coasts of the British provinces where no express exception has been made in their favour, and that it is desirable to avoid the difficulties which may arise from the different construction which has been given to the Convention of 1818 by the two Governments, that both should abstain at present from exercising the rights which each asserts in regard to such limits; you are therefore hereby directed, when United States' vessels shall be within the headlands of bays, but without three miles of the actual shores, to warn them off, observing their names and descriptions, but not to seize them, and until you shall receive further orders, you will consider that three miles from the actual shore shall be the distance within which vessels are liable to seizure, when found in undoubted and flagrant violation of the Convention.

As the last accounts from the United States give reason to suppose that the "Mississippi" steam-frigate, and other vessels of war of that country, are under orders to proceed to the fishery-grounds to protect the rights of the American fishing-vessels under the Convention, you are, in case of falling in with them, to use the courtesy required by your instructions, and acquaint their commanders, in general terms, that you are under orders to protect the British fisheries, in conformity with the mutual engagements of the two countries contained in that Convention, and are directed to seize for adjudication only in cases where no reasonable doubt can be entertained of an infraction of the Convention having been committed.

You will avoid unnecessary discussion of the question in which the two Governments are supposed to disagree, but you will observe and report to me if the American ships of war forbid their countrymen to fish within three miles from the headland line.

I am, &c.

(Signed) G. F. SEYMOUR.

Inclosure 6 in No. 60.

Vice-Admiral Sir G. Seymour to Commodore Perry.

Sir,

"Cumberland," Halifax, August 19, 1852.

I TAKE advantage of the opportunity of expressing to you the satisfaction I received in hearing from you that you have arrived in this quarter to prevent the fishermen of the United States from encroaching on the limits prescribed by the Convention of 1818 between Great Britain and the United States; and I have every reason to believe that any inquiries you may make on the fishing-grounds you are about to visit, will satisfy you that Her Majesty's cruisers have exercised their duties with discretion and moderation.

As, however, the preparation to send additional armed vessels to the fishing-grounds from the United States, have not, to my knowledge, been discontinued, although commenced from erroneous reports of proceedings in this quarter, I consider it my duty, as the officer in command of Her Majesty's Naval Forces in these seas, to declare against any interference on the part of the naval forces of the United States, whilst the two countries are at peace, in preventing any vessels charged with infractions of the Convention of 1818 being detained for adjudication before the civil court, which, by the received practice of nations, forms the proper tribunal by which the facts can be ascertained, and in the first resort, judgment pronounced.

I have already had the honour of assuring you that it is both my duty, according to the orders of my Government and my inclination, to cause the proceedings relative to the protection of the fisheries to be taken with every consideration due to the importance of the interests involved by both countries; and I consequently attach great value to the assurances you have conveyed to me of the solicitude of the President of the United States to maintain and enforce the exact and faithful performance of the Treaty.

I have, &c.

(Signed) G. F. SEYMOUR.

Inclosure 7 in No. 60.

Memorandum of conversation with Commodore Perry.

(Confidential)

MEMORANDUM from recollection, on some points which became the subject of conversation between Commander Perry, of the United States' Navy, and Vice-Admiral Sir F. Seymour, on the 17th August, 1852.

1. The Commodore showed a map of the Gulf of Saint Lawrence (a copy of which is herewith inclosed), purporting to be drawn up by Mr. Perley, Her Majesty's Emigration Agent at St. John's, New Brunswick, for a report about to be made by Mr. Andrews, who is employed by the United States' Government on the subject of the fisheries, in which certain lines are drawn as fishing-boundaries demanded by the British Colonial authorities.

2. I acquainted the Commodore that I had not previously known these lines to have been proposed, nor had I reason to suppose Mr. Perley was authorized in having described them as claimed by the Colonial authorities.

3. (I have since shown the chart to the Lieutenant-Governor of Nova Scotia and Mr. Attorney-General Uniacke, who are of the same opinion, and do not know Mr. Perley's authority. Mr. Uniacke is particularly conversant with the claims and fishery interests of Nova Scotia.)

4. (This chart may probably, on its publication in the United States, create an erroneous impression of the claims of the British Government.)

5. In my opinion, the terms of the Convention would not admit of the space between the east point and north cape of Prince Edward's Island being considered a bay from which foreigners may be excluded; and I collected from the Commodore that, as the space it includes is where the

American fishermen fish with most advantage, the United States' Government would most strenuously resist the definition of the term "bay" being applied to the space between the two headlands before named, beyond the distance of three miles from the actual shores, to exclusion from which last they can make no valid objection, even on their own reading of the Convention.

6. The Commodore was disposed to admit that the proper limits of the Bay of Chaleur were Miscon and Cape Despair, and that the United States' vessels should keep three miles beyond a line drawn between those points; but, as I observe Captain Bayfield states the northern boundary is generally considered Point Macquereau, it is probable the Americans may claim it as the northern limits of the bay.

7. I observed that the same principle which he was disposed to apply to the Bay of Chaleur should attach, as against fishing purposes, to George's Bay, at the western end of the Gut of Canso. The Commodore did not dissent, nor did he agree further to this observation, than in allowing the immediate headlands of bays to form their proper boundaries.

8. Commodore Perry also treated as one of the points which required to be settled regarding the Convention, whether a vessel which had been discovered infringing within three marine miles of the British shore was liable to seizure subsequently, when out of that limit. (I consider it manifestly just, that the vessel contravening the Treaty should be liable to seizure, although she might have succeeded in getting beyond that limit; and the want of such power would enable those who had transgressed the limits, to escape in nine cases out of ten with impunity.)

9. The second clause of the Act 59 Geo. III, cap. 38, authorizes the seizure of vessels which shall be found fishing, or to have been fishing or preparing to fish; but I am of opinion that no action in its exercise under the language of the Convention of 1818, however necessary, will be more liable to opposition from the United States, than a seizure beyond the British waters, and that the principle which I brought under their Lordships' observation in my letter of the 8th July, postscript of legal questions, should be established. I think future difficulties more likely on this subject than any other.

10. In reference to the United States' desire to enjoy the privilege to fish upon our coasts, I took occasion to inquire whether it was not illegal for a native of any other State than Massachusetts, to fish on its shores, which Commodore Perry admitted.

11. I have since examined the statute, cap. 85 of the laws of that State, which enacts, that "no person living without the State shall take any lobsters, tantog, boss, blue-fish, or scappang, within the harbours, streams, or waters of any town on the sea-coast, under a penalty not exceeding 20 dollars;" which shows that the rights of fishery even on their own shores are restricted to the immediate inhabitants.

(Signed) G. F. SEYMOUR.

Inclosure 8 in No. 60.

Sir J. Pakington to Sir Edmund Head.

Sir,

Downing Street, September 1, 1852.

THE Vice-Admiral commanding on the North American station having transmitted to Her Majesty's Government the copy of a map of the Gulf of St. Lawrence, purporting to be drawn up by Mr. H. E. Perley, Emigration Agent at St. John, for a report about to be made by Mr. Andrews, who is employed by the United States' Government on the subject of the fisheries, on which certain lines are drawn as fishing-boundaries demanded by the Colonial authorities; I have to instruct you to caution Mr. Perley against interfering, without authority, in matters pending between the Government of his own country and a foreign Government. I regret that I am compelled to express my strong disapproval of Mr. Perley's having undertaken, as was stated in a conversation between Sir George Seymour and the United States' Commodore, to furnish a gentleman

employed by the United States' Government, with a chart professing to exhibit the claims of Great Britain, or of the Colonial authorities, in respect to the fisheries in the Gulf of St. Lawrence. Mr. Perley must be sensible that he is not in the least degree authorized to expound the views of Her Majesty's Government on this important subject; and it is obvious that serious inconvenience might result from any individual taking upon himself, without warrant or correct information, to supply the agent of a foreign Government with a statement of the claims of Great Britain on this or any other subject.

I have, &c.
(Signed) J. PAKINGTON.

No. 61.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, September 24, 1852.

I AM directed by Secretary Sir John Pakington to transmit, for the consideration of the Earl of Malmesbury, the copy of a despatch from the Lieutenant-Governor of Nova Scotia, forwarding a petition to the Queen, and resolutions adopted at a public meeting held at Halifax, against any concession being made to American citizens, of the right of fishing on the coasts and within the bays of the British North American Provinces, from which they are now excluded by the Convention with the United States of 1818.

Sir John Pakington would propose, with Lord Malmesbury's concurrence, to answer this despatch by conveying to the Lieutenant-Governor (for the information of the petitioners) the assurances of Her Majesty's Government, that in any negotiations with the Government of the United States which may arise out of the measures they have recently thought it their duty to take for the protection of the British fisheries in North America, Her Majesty's Government will not fail to pay due attention to the wishes and to the interests of the inhabitants of Nova Scotia.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 61.

Sir Gaspard Le Marchant to Sir J. Pakington.

Sir,

Halifax, Nova Scotia, September 2, 1852.

I HAVE the honour to forward herewith two addresses which have this day been unanimously adopted at a very large meeting held in the Province Hall, which was attended by the mayor, aldermen, and representatives of the city and county of Halifax, and a very numerous as well as influential body of the inhabitants, on the subject of the negotiations reported now to be pending between the British and American Governments on the right of fishing on the coasts and within the bays of the British North American Colonies.

2. The one is an address to Her Majesty to be laid at the foot of the Throne, praying that no concession may be made by Her Majesty's Government to the United States, whereby the privileges of fishing on our coasts would be surrendered to the American Nation; and earnestly imploring that the existing fishing restrictions may be preserved to their letter, as understood by the Convention of 1818.

3. The other is an address requesting me, as the Queen's Representative, to convey to Her Majesty's Government the general feeling entertained on this subject throughout the Province of Nova Scotia; and I beg leave to accompany that address with a copy of the resolutions agreed upon at the meeting alluded to.

4. I have to observe, that I acquainted the deputation who presented

these addresses, that I had received no communication from Her Majesty's Government that could warrant the conclusions they had arrived at; but, on the contrary, I assured them of my thorough conviction that the rights and privileges of Her Majesty's subjects in the British North American Colonies would receive every support and consideration at the hands of Her Majesty, as well as of her Ministers.

5. Certain paragraphs in the English papers, extracts of which are herewith inclosed, have created this alarm, which will be most extensively circulated throughout the province; and I beg leave to impress on Her Majesty's Government how very important and desirable it is that official contradiction should be given by authority to these statements, so that the apprehensions at present entertained and generally credited throughout this community may be allayed.

I have, &c.
(Signed) J. GASPARD LE MARCHANT.

Inclosure 2 in No. 61.

Address to Her Majesty.

To the Queen's Most Excellent Majesty.

THE humble memorial of the undersigned merchants and inhabitants of Halifax and other parts of Nova Scotia, convened at a public meeting held at Halifax on Tuesday, the 2nd of September, 1852, sheweth:

By the mail recently arrived from England, your Majesty's Ministers with deep concern, that it is in contemplation of your Majesty's Ministers to surrender to the United States of America privileges of fishing on the coasts of your Majesty's North American Colonies, to which at present your Majesty's subjects are alone entitled.

Time is not afforded to enter at large on this subject, nor is it necessary. Repeatedly have the vital importance of these fisheries, and the necessity of preserving unimpaired the restrictions against encroachment by which they are guarded, been urged on the Imperial Government. It is believed the time had long passed when a question could be raised on either of these points. To stimulate Imperial aid in protecting and maintaining acknowledged rights, was all, it was imagined, that was required of the Colonies, and they fondly trusted this consummation had been attained when in the present season your Majesty's war-steamers came commissioned on this service.

Little, may it please your Majesty, was it anticipated these were to be the precursors of a transfer alike injurious and humiliating to your loyal Colonial subjects, or for this aid that so large a price would be demanded.

May it please your Majesty, when the United States, by the Treaty of 1818, solemnly renounced for ever the right to fish within three marine miles of the coasts, bays, creeks, or harbours of certain portions of your North American Territory, the stipulation was neither extraordinary or 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 coast.

But had it been otherwise, the stipulation was part of a general Treaty in which concession on one side may be presumed to have been compensated by concession on the other, and loss in one particular by gain in another; and the engagement was made in language too explicit and in terms too well understood to admit the possibility of misapprehension.

Shall nations, may it please your Majesty, be absolved from the obligation of their contracts, and complaints be respected when made by a people, which between individuals would be treated as puerile?

If conciliation, irrespective of right, be the principal on which is to be withdrawn the restriction against the entry of Americans into the bays

and indentations of the coast to fish, limiting them alone to the distance of three miles from the shore, the concession of the privilege to fish within this latter distance must equally be granted, as, indeed, has been already urged in the American Congress; the restriction in both cases rests on the same authority, and the concession in each would be demanded by the same principle. It may not be the province of your Majesty's Colonial subjects to suggest how far such a principle is consistent with national honour and independence; they have a right to pray that it be not carried out at their expense.

When the welfare of the Empire is supposed to demand the extensive alterations in the laws of trade and navigation, the peculiar interests of the Colonies are not permitted to disturb the general system, by the continuance of conflicting regulations, however necessary, from long usage, and the competition of foreigners, more powerful and more fostered by their own Governments.

In the present case, the possession to be surrendered is no offspring of artificial arrangements falling with a complicated policy of which it formed a part. No! may it please your Majesty, your loyal subjects in Nova Scotia raise their voice against the injury of an inheritance conferred upon your North American subjects by nature, connected with their soil by the laws and usages of nations, confirmed to them by solemn compact, and which, practically enjoyed by them peculiarly, and as your other Majesty's subjects cannot enjoy them, can be surrendered only at their extreme injury and great loss.

Surely, may it please your Majesty, your loyal Colonial subjects have a right to ask for some better reason for this sacrifice of their peculiar right and interest, than the demand of a foreign Power—the aggrandizement of a foreign people!

It is reported that the American Government, with characteristic diplomatic skill, have offered to concede a similar privilege on their own coast, in return for that they seek on the coasts of British North America.

The proffered boon is valueless to the Colonists; they want it not, and would derive no benefit from it. The offer may deceive the uninformed, or it may afford an excuse to palliate the sacrifice of your Colonial subjects' rights,—it may have been made by our sagacious neighbours with this object; but to those who will suffer by the pretext, it is but the addition of insult to wrong. If rights so entirely colonial and so clear as this, are to be sacrificed to American influence, the Colonists should know it. Let them not, may it please your Majesty, be treated as children or imbeciles, by nominally granting them a privilege which they know, and the Americans know, to be worthless, as an equivalent for one which both equally know to be of incalculable value. For let it not be urged upon your Majesty, that what the Americans seek is of no value: their earnestness is certain evidence to the contrary.

It is, may it please your Majesty, of value—of great value—in itself; of perhaps greater value still as the best, the only safeguard against violation of the restriction which prohibits the approach of the American fishermen within three miles from the shore.

Your memorialists deprecate all negotiation, all compromise on the subject. The Americans will not—probably they cannot—grant an equivalent for the privileges they seek; and the only security for the Colonies is the entire abandonment of the present negotiations.

Your memorialists most earnestly entreat your Majesty that the existing fishery restrictions may be preserved in their letter, and that your Majesty's power may be put forth to prevent their violation.

And your petitioners, &c.

(Signed) ANDREW MACKINLAY.

[Here follow 840 signatures.]

Inclosure 3 in No. 61.

Address to Sir Gaspard Le Marchant.

May it please your Excellency,

WE, Her Majesty's dutiful and loyal subjects, the mayor and aldermen of the city and representatives of the city and county of Halifax—respectfully request that your Excellency will be pleased to transmit by this night's mail, to the Right Honourable the Secretary of State for the Colonies, to be laid at the foot of the Throne, a dutiful and loyal petition unanimously adopted this day by a very large and influential meeting of our fellow-citizens, held in the Province Hall.

We also pray that the Resolutions, a copy of which is annexed, and which were passed with equal unanimity, may be also forwarded to the Right Honourable the Colonial Secretary.

This petition and these resolutions have been adopted in consequence of the alarming intelligence having been received, that negotiations are pending between the British Government and the American Minister in London for surrendering to the citizens of the United States the right of fishing on the coasts and within the bays of the British North American Colonies, from which they are now excluded by the Convention of 1818. We intreat your Excellency, as the Queen's Representative in this province, to convey to Her Majesty's Government a strong remonstrance against any such concession of fishing rights as appears to be contemplated.

The immediate departure of this mail will not permit our detailing all the disastrous results to be apprehended from the concessions now required by the American Government, but we must beg that you will assure Her Majesty's Ministers, that the information just received has occasioned the most intense anxiety throughout the community, it being evident that our rights, once conceded, can never be regained.

By the terms of the Convention of 1818, the United States expressly renounced any right of fishing within three marine miles from the coasts and shore of these colonies, or of entering their bays, creeks, or harbours, except for shelter or for wood and water.

If this restriction be removed, it must be obvious to your Excellency that it will be impossible to prevent the Americans from using our fishing-grounds as freely as our own fishermen.

They will be permitted to enter our bays and harbours, where at all times, unless armed vessels are present in every harbour, they will not only fish in common with our own fishermen, but they will bring with them contraband goods to exchange with the inhabitants for fish, to the great injury of the Colonial traders and loss to the public revenue. The fish obtained by this illicit traffic will then be taken to the United States, where they will be entered as the produce of the American fisheries, while those exported from the Colonies in a legal manner are subject to oppressive duties.

We need not remind your Excellency that the equivalent said to have been proposed—that of allowing our vessels to fish in the waters of the United States—is utterly valueless, and unworthy of a moment's consideration.

We would fain hope that the reports which have appeared in the public press respecting the pending negotiations between the two Governments are without any good foundation.

We cannot imagine that Her Majesty's Government, after having taken prompt and decided measures to enforce the true construction of the Treaty, will ever consent to such a modification of its terms as will render our highly-valued rights a mere privilege to be enjoyed in common with foreigners.

We therefore pray your Excellency to exert all your influence to induce Her Majesty's Ministers to stay any further negotiations on this

vitaly important question, until the rights and interests of the inhabitants of this province are more fully inquired into and vindicated.

Halifax, September 2, 1852.

(Signed)

ANDREW MACKINLAY,

Mayor of the City of Halifax.

BEAMISH MURDOCH,

Recorder of the City of Halifax, N.S.

JAMES S. CLARK,

City Clerk.

By 11 Aldermen of the City of Halifax, and 4 Members
for the Township and County of Halifax.

Inclosure 4 in No. 61.

Resolutions of Meeting at Halifax.

1. RESOLVED, That the citizens of Halifax feel deeply grateful to Her Majesty's Government for the solicitude evinced by the determination to remove all ground of complaint on the part of the Colonies, in consequence of the encroachments of the fishing-vessels of the United States upon the reserved fishing-grounds of British America, expressed in the despatch of the Right Honourable the Secretary of State for the Colonies, dated the 22nd of May.

2. Resolved, That the citizens of Halifax have regarded with interest and satisfaction the judicious measures adopted by Vice-Admiral Sir George Seymour, to carry out that determination with firmness and discretion.

3. Resolved, That securely relying upon the justice and maternal care of their Sovereign, the citizens of Halifax are reluctant to believe that, because a few exciting speeches have been made in Congress, and a single ship of war has visited their coasts, the Queen's Government will relax their vigilant supervision over British interests, or yield up rights secured by treaty stipulations.

4. Resolved, That history teaches that the commercial prosperity and naval power of every maritime State have risen by slow degrees, from the prosecution of the fisheries in which seamen were trained and hardy defenders nurtured.

5. Resolved, That reading this lesson aptly, the great commercial and political rivals of England, the United States and France, have for many years fostered their fisheries by liberal bounties, and freely spent their treasure, that they might recruit their navy and extend their mercantile marine.

6. Resolved, That by the aid of these bounties, France and the United States maintain on the banks and coasts of North America, 30,000 seamen respectively, which either Power, in case hostilities impend, can call home to defend its national flag, and, if need were, launch against the power of this empire.

7. Resolved, That without the aid of bounties, the fisheries of British America have been prosecuted, and her maritime interests have expanded, until her shores are peopled with a hardy class of men, who consume almost exclusively the manufactures of England in peace, and who, in times of danger, would leap into the shrouds of her national ships, to defend the flag they reverence.

8. Resolved, That the cession of the Aroostook Territory, and the free navigation of the St. John, the right of registry in Colonial ports, and the free admission of the productions of the United States into British America at revenue duties only, have been followed by no corresponding relaxation of the commercial system of the United States, which would justify a further sacrifice of Colonial interests.

9. Resolved, That while more than one-half of the sea-coast of the Republic-bound slave States whose labouring population cannot be trusted upon the sea, the coasts of British America include a frontage upon the ocean greater than the whole Atlantic sea-board of the United States.

The richest fisheries in the world surround these coasts; coal, which the Americans must bring with them, should they provoke hostilities, abounds at the most convenient points; two millions of adventurous and industrious people already inhabit these provinces; and the citizens of Halifax would indeed deplore the sacrifice of their interests by any concession to a Power which ever seconds the efforts of astute diplomacy by appeals to the passions of their people, the full force of which has been twice broken on British America, within the memory of this generation, and, in a just cause, with the aid of the mother-country, could be broken again.

No. 62.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, September 24, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you for the information of the Earl of Malmesbury, the accompanying copy of a despatch from the Lieutenant-Governor of Nova Scotia, reporting the arrival at Halifax, on the 15th ultimo, of the United States' war-steamer "Mississippi," under the command of Commodore Perry.

Sir John Pakington desires to draw Lord Malmesbury's attention more especially to the statement made in paragraph 2, as to the object of the United States' Commodore in visiting Nova Scotia, and to the question adverted to in paragraph 4, as likely to arise with respect to the right of the Provincial Government to put the law in force outside the prescribed limit of three miles from the coast, against American vessels which may have been seen and chased by the Provincial cruisers while fishing within that distance.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 62.

Sir Gaspard Le Marchant to Sir J. Pakington.

Sir,

Halifax, Nova Scotia, August 19, 1852.

I HAVE the honour to report the arrival on the 15th instant, of the United States' man-of-war steamer "Mississippi," under the command of Commodore Perry, in this harbour; and I have also to acquaint you that all the courtesies due to the national flag of the United States and to the rank of the officer in command were paid by the military, naval, and civil authorities.

2. On the day following her arrival, Commodore Perry called on me at Government House, and in general terms stated the objects of his visit. These, as I was given to understand, were to warn American fishermen from trespassing within three miles of the coast of British America, and to protect those of his countrymen beyond those limits, until the points in dispute between the two countries are adjusted by negotiation.

3. The Vice-Admiral on the North American station, Sir George Seymour, being in this port, I refrained from entering into any discussion on the points in dispute between the two countries, nor indeed did the Commodore himself introduce the subject during our interview. The Admiral and the Commodore have, however, freely conversed on the whole question, and I have been given to understand that Commodore Perry has declared himself completely satisfied with the conduct of the Local Government, and that his nation has no ground of complaint against the proceedings of the Colonial authorities.

4. One point of this question, as I am apprized, may hereafter give occasion of serious difference between the two countries, and that is our right to put the law in force, by capture or otherwise, against American vessels *outside* the prescribed limits of three miles from the coast, which

may have been seen and even chased by our cruizers while fishing *within* that distance; and it may be advisable, should fresh negotiations take place on the question of the fisheries on the coasts of British North America, that this point now advanced on the side of the American fishermen, be clearly defined, as it is one that may give rise to serious misunderstandings between the two countries on some future day.

5. I do not consider myself called upon to enter on this occasion into a general review of the great importance of these fisheries to the British North American Provinces, being fully convinced that the rights of British subjects in this quarter will receive all due care and attention from the hands of Her Majesty and of her Ministers.

6. I will only, however, observe, that the strenuous efforts now made on the part of the Government and people of the United States, mark in the clearest manner the great importance they attach to the fisheries on the waters which surround Her Majesty's possessions on this continent; and to give to the Imperial Government some idea of the value of these northern fisheries as a nursery for United States' seamen, Commodore Perry admitted that in their prosecution, at least 3000 vessels, manned by 40,000 seamen, were annually fitted out from his country; and that their whale-fisheries employ an equal number of vessels, with the corresponding complement of seamen.

7. I consider that I should be wanting to the interests of the people of this province, were I not, in conclusion, to urge most strongly on Her Majesty's Government their earnest hope and prayer, that the parent State will afford its powerful support in steadily resisting the present demands of the American Government, and their pretensions now set forth at the present time, which are viewed throughout the entire Province of Nova Scotia, as direct encroachments on the limits formerly assigned, and also a complete violation of the good faith mutually agreed upon between the two countries in the Convention of the year 1818.

8. All the Provincial cruizers have been heard from within a week, and no capture had been made by them except the one previously reported, nor had any collision taken place.

9. The number of vessels seized and sent in to the ports of Nova Scotia, New Brunswick, and Prince Edward Island, by Her Majesty's cruizers, amount up to this date to four. The "Coral" and "Hyades" to St. John's, New Brunswick; the "Union" and "Florida," to Prince Edward Island.

10. The "Mississippi" leaves to-day for the eastward, and proceeds to the Gulf of St. Lawrence.

I have, &c.

(Signed) J. GASPARD LE MARCHANT.

No. 63.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, September 27, 1852

I HAVE laid before the Earl of Malmesbury your letter of the 17th instant, inquiring whether the conduct of Commander Campbell, of Her Majesty's steamer "Devastation," in abstaining from capturing American fishing-vessels under the circumstances detailed in his report to Vice-Admiral Sir George Seymour of the 26th of August, should not be approved; and I am directed by his Lordship to state to you, for the information of Secretary Sir John Pakington, that the proceedings of Commander Campbell appear to have been exceedingly judicious, and should be approved of by Her Majesty's Government.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 64.

Mr. Addington to Mr. Merrivale.

Sir,

Foreign Office, September 27, 1852.

WITH reference to your letter of the 23rd instant, in which you allude to Mr. Perley, the British Emigration Officer in New Brunswick, I am directed by the Earl of Malmesbury to transmit to you, to be laid before Secretary Sir John Pakington, a copy of a despatch from Her Majesty's Minister at Washington, relative to Mr. Perley's proceedings in that capital.

I am, &c.
(Signed) H. U. ADDINGTON.

No 65.

Mr. Crampton to the Earl of Malmesbury.—(Received September 27.)

(No. 145.)

My Lord,

Washington, September 12, 1852.

WITH reference to my despatch No. 125 of the 15th ultimo, by which I had the honour to inform your Lordship that I had invited Mr. Perley, Her Majesty's Emigration Officer in New Brunswick, to come to Washington for the purpose of supplying Her Majesty's Legation with correct and authentic information in regard to the British North American fisheries, I have now the honour to inform your Lordship, that Mr. Perley having been authorized by the Provincial Government of New Brunswick to accede to my request, arrived here on the 5th ultimo, and remained at Washington until the 6th instant, when, having no further occasion for his services, I directed him to return to his post.

I cannot speak too highly of the obliging manner in which Mr. Perley has supplied me with full and authentic particulars in regard to the fisheries, a subject with which he is intimately acquainted. He had frequent conversations with the President, Mr. Webster, and with many leading members of the American Congress. The authentic information which he has supplied has enabled me to correct a number of erroneous or exaggerated reports which were current in regard to the late measures of Her Majesty's Government for the protection of the fisheries, and has in general done much towards a more just and reasonable view of the whole matter in this country.

I have thought it right to defray Mr. Perley's travelling expenses, which, with your Lordship's sanction, I will charge in the next account of the extraordinary disbursements of Her Majesty's Mission, and I should be gratified if the sense entertained by Her Majesty's Legation at Washington of Mr. Perley's services on this occasion were made known to Her Majesty's Principal Secretary of State for the Colonial Department.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 66.

Mr. Crampton to the Earl of Malmesbury.—(Received September 27.)

(No. 147.)

My Lord,

Washington, September 12, 1852.

IN conformity with the instructions contained in your Lordship's despatches No. 85, and No. 86 marked Confidential (both of the 26th ultimo), I waited upon the President of the United States for the purpose of informing him that Her Majesty's Government was ready to enter into negotiations with that of the United States upon the subject of the rights

of fishery in British waters which American citizens desire to obtain; to state the opinion of Her Majesty's Government that such negotiations should be extended to all subjects affecting the commercial relations of the two countries; and to say, in case the United States' Government was now disposed to enter seriously upon the consideration of these important subjects, that Her Majesty's Government would much prefer that the negotiations for arranging them by treaty should be carried on in London.

I began by saying to Mr. Fillmore, that great as was my confidence in the prudence and temper of the Commander of Her Majesty's Naval Forces on the North American Station, and of the Colonial authorities generally, the state of things at the British fisheries was one that I could not view without some anxiety. Independently of any real or supposed difference of opinion between the two Governments as to the interpretation of certain parts of the Convention of 1818, the position of things there was, as a matter of fact, and under the construction of the Convention admitted by both parties, unsatisfactory to both, not exempt from danger to the good understanding between the two Governments, and, if long continued, or frequently renewed, calculated to engender feelings of discontent and mutual hostility between large classes of the populations of the United States and the British North American Colonies; feelings, the growth of which I was convinced the American Government was as anxious as Her Majesty's Government to prevent. We had the Colonists, on the one hand, naturally resenting continued encroachments which threaten to deprive them, without equivalent, of rights which they justly consider to appertain to them from their position, and to be secured to them by treaty, and calling loudly upon Her Majesty's Government to protect them in the undisturbed enjoyment of what they regard to be their chief commercial resource; on the other hand, we have a considerable portion of the people of New England strongly interested in extending the very encroachments complained of, encroachments which to them have become habitual, and into the justice of which persons of their class of life are not apt to examine, even when they are not, as in the present instance, supplied by persons, to whom they naturally look up as better informed than themselves, with arguments sufficiently specious by which to vindicate their really illegal proceedings. Though we cannot, therefore, justify the discontent of these people at the prospect of being deprived of a profitable employment, we cannot be surprised that such discontent should exist, and we ought to be prepared to obviate, as much as possible, its ill effect.

Mr. Fillmore entirely concurred in the correctness of this statement; and I then called his attention to the consideration that even the fullest admission on the part of Her Majesty's Government of the principle supposed to be contended for by the United States' Government in regard to the term "Bay" in the Convention, would in no way affect the state of things I had described. It was now admitted on all hands, that "the close in-shore" fishing is what the American fisherman requires in order to enable him to carry on his occupation with success. If, therefore, I remarked, it was the object of the American Government to allay the discontent of the fishermen of New England, and to place their interests upon a more satisfactory basis, it was evident that this could be done in no other way than by obtaining for them, by negotiation with Her Majesty's Government, the privilege they desire. But it is equally clear, that in order to induce the Colonies to admit others to participate in the use of a right which so clearly appertains to them alone, some equivalent must be found, and that equivalent, it appeared to me ought to be one calculated more or less to confer a direct advantage on the Colonies chiefly interested in the fisheries in question. It had already been stated to the United States' Government (by Sir Henry Bulwer in 1850), that the advantages which would result from a general reciprocity of trade on certain natural productions between the United States and the Colonies, would be considered by the latter sufficiently great to allow of their admitting American citizens to participate in the British fisheries, on the same terms, with certain trifling restrictions, as British subjects; and no consideration which I had been able to give the subject, nor any information which I

had received from the Colonies, had led me to suppose that any other equivalent could be found, which would, in a manner at once so obvious and complete, fulfil the conditions required.

It has now, I continued, been suggested by Mr. Lawrence, that the negotiations for the settlement of the arrangement of the fisheries should embrace not only the question of reciprocity of trade with the North American Colonies, but be extended to all subjects affecting the commercial relations of the two countries generally, and in this opinion Her Majesty's Government concur. It was my object, therefore, now to inquire whether the United States' Government were disposed to enter into negotiations with Her Majesty's Government on this basis; and if so, to state that Her Majesty's Government were strongly of opinion that it would be preferable that the negotiations should be carried on in England, by which means an opportunity would be afforded for Her Majesty's Secretary of State for the Colonies and the President of the Board of Trade, who were equally concerned in the matter with the Secretary of State for Foreign Affairs, to be present at the discussions.

Mr. Fillmore replied, that he entirely concurred in the opinion that it would be highly desirable on every account that all the commercial questions between the two countries, including the fisheries, should now be settled, and agreed with me as to the difficulty of finding an equivalent for the cession of the right of fishing by the Colonies, without connecting that question with the general question of reciprocity of trade.

He would unhesitatingly say that he was determined to make every effort in his power to arrange all these questions before the end of his Administration. It was not to be concealed, however, that great difficulties opposed themselves to the settlement of these questions. In the first place, as regarded the settlement of them by treaty, there were, in his opinion, insurmountable objections to that mode, as regarded by far the greater part of the arrangement proposed; though he admitted that other parts, which I pointed out to him, were fit and proper objects of negotiation between the two Governments. The arrangement was, however, inextricably bound up with alterations in the United States' Tariff, to make which alterations was the undoubted province of Congress, under the Constitution. Any attempt, therefore, by the Executive to make such alterations by treaty, would, he had reason to know, be resisted by an overwhelming majority, and the whole arrangement would be defeated, by whatever Administration the attempt should be made. He admitted the difficulty of getting a Bill originated in Congress and passed, which should embrace the whole arrangement in such a way as could be reciprocated by the British Imperial and Colonial Legislatures; and he concurred in the suggestion which was made by Mr. Webster, that the terms of the proposed arrangement should first be agreed upon between the two Governments, the execution of them being left contingent on the passing by Congress of such enactments as would be necessary to adapt the Tariff to the provisions of the projected Treaty, which, so soon as such enactments had been made, could be signed. This would have the effect of making it evident to Members of Congress, that any essential departure on their part from the proposed alterations in the Tariff, would defeat the whole measure, and thus prevent the proposal of numerous amendments, dictated by purely local interests, which would otherwise either impede the progress of the Bill, or render it practically inoperative, were it to pass.

With regard to the wish of Her Majesty's Government, that the negotiations should be carried on in London, Mr. Fillmore remarked, that he would of course be willing that the negotiations should be carried on where they would have the best chance of success; but he seemed to be strongly impressed with an opinion that this chance would be much better at Washington than at London. This, he thought, was evident from the mixed nature of the question, as it presented itself to the United States' Government, requiring, on their part, legislation as well as negotiation; and the successful solution of the question ultimately depending upon the former. In combining a measure dependent for its success on the action of Congress, reference and consultation with the persons charged with the

various interests there represented, and the exercise of all the influence the Government could bring to bear upon those persons, would be absolutely essential; and this could not be so readily done were the negotiations carried on in London. A measure matured in England would, he thought, be likely to be received with some jealousy by Congress, and would in all probability be defeated. Mr. Fillmore added, that the gentleman, Mr. Ingersoll, who was now about to replace Mr. Lawrence, was not, he believed, sufficiently acquainted with all the bearings and details of these matters, now to enter upon their negotiation; and that he, Mr. Fillmore, would be unable, before Mr. Ingersoll's departure, to furnish him with instructions sufficiently full and detailed to enable him to do so with advantage.

Mr. Fillmore said he would, indeed, request me to draw up a memorandum for his own use, stating what were the different commercial questions pending between the two Governments, which it was now desired to include in the proposed Treaty; and to state, as far as I was aware of them, the terms on which Her Majesty's Government would be prepared to treat in regard to them. I said that I would apply to Her Majesty's Government for such a statement as he desired, but would recapitulate to him, in the meantime, the proposals which had at different times been made by this Legation to the United States' Government, under instructions from Her Majesty's Government, which instructions I would of course consider to be still in force until I should be otherwise informed by your Lordship.

The principal commercial questions in regard to which instructions had been addressed to this Mission were, I stated, those of reciprocity of trade with the North American Colonies including the fisheries; the coasting trade, as regarded the voyage from the eastern States of the United States to California; and the admission of British-built vessels to American registers, when built or purchased by American citizens.

I have, &c.

(Signed) JOHN F. CRAMPTON.

No. 67.

Mr. Merivale to Mr. Addington.

(Confidential.)

Sir,

Downing Street, September 28, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Lieutenant-Governor of Nova Scotia, dated the 9th August, inclosing the copy of a Minute of his Executive Council, of the same date, on the subject of the suggestion respecting the fisheries which Her Majesty's Minister at Washington addressed to the Governor-General of Canada on the 20th of July last.

The rest of the correspondence which accompanies Sir G. Le Marchant's despatch is not transmitted with these papers because the Foreign Office are already in possession of it.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 67.

Sir G. Le Marchant to Sir J. Pakington.

(Confidential.)

Sir,

Government House, Halifax, August 9, 1852.

VICE-ADMIRAL Sir George Seymour did me the honour to address to me on the 7th instant a despatch covering copies of confidential communications from Mr. Crampton to the Governor-General, and from Lord Elgin to his Excellency, all which I have now the honour to inclose.

Having submitted these papers to my Council, I have also the honour to transmit a Minute of Council, dated this day, in which the very strong opinion entertained by the Government of Nova Scotia upon the points referred to is, I trust, respectfully expressed.

Copies of this Minute have been forwarded to Mr. Crampton, to the Governor-General, and to Sir G. Seymour.

I have, &c.
(Signed) J. GASPARD LE MARCHANT.

Inclosure 2 in No. 67.

Mr. Crampton to Lord Elgin.

[See Inclosure 11 in No. 36.]

Inclosure 3 in No. 67.

The Earl of Elgin to Vice-Admiral Sir G. Seymour.

(Confidential.)

Sir,

Government House, Quebec, July 29, 1852.

I HAVE received a confidential despatch and a private letter from Mr. Crampton, copies of which I transmit herewith confidentially for your information.

I am not aware of the nature of the instructions which your Excellency may have received from Her Majesty's Government, but I feel confident that you will recognize with Mr. Crampton the importance of asserting our rights in the most conciliatory spirit.

I have, &c.
(Signed) ELGIN & KINCARDINE.

Inclosure 4 in No. 67.

Vice-Admiral Sir G. Seymour to Sir G. Le Marchant.

(Confidential.)

Sir,

"Cumberland," Halifax, August 7, 1852.

I HAVE the honour to inclose a copy of a communication I have received from the Earl of Elgin, accompanying a confidential letter which Mr. Crampton had addressed to his Excellency, containing the suggestions which had occurred to the President of the United States and himself, relative to the points in which the British and Americans are supposed to differ regarding the construction of the Convention of 1818.

I forward them, as meriting your Excellency's consideration in the employment of the vessels engaged in the protection of the fisheries.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 5 in No. 67.

Minute of Council.

At a Council held at Government House, Halifax, on the 9th day of August, 1852,

PRESENT :

His Excellency Sir J. Gaspard Le Marchant, &c.

HIS Excellency the Lieutenant-Governor having submitted to the Council a letter addressed (confidentially) by Her Majesty's Minister at Washington to his Excellency the Governor-General on the 20th of July last, containing a suggestion, that "in order to avoid the question which might arise from the different construction which seems to be given to the Convention of 1818 by the British and the American Governments, an understanding should be come to by both parties to abstain from exercising the right which each asserts in regard to points upon which the opinions of the two Governments are at issue, until they can come to an agreement upon it, or refer it to the arbitration of a friendly Power; that is to say, that the British authorities should not seize or interfere with American fishing-vessels which should be found fishing without a line at the distance of three miles from the shore, which line shall follow the bays, creeks, and indents thereof, which is the American construction of the Treaty; while the United States' authorities, on the other hand, warn, ad in every way prevent their own people from encroaching upon the space claimed under the British construction of it, until such time as it shall be settled which of the two constructions is to prevail."

His Excellency is respectfully advised that it would be premature and impolitic for the Government of Nova Scotia to take upon itself the responsibility of sanctioning such an arrangement, without a reference to the Imperial Government, or a positive order from the Governor-General.

His Excellency is also advised that the Legislature and people of Nova Scotia would deeply deplore the confirmation of such a compact by Her Majesty's Government, which would practically and for an indefinite period give to the people of the United States the advantages of their own construction, within the bays; while, judging from the experience of the past, but slight reliance could be placed upon the enforcement by the United States' authorities, of our rights upon the shores.

No. 68.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, September 28, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Malmesbury, copies of a letter from Vice-Admiral Sir George Seymour, dated the 15th September, and of its inclosures, relating to the North American fisheries.

I am, &c.

(Signed)

AUG. STAFFORD.

Inclosure 1 in No. 68.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, September 15, 1852.

I BEG to transmit, to be laid before the Lords Commissioners of the Admiralty, copies of two letters, dated 10th and 29th August, which I thought it my duty to address to Her Majesty's Minister at Washington,

relative to the late transactions respecting the fisheries, which I had not time to send by the last mail.

2. They are exclusive of information which I have from time to time communicated to him in an unofficial shape.

3. I also transmit a copy of allegations of infraction of the Convention of 1818 by the fishermen of the United States, which I gave Commodore Perry when at Halifax, with the concurrence of Sir Gaspard Le Marchant, Lieutenant-Governor of Nova Scotia.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 68.

Vice-Admiral Sir G. Seymour to Mr. Crampton.

Sir,

"Cumberland," Halifax, August 10, 1852.

I HAVE the honour to inform you that I returned to Halifax from Newfoundland on the 5th instant, and have to acknowledge the receipt of your letter of the 20th ultimo, acquainting me confidentially, with a private letter you had received from Mr. Webster, with regard to what he deemed an interruption, by force, of that enjoyment of the fisheries which the fishing-vessels of the United States have so long practised and possessed without molestation.

I beg to acquaint you in reply, that the orders under which the vessels of the squadron are now employed in the protection of the fisheries, are similar to those which have been given for the execution of the same service for many years past; and although an addition of two small schooners has been made to the number employed in the Gulf of St. Lawrence, in consequence of the complaints which have been addressed to Her Majesty's Government, of the continued increase in the infringements committed by the United States' fishing-vessels in that quarter, no additional stringency has been given to the orders under which the Commanders of Her Majesty's ships act, nor has any proceeding been directed by me which is inconsistent with the mutual engagements of Great Britain and the United States, contained in the Convention of 1818.

In conformity to the desire of Her Majesty's Government and your Excellency's wishes, I shall continue to direct the Commanders to execute the duties confided to them with the caution and regard due to the rights of foreign nations, and not to seize for adjudication any vessels but those they may find under circumstances where no reasonable doubt can be entertained of infringements of treaty.

It is unnecessary for me to transmit to you a list of the United States' fishing-vessels which have from time to time been sent in and condemned in former years, as I understand you have received one from the Administrator of Nova Scotia. If there have been more this year, it is mainly owing to the increased and habitual disregard paid by the American fishing-vessels to those limits within which, whether under their own or our construction of the Convention of 1818, they are excluded.

It is possible that seizures have been made of vessels within the line of headlands which have been understood to form bays in the usual acceptation of the term, which have not come to my knowledge; but in the three cases of seizure which have been reported to me, all were found within three miles of the actual shores, under circumstances which entirely justified their detention for trial.

I understand, since my return, that the most exaggerated accounts have been circulated in the United States, of the force applied to the protection of the fisheries, and I therefore attach a list, for your information, of the number and appropriation of the vessels under my orders employed in the protection of those rights which the laws of nations and long possession have given, and acknowledgment by express treaty has confirmed.

I have, &c.
(Signed) G. F. SEYMOUR.

On the Coasts of Newfoundland and Straits of Belleisle.

					Guns.
Buzzard, steam-sloop	..	..	..	..	6
Sappho, sloop	..	..	..	..	12
Bermuda..	.	..	..	..	3

In the Gulf of St. Lawrence.

Devastation, steam-sloop	6
Arrow (hired)	1
Telegraph, schooner	1

In the Bay of Fundy.

Netley, cutter	2
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In former years the usual force employed in the protection of the fisheries has been :

1 frigate,	26 guns,	at Newfoundland.
1 sloop,	16 "	in the Bay of Fundy.
1 sloop,	16 "	Gulf of St. Lawrence, or
1 steam-sloop,	6 "	

Inclosure 3 in No. 68.

Vice-Admiral Sir G. Seymour to Mr. Crampton.

Sir,

"Cumberland," Halifax, August 29, 1852.

HAVING transmitted on the 24th instant a copy of the declaration I considered necessary to make to Commodore Perry, before he quitted Halifax, against the interference of the United States' ships of war with vessels detained for adjudication before a competent tribunal for infraction of the Convention of 1818; I herewith inclose the copy of a letter I have received from Commodore Perry in reply.

I could not be under any misapprehension of the communication that officer addressed to me, as he permitted me to note the terms in which it was expressed in his instructions, which were as follows:—

"You will earnestly impress upon the Admiral or other officer who may be in command of the British naval force, the desire of the President to adjust, by all proper amicable means, any difficulty which may have arisen out of the subject complained of by the British authorities, as well his determination to protect the citizens of the United States against any irregular or unlawful exercise of force in the arrest or seizure of any vessel of the United States employed in the fisheries; and you are directed also to assure him of the solicitude of the President to maintain and enforce the exact faithful observance of the Treaty."

The assurances which Commodore Perry's letter conveys of his disposition to unite with me in executing our duties in a manner which will tend rather to calm than to provoke excited feelings on the fishery question, are satisfactory in themselves, and have now, according to my reports, been confirmed by his conduct in the Gulf of St. Lawrence; but your Excellency will agree with me, that the determination expressed by the United States' Government to protect the citizens of that country against any irregular or unlawful exercise of force in the arrest or seizure of any of their vessels, will be fraught with danger to the continuance of that peace which is desirable between the two nations, if the orders of the United States' Government authorize the commanders of their ships of war to constitute themselves the judges as to whether vessels detained for adjudication had or had not infringed that Convention, which the President expresses his solicitude to maintain and enforce.

I have not thought it necessary to carry the correspondence with Commodore Perry further, but deem it advisable, under the circumstances, your Excellency should be apprized of the written communications which have followed those we personally exchanged, which were entirely of a conciliatory character.

The commanders of Her Majesty's ships will be held strictly responsible for not detaining the fishing-vessels of a foreign or friendly Power, on insufficient grounds.

I inclose an extract of a letter from Commander Campbell, of the "Devastation," stating the circumstances of his meeting Commodore Perry off Prince Edward's Island, on the 26th instant, which are of a satisfactory nature.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 4 in No. 68.

Memorandum of Allegations of recent infraction of the Convention of 1818.

ON the 13th October, 1850, Mr. Blanchard, collector of customs at Port Hood, Cape Breton, wrote to the Government of Nova Scotia, that on that coast, and the immediate neighbourhood, the American fishermen are, from the 1st of September to 10th of November, in the almost constant habit of fishing within the established limits; that he has seen, on several occasions, from 20 to 30 vessels busily engaged during the whole day fishing within one mile of the harbour.

2. On the 4th August, 1851, Mr. Henderson, agent for the Hudson's Bay Company at Seven Islands, Labrador, wrote as follows:

"For God's sake, send a man-of-war here, for the Americans are masters of the place; 100 sail are now lying in this harbour. They have stolen all my firewood and burnt it on the beach; fired the woods about the house, and if any change of wind takes place, the establishment will be in ashes before morning."

3. In the report of the Commissioners into the hook and line fishery of mackarel, dated 21st January, 1852, it is also stated that David Bears swears that the United States' fishing-vessels, from September to middle of November, fish close in shore from half a mile to one mile and a half of the coast. That they have stout bowsprits and double chain bob-stays, and threaten to run vessels down which may interfere with them. Many of them are armed. That they clean their fish in harbour, and that they are in the constant habit of trading with the inhabitants.

4. In April 1851, the House of Assembly of New Brunswick inclosed to Her Majesty's Government a report from Captain Robinson, R.N., in which it is stated, that—

"The encroachments of foreigners have now grown to such an extent as materially to effect the productiveness of the fisheries. In defiance of the Convention, they prosecute the fisheries within the limits, and frequently in such a manner as to prevent the resident fishermen from following their usual avocation."

5. On the 15th November, 1851, Sir Alexander Bannerman, Lieutenant Governor of Prince Edward's Island, wrote to Earl Grey, Secretary of State for the Colonies, that "the present state of things may be attended with serious consequences when least expected; complaints are made of the Americans setting the Treaty at defiance, and obstructing the British fishermen on the best fishing-grounds, in overwhelming numbers. The American fishermen daily infringe the Treaty by fishing close to the shore."

6. In a petition to the Queen, from the Merchants of Halifax, it is set forth that "the most flagrant violations of the Convention are continually occurring. We experience great loss from the unwarrantable attempts of the Americans to destroy our fisheries."

7. A list is inclosed of vessels which have been detained for trial at various periods.

No. 69.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, October 6, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 23rd ultimo, inclosing a draft of a letter which Secretary Sir John Pakington proposes to address to the Lieutenant-Governor of New Brunswick, in regard to the proceedings of Mr. Perley, Emigration Agent at St. John's, in furnishing Mr. Andrews, the United States' Consul in New Brunswick, with a map purporting to show the lines of fishing-boundaries officially claimed on the part of the British Colonies; and I am directed by his Lordship to suggest, for Sir John Pakington's consideration, whether, as Mr. Perley appears, by Mr. Crampton's despatch, of which a copy was forwarded to you by my letter of the 27th ultimo, to have been employed by Mr. Crampton in furnishing information on the fishery question to the United States' authorities, it may not be well to qualify the proposed disapproval of his proceedings, and to limit it to his having improperly, and without authority, laid down on maps certain lines, and having led the United States to suppose that those lines represent the boundaries claimed by Her Majesty's Government.

I am to add that Mr. Crampton will be informed that Mr. Perley has exceeded his duty, and that he will be admonished accordingly.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 70.

The Earl of Malmesbury to Mr. Crampton.

(No. 95.)

Sir,

Foreign Office, October 7, 1852.

WITH reference to my despatch No. 90, respecting Mr. Lawrence's reports to his Government upon the subject of the fisheries within three miles from the shore, I have to observe to you, that Her Majesty's Government could not, consistently with their duty to the Queen and to British colonial interests, comply with the desire of the United States, that American vessels fishing within three miles from the land of British Territory should not be seized during the present season.

I apprehend indeed, from the general tenour of your communications with the President and Mr. Webster, that they are prepared to admit that while Her Majesty's Government have given orders to their cruizers to act with the utmost forbearance and moderation, those orders could not be extended so as to allow of in-shore fishing by Americans, pending the negotiations for a new Commercial Treaty.

Under these circumstances it appears to Her Majesty's Government that it would be for the interest of the American shipowners themselves, that they should be distinctly informed that any encroachment on their part will render their vessels liable to the penalties of transgression.

I am, &c.

(Signed) MALMESBURY.

No. 71.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, October 9, 1852.

WITH reference to your letter of the Earl of Malmesbury to transmit to you herewith, for the information of Secretary Sir John Pakington, a copy of the report* made by Her Majesty's

* No. 59.

Advocate, Attorney, and Solicitor-General, upon the questions put by Vice-Admiral Sir George Seymour relative to the Fishery Convention of 1818, and to the Act 59 Geo. III, cap. 38.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 72.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, October 9, 1852.

THE Earl of Malmesbury having submitted to the Law Officers of the Crown the questions put by Vice-Admiral Sir George Seymour, and inclosed in your letter of the 19th of July last, respecting the interpretation to be given to the Fishery Convention of 1818, between Great Britain and the United States, and to the Act 59 Geo. III, cap. 38, I am directed by his Lordship to transmit to you herewith, for the information of the Lords Commissioners of the Admiralty, a copy of a report* from the Advocate, Attorney, and Solicitor-General, upon this subject.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 73.

Mr. Merivale to Mr. Addington.—(Received October 11.)

Sir,

Downing Street, October 9, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch and its inclosure from the Lieutenant-Governor of New Brunswick, on the subject of the fisheries.

Sir John Pakington would be glad to be favoured with Lord Malmesbury's opinion, whether the Lieutenant-Governor's despatch should be acknowledged in general terms, to the effect that the views of his Executive Council will receive the careful consideration of Her Majesty's Government, or whether the Minute of the Council inclosed in his despatch should receive more particular notice.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure I in No. 73.

Sir Edmund Head to Sir John Pakington.

Sir,

St. John's, New Brunswick, September 10, 1852.

I HAVE the honour to inclose a copy of a Minute of Council approved by me in Council this day on the subject of the fisheries.

I have, &c.
(Signed) EDMUND HEAD.

* See No. 59.

Inclosure 2 in No. 73.

Minute of Council.

In Council.

St. John's, September 10, 1852.

Present :

His Excellency the Lieutenant-Governor.

The Hon. Mr. Chandler.

" Mr. Hazen.

" Mr. Packlon.

" Mr. Kinnear.

" Mr. Hayward.

" Mr. Wilmot.

" Mr. Gray.

Submitted the following Minute:—

THE Executive Council of New Brunswick deem it their duty to impress upon Her Majesty's Government their most earnest wish that no deviation should be made from the principles laid down by the Treaty of 1818, with the Government of the United States on the subject of the fisheries, but, on the contrary, that the rights of British subjects, according to the proper construction of that Treaty, should be rigidly enforced.

The people of British North America, now numbering over 2,500,000, are peculiarly and deeply interested in the preservation of these rights, and would consider the surrender of the privileges they now enjoy as such an abandonment of their interests as could not fail to excite well-justified discontent,

It will be admitted, the Council hope, by Her Majesty's Government, that the Governments of these colonies are fully conversant with the great value the inhabitants attach to this important subject; and the Council humbly trust, that in any negotiations which may hereafter take place between Her Majesty's Government and that of the United States, his Excellency the Governor-General and the Lieutenant-Governors of the respective Provinces be consulted with reference to such negotiations.

In the commercial transactions between the British Provinces and the United States, the latter possess a decided advantage. Their goods are suffered to be imported upon the same terms as those charged on British merchandize; and New Brunswick has been prevented by Imperial authority, contrary, however, to the wishes and feelings entertained by the Legislature, from proposing discriminating duties. While the goods of the United States are here admitted at a duty of $8\frac{1}{2}$ per cent. *ad valorem*, our productions, as well raw as manufactured, pay *there* an average duty of 25 to 30 per cent. Our ships cannot be sold in the American market and obtain registers; *theirs* can come in, be sold, transferred, and receive British registers, as if built in the British Dominions. American steamers thus conveyed are now plying on the River St. John with British registry.

What our people want are equal rights and commercial freedom with them, and they would then not fear competition.

No. 74.

Mr. Merivale to Mr. Addington.—(Received October 12.)

Sir,

Downing Street, October 11, 1852.

WITH reference to my letter of the 18th August, and to your reply of the 10th September, on the subject of the refusal of American fishermen to pay the anchorage dues authorized to be levied under an Act recently passed by the Legislature of Prince Edward Island, I am directed by Secretary Sir John Pakington to transmit to you, for the information of

the Earl of Malmesbury, the copy of a further despatch which has been received from Sir A. Bannerman, relating to this subject and to the question of the fisheries.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 74.

Sir A. Bannerman to Sir J. Pakington.

Sir,

Prince Edward Island, August 31, 1852.

I BEG leave to inclose copy of a letter which I have addressed to Sir George Seymour, in answer to one from him on the subject of anchorage dues. The Admiral was here the other day, and crossed by land to Malpeque, off which harbour he had ordered Her Majesty's ships "Devastation" and "Basilisk" to meet him.

2. When there it seems his attention had been called to the American fishing-vessels refusing to pay anchorage dues, and the purport of his letter is suggesting to me the course I have followed, as explained in my despatch to you of July 19, to which I beg to refer.

3. In regard to the Fishery question I can only say there is but one feeling here as to the course pursued by Her Majesty's Government in sending a naval force to protect them; and the American masters are, I understand, quite sensible of their long-continued infraction of the Convention, and desirous for an amicable arrangement.

4. Three schooners have been brought in here, the last one liberated during the Admiral's stay here, an act of clemency to the master, a poor man, part-owner, who acknowledged in writing his knowledge of the Treaty, and expressing great regret at its infraction.

5. Much excitement existed lately in the United States, chiefly arising, I believe, from a map published by Mr. Perley, defining the coast-fishery boundaries to an extent, as I understand, not authorized or claimed by the British Government. The American steam-sloop of war "Mississippi," Commodore Perry, was off here, but did not touch at Charlotte Town, which I regret, as I could have easily satisfied him of the danger of allowing this question to remain in an unsettled state, and the risks he ran from the landing of so many of his countrymen in direct violation of the law, and without their being under any control.

I have, &c.
(Signed) A. BANNERMAN.

Inclosure 2 in No. 74.

Sir A. Bannerman to Vice-Admiral Sir G. Seymour.

My dear Sir George,

Government House, August 30, 1852.

THE "Basilisk" came into this anchorage on Saturday at noon, and after landing your despatches to me of the 27th, Commander Eggerton immediately proceeded to sea.

In regard to the question of anchorage duties, you will find by the copies which I inclose, that on receiving from the harbour-master at Malpeque a communication relating to the refusal of the American schooner to pay duties, I gave orders that no compulsion whatever should be used, and forwarded to the Colonial Minister copy of the harbour-master's letter, accompanied by the despatch No. 1.

You are aware that Mr. Crampton wrote to me confidentially, as I believe he did also to the Governors of the other provinces, on the Fishery question, which six weeks ago created so much excitement in the United States; in replying to that gentleman I considered it necessary to allude to, and correct many errors and exaggerations which had got into the American papers, and as it might have happened that the anchorage dues would also prove another theme of complaint, I alluded to the subject in

the terms you will find in the extract No. 2 herewith sent, considering the opportunity a fitting one, as Mr. Webster was then with Mr. Crampton, to call their attention to the subject; of course my letter was confidential. In reply to a similar one on the Fishery affair, I should be always adverse to employing Commanders of Her Majesty's ships as revenue officers, unless in aid of the civil power in cases of emergency; indeed, on my interview with Commander Campbell, I took the liberty of expressing that opinion, and in the commission I sent to you for him I carefully excluded all parts of the Colonial statute in reference to smuggling and protection of revenue, strictly confining it to the delicate and difficult duty of fishery protection. On Mr. Chetwynd's return from his last cruize, I understood from him that he acted only in accordance with his instructions on an application made to him by a magistrate, but had used no compulsion about anchorage dues, merely explaining to the American fishermen that the payment was a legal one, in consequence of which many of them had since paid.

In regard to your other communication I shall write in a day or two.

Meantime believe me, &c.

(Signed) A. BANNERMAN.

Inclosure 3 in No. 74.

Sir A. Bannerman to Mr. Crampton:

(Extract.)

Government House, August 5, 1852.

I TAKE this opportunity of mentioning that complaints have been made to me by several harbour-masters, of the United States' fishing-vessels refusing to pay the same anchorage dues that all others are liable to pay; as the statute is a recent one I ordered that the names of the vessels and their masters should be sent to me, with the view of their being better advised.

No. 75.

Mr. Crampton to the Earl of Malmesbury.—(Received October 12.)

(No. 154.)

My Lord,

Washington, September 26, 1852.

IN my despatch No. 115 of the 9th ultimo, I had the honour of stating that the doctrine laid down by the highest American legal authorities in regard to the maritime jurisdiction of the United States over the bays formed by the indents of their own coasts, coincided with that which had been always maintained by Her Majesty's Government. I have now the honour to inclose a paper by which it will appear that this doctrine has been acted upon in its fullest extent by the United States' Government in regard to British subjects, and has been supported by arguments in every way analogous to those used in support of the British construction of the Convention of 1818.

It appears that in the year 1830 an application was made by Her Majesty's Minister at Washington to the Government of the United States, for *permission* to British fishermen from the Bahama Islands to take turtle and other fish on the coast of Florida; and your Lordship will perceive, by a perusal of the letter of the Governor of Florida to the United States' Secretary of State on this occasion, that the permission was refused on the very grounds taken by Her Majesty's Government for the exclusion of American fishermen from the bays of British North American Colonies. These grounds, your Lordship will see, are set forth at length in the Report of a Committee on the State of the Territory of Florida, and in the Message of Mr. J. D. Wescott, Acting Governor of Florida, to the Legislative Council of the Territory, in January 1832.

I lately happened to have some conversation with Mr. Wescott on the

subject of the British North American fisheries, when he alluded to the circumstance I have stated above in regard to those of Florida; and remarked that Florida and the south-eastern States of the Union would never be found questioning the right of Great Britain to the jurisdiction over bays formed by the indents of the coasts of British Territory, it being very essential to the interests of the States in question, that the doctrine maintained by Her Majesty's Government should be enforced in its fullest extent. It was not so much from the fisheries on those coasts, he observed (though of some value), that it was wished to exclude foreigners, as from the business called here "wrecking," or saving vessels from shipwreck, which was very profitable, from the great number of ships annually exposed to great danger on the coasts of Florida, and was one which the inhabitants of that State were anxious to preserve themselves from competition. This business, they apprehended, would be seriously interfered with, were foreign vessels, on the pretence of fishing, to frequent their waters.

In a late conversation with the President of the United States, I took occasion to direct his attention to the facts stated in the documents which I have inclosed.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 75.

The Governor of Florida to the Secretary of State of the United States.

*Executive Office, Tallahassee, Florida,
October 7, 1831.*

(Extract.)

THE communication from the State Department of the 25th of August last, relative to the fisheries on the coast of Florida, and requesting information as to the propriety of withholding or granting the accommodation applied for by the British Minister in behalf of the inhabitants of the Bahamas, to catch fish and turtle on the coasts of Florida, was received in due course of mail.

The terms of the application, as gathered from the communication from the Department, would induce the impression that the privilege asked for was of minor importance, but such opinion would be erroneous.

It has been estimated that the fish and turtle taken in the fisheries on the coast and in the waters contiguous to the islands and keys of Florida, are sold in the Havana and other places in Cuba, and exceed 100,000 dollars annually. There are, besides, many sold and consumed in the United States and elsewhere. There are a number of vessels, generally smacks, from 20 to 50 tons burthen, employed solely in that business; and several persons pursue it; and also the employment of salvors, or wreckers, in the same vessels.

The fish and turtle are chiefly, if not all, taken in the sounds, bays, &c., on the coast and in the waters contiguous to and between the islands and keys, and in shoal waters; and it is believed it will be admitted, entirely within the local jurisdiction.

It is contended by some of our citizens who have interested themselves in the subject, that the right of fishing in the waters is wholly local, and belongs exclusively and solely to the citizens of Florida. This *exclusive* claim is founded upon their inhabitancy of the country to which these fisheries naturally and geographically appertain.

It would seem that the British Minister is under the impression that the inhabitants of the Bahamas enjoyed the accommodation asked for before the cession of the Floridas to the United States, and until the British West India Islands were closed to the commerce of the United States; and that the accommodation was refused to be continued in consequence of this restriction on our commerce.

That no persons of any nation were prevented from fishing within the waters of Florida before the cession, and also from doing many other things, since prohibited by our laws, is correct; the privilege of fishing, as then enjoyed by foreigners, did not conflict with the interests of the Spanish population of Florida.

Extracts from Report of Committee on the state of the Territory of Florida, 1832.

AFTER giving their concurrence to the Governor's reply on the subject of the fisheries, and recommending publication of the correspondence, the Committee proceed as follows:

It has been urged that the Law of Nations would not justify the appropriation of these fisheries to ourselves *exclusively*. The Committee would remark, that the British Government have *admitted* our *right to do so*, by asking for the use of these fisheries *as a favour*. But we do not desire to avail ourselves of any advantages that may be derived from such concession, nor do we fear a reference to the Law of Nations.

Vattel, among other things on this subject, says:

"The various uses of the sea near its coast render it very susceptible of property. People there fish, and draw from thence shells, pearls, amber, &c. The nation to whom the coasts belong may appropriate to itself an advantage, which it is considered as having taken possession of, and made a profit of it in the same manner as it may possess the domain of the land it inhabits.

"If a nation has a fishing on its coast that is particularly advantageous, and of which it may become master, shall it not be permitted to appropriate this natural advantage to itself, as a dependence on the country it possesses, and if there are a sufficient number of fish to furnish the neighbouring nations, of reserving to itself the great advantage it may receive from them by commerce?"

"A nation may appropriate things when the free and common use of them would be prejudicial or dangerous. This is a second reason why Powers extend their dominion over the sea, along the coast, as far as they are able to protect their right.

"The banks of the sea belong incontestably to the natives that possess the country, of which it is a part; and these are of the number of public things.

"All we have said of the parts of the sea near the coast, may be said more particularly, and with much greater reason, of the roads, bays, and straits, as still more capable of being occupied, and of greater importance to the safety of the country."

Martens also, in his "Treatise on the Law of Nations," says—

"The sea surrounding the coast, as well as those parts of it which are land-locked, such as the roads, little bays, gulfs, &c., as those which are situated within cannon-shot of the shore (that is, within the distance of three leagues), are so entirely the property and subject to the dominion of the master of the coast, that he has the exclusive right to all the produce of it, whether ordinary or accidental, as far as relates to things unclaimed by any other lawful proprietor."

The Committee say, "Some writers have formerly contended that the right could not appertain if the fisheries were inexhaustible, and that a *necessity* must exist for this exclusive appropriation. This doctrine is, however, long since exploded, and the right recognized, as founded on the broad and arbitrary principle, that every nation has a right to such exclusive appropriation for the extension of its commerce, and *even for convenience merely*."

Extracts from the Message of J. D. Westcott, Acting Governor of Florida, to the Legislative Council, January 1832.

THERE is no subject involved in the scope of your duties that I deem of more importance to the interests of the territory than the regulation by law of the valuable fisheries in the waters adjacent to the islands and keys, and in the bays and sounds, and on the coasts of our territories, and their protection from the intrusion of foreigners.

In September last, the Governor received a communication from the State Department, informing him that the British Minister at Washington, at the instance of the Governor of the Bahama Islands, had made application to the General Government, in behalf of the inhabitants of those islands, for permission to catch fish and turtle on the coasts of Florida.

* * * *

Upon a perusal of the correspondence, it will be seen that the rights and interests of the people of Florida in regard to these highly valuable natural privileges, are fully sustained in the reply of the Governor; and it will, I am sure, occasion the favour asked for to be withheld. These fisheries are, it is believed, wholly within the local jurisdiction of the territory, and subject to the controul and regulation of the Legislature.

No. 76.

Mr. Crampton to the Earl of Malmesbury.—(Received October 12.)

(No. 156.)

My Lord,

Washington, September 26, 1852.

IN compliance with the wish expressed to me by the President in my conversation with him, reported to your Lordship in my despatch No. 147, of the 12th instant, I drew up a short memorandum (a copy of which I have the honour to inclose) of the commercial questions between Great Britain and the United States, a definite arrangement of which was desired by Her Majesty's Government.

These I stated to regard :

1st. Reciprocity of trade between the United States and the British North American Colonies, on the terms which had been proposed by Sir Henry Bulwer in 1850.

2nd. Admission of British vessels to trade between the eastern States of the United States and California, on the same terms as American vessels are permitted to trade between Great Britain and British colonies.

3rd. Admission of British-built vessels, owned by American citizens, to the advantages of an American register.

In presenting this memorandum to Mr. Fillmore, I stated that these were the questions in regard to which instructions had, at different times, been addressed to this Mission, and communications made to the Government of the United States. I added, however, that I had applied to your Lordship for full information in regard to the present views of Her Majesty's Government upon these subjects, or upon such others as it might appear desirable to include in the commercial arrangements now contemplated.

Mr. Fillmore, after conversing very frankly upon the different subjects adverted to in the memorandum, said that he would immediately submit these questions to the consideration of his Cabinet; and although he avowed that some of the matters in question were not free from difficulty, nothing should be wanting on his part to effect the best arrangement of them which might be found practicable.

The President then alluded to a report which he had heard regarding certain "measures of retaliation" which the Provincial Government of Canada were stated to have adopted, under the impression that all hope of effecting a liberal commercial arrangement with the United States on the basis of reciprocity must be abandoned; and he expressed his regret at the adoption of these measures, not so much, he said, from any apprehension of their being to any great extent injurious to American interests, as from the unfavourable effect which they would be likely to have upon the intended negotiation.

Having, the day before my conversation with Mr. Fillmore, received a private letter from the Earl of Elgin, of which I have the honour to inclose a copy, transmitting to me the copy of a minute of the Executive Council of Canada on this subject, I was enabled to state that no Legislative measure of the sort Mr. Fillmore alluded to had yet been taken by

the Canadian Parliament, although it was true that some alterations in the tolls of the Welland Canal, and in the rates of duty on certain articles, were contemplated by the Provincial Government. These measures, I observed, could scarcely be termed with justice "retaliatory," inasmuch as they would amount to nothing more than a partial resumption by Canada of certain commercial restrictions, the permanent abandonment of which had been found inconsistent with the interests of the province, in the absence of corresponding measures on the part of the United States. As several years had now elapsed without such corresponding measures having been taken, and as the recommendation of the President to Congress to consider them, had been passed over in silence by that body, we could not be surprised if the Provincial Government of Canada had concluded that the measures in question had been virtually rejected by the American Legislature, and were preparing to act accordingly.

Mr. Fillmore admitted the correctness of my remark, but said that nevertheless he feared that the contemplated enactments of the Canadian Parliament would "go forth" in the United States as measures of retaliation meant to coerce the American Government into negotiation. "At least," said Mr. Fillmore, "this will be asserted by those who are opposed to 'reciprocal' trade with the Colonies, and will, I fear, act as an objection *in limine* to an examination of the merits of that question."

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 76.

Memorandum of Commercial Questions between Great Britain and the United States.

I.

RECIPROCAL free trade in all natural productions between the United States and all Her Majesty's North American Colonies, excepting Newfoundland, would be agreed to by Her Majesty's Government; and the following concessions would be made to the United States, in order to ensure the same, viz. :

Throwing open to the fishermen of the United States the fisheries in the waters of the British North American Colonies, with permission to those fishermen to land on the coasts of those Colonies, for the purpose of drying their nets, and curing their fish, provided that in so doing they do not interfere with the owners of private property or with the operations of British fishermen; but Her Majesty's Government would require, in return for this concession, that all fish, either cured or fresh, imported into the United States from the British North American Possessions in vessels of any nation or description, be admitted into the United States free of duty, and upon terms, in all respects, of equality with fish imported by citizens of the United States.

The concession above mentioned would be considered as applying solely to the "sea fishery;" the fisheries in estuaries and in the mouths of rivers, of which the Salmon fishery is the most important, must be reserved exclusively for British fishermen, such fisheries being more or less of the nature of local or private rights.

Her Majesty's Government would further grant to United States' vessels and citizens the admission to a full and free participation in the navigation of the River St. Lawrence, and of certain canals, to be specified, which are connected with that navigation, with the reservation, however, that the British Government must retain the right of suspending this privilege, on giving due notice thereof to the Government of the United States, whenever political considerations, of which the British Government must be the sole judge, should, in its opinion, render such a measure necessary.

Her Majesty's Government would be desirous that coals be inc

in the list of articles to be admitted duty free into the United States from the British Provinces, and into the British Provinces from the United States.

II.

Participation by British vessels in the trade between the eastern States of the United States and California, on the same terms as American vessels; claimed by the British Government on the ground that this trade resembles in its nature and character the trade between Great Britain and her colonies, to which American vessels are admitted on the same terms as British vessels.

III.

Admission to the advantages of an American register for British-built vessels when the property of American citizens; asked for by the British Government on the ground of reciprocity, American-built vessels having that privilege in Great Britain.

The above two advantages are accorded by the British Government to American commerce in virtue of Acts of Parliament, by which, however, the power of withdrawing them by Order in Council is reserved to the British Government in the cases where they shall not have been met by reciprocity. Their withdrawal is now pressed upon Her Majesty's Government by the shipping interests in England.

Inclosure 2 in No. 76.

The Earl of Elgin to Mr. Crampton.

(Private.)

Dear Mr. Crampton,

Quebec, September 20, 1852.

BEFORE your letter of the 14th reached me, the minute, of which I herewith inclose a copy, had passed my Executive Council. As the views embodied therein had been adopted after much consideration, notwithstanding the defeat and consequent abandonment of office of Mr. Young, one of my advisers, for whom I have a great esteem, and as they had been adopted *bonâ fide* for the purpose of meeting what are believed to be the requirements of public opinion in the province, it was not possible for the Government to recede from the position it had taken.

Although, however, the Provincial Government is thus committed to the principle of affording the protection indicated in the inclosed minute to the producers of the province, who, rightly or wrongly, conceive that the continued refusal of the United States to adopt a policy of reciprocity in matters of trade, renders such protection necessary to them, you will observe that no legislation has as yet taken place on the subject; and I shall exert all the influence I possess to prevent any measures from being adopted hastily, or in such a manner as to press unduly on the important commercial interests which have sprung up between the Province and the neighbouring Republic.

I am, &c.
(Signed) ELGIN & KINCARDINE.

Inclosure 3 in No. 76.

Report of a Committee of the Executive Council of Canada, of September 16, 1852, approved by the Governor-General in Council on the 18th of the same month.

ON the annexed memorandum of the Honourable the Inspector-General, on the subject of the commercial policy to be adopted under existing circumstances, referred by your Excellency's command.

The Committee of Council have had under consideration the above-mentioned memorandum of the Honourable the Inspector-General, and concur in the recommendation therein made.

(Certified)

W. H. LEE,
Acting C. E. C.

Confidential Memorandum.

THE Undersigned has the honour to submit that a change in the commercial policy of the Province seems to be called for. It has been the opinion of the Undersigned for some years, that in the event of a refusal on the part of the United States to admit the natural products of Canada into that country free of duty, on the principles of reciprocity, it would be expedient for Canada to retrace its steps and to withdraw from the United States those commercial advantages which were formerly conceded, and for which no return has been made. The question of reciprocal free trade has now been before Congress for several years, and the Canadian people have waited for action of some kind with exemplary patience. Owing to causes into which it is unnecessary to enter, no decision of any kind has been arrived at, nor does there seem to be any probability that action will be taken within a reasonable time.

The Undersigned believes that the commercial relations between Canada and the United States can only be satisfactorily adjusted by treaty; but in order to negotiate on equal terms, it seems most desirable that Canada should place itself in the position in which it was at the time when concessions were first made to the United States.

The measures which the Undersigned is prepared to recommend, are:

1st. An alteration in the present system of levying tolls in the Welland Canal.

2ndly. An alteration in the Tariff, with a view to encourage importations by the St. Lawrence route.

It may be observed, that the use of the canals of the United States has never been conceded to the vessels of Great Britain; and that if the Canadian canals were entirely closed to the vessels of the United States, no just cause of complaint would exist. As, however, such a measure would be injurious to the revenue, the Undersigned is of opinion that it would be more advisable to adopt such a system of levying tolls as would tend to divert the foreign western produce destined for the seaboard, from Oswego and Ogdensburgh to Montreal and Quebec.

The tolls upward are derived principally from railroad iron, salt, general merchandize, and the vessels carrying those articles; and it is not proposed to make any change in the existing rates.

The tolls downward are derived principally from wheat, flour, and corn; and the Undersigned recommends that these articles, when carried in foreign bottoms, should be charged with the tolls on the Welland and St. Lawrence Canals, and that foreign vessels should be likewise charged with both rates of toll, with the privilege of using all the canals. At present, the Ogdensburgh Railroad competes with the St. Lawrence and Champlain Railroad for the western trade; but produce carried by the Lake route is subject to the full tolls of the Welland and St. Lawrence Canals, while that carried by the former is only subject to the Welland Canal tolls.

The effect of the proposed change will be advantageous to the line referred to, as well as to the St. Lawrence and Atlantic line, which will shortly be open, and the Montreal and New York Company's line.

The Undersigned is also of opinion that the state of the revenue is such as to justify some important changes in the Tariff, and that a favourable opportunity presents itself of adjusting the duties so as to favour the St. Lawrence route without pressing on the consuming population.

As the several Boards of Trade of the province came to the determination of holding a meeting at Quebec, with a view to consider the Tariff and to suggest alterations, the Undersigned deemed it but courteous to those influential corporations to defer making any recommendation until

he should have had an opportunity of considering the views of their delegates. Having had that opportunity, both by personal communication and by perusal of their petition, the Undersigned is now prepared, after giving his best consideration to the subject, to state the conclusions at which he has arrived; and although differing from them on some minor points, he is convinced that the changes which he is prepared to recommend will, on the whole, be satisfactory to the trade.

A reference to the trade returns will show that in the articles of sugar and molasses, the St. Lawrence route, even on terms of perfect equality, competes advantageously with that of the United States. Were a slight advantage given to that route it would in all probability obtain the entire trade without any increase of cost to the consumer, a contingency which the Undersigned admits it is most desirable to avoid. He proposes, therefore, to reduce the specific duty on sugar from 9s. to 7s. per cwt., and on molasses to 2d. per gallon, as recommended by the trade, and to charge the *ad valorem* duty of 12½ per cent. on those articles when imported by inland navigation.

The Undersigned is not prepared to recommend the substitution of a specific duty on tea, for the present combination of specific and *ad valorem* duties. The effect of such a change would be to press unfairly on the consumers of low-priced teas. He, however, recommends that tea imported by the St. Lawrence route should only pay an *ad valorem* duty of 5 per cent. The trade seems to be in favour of specific duties in certain cases, which are stated; but as the whole importation of the articles named is insignificant, and as, after mature consideration, the delegates of the Boards of Trade have not deemed it expedient to recommend changes to any great extent, the Undersigned is of opinion that no change should be made in the existing system of levying the duties generally on the *ad valorem* principle, adding specific duties in cases where, for revenue purposes, it is found expedient to increase the duty beyond the ordinary rate.

To check the frauds which the present system of levying duties on wine has been found to encourage, he proposes to have only one specific rate, 9d. per gallon, which, with the *ad valorem* duty of 25 per cent., will yield about as large a revenue as at present. He recommends that the *ad valorem* duty on salt imported by the St. Lawrence be discontinued.

The effect of the foregoing recommendations will be, in the opinion of the Undersigned, to divert a considerable trade to the St. Lawrence, without materially, if at all, increasing the cost of the commodities affected by the charges, to the importing merchants. The reduction of duty will therefore be a *bonâ fide* diminution of taxation on several leading articles of consumption.

To aid in making good the deficiency, and in accordance with the same policy, he proposes to add 5 per cent. to the present duties on certain foreign manufactures, when imported by inland navigation. As the articles in question can be manufactured as cheaply in Great Britain or Canada as in foreign countries, it is not likely that the change will operate injuriously. The manufactures which he would specify are those of cotton, woollen, iron and hardware; leather, paper and glass. He also recommends that in every case the duties should be levied on the value at the port of importation, Quebec or Montreal being considered the port of importation for Upper Canada. The present system of levying on the invoice value has been found to operate most injuriously to the Canadian importer, and experience has confirmed the Undersigned in the opinion that his objections to it in 1849 were well founded. The Undersigned need not enter at present into the recommendations of the trade which do not bear directly on the Tariff.

The whole humbly submitted.

(Signed)

F. HINCKS, *Inspector-General.*

*Inspector-General's Office,
Quebec, September 16, 1852.*

No. 77.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, October 13, 1852.

WITH reference to my letter of this day's date, I am directed by the Earl of Malmesbury to transmit to you for the information of Secretary Sir John Pakington, printed copies of two further despatches* from Her Majesty's Minister at Washington, respecting the maritime jurisdiction in regard to bays which the State of Florida claimed in 1830, on grounds analogous to those laid down by Her Majesty's Government; and also respecting the commercial questions which, together with the question of the British fisheries, Her Majesty's Government are desirous of arranging definitively with the Government of the United States.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 78.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, October 13, 1852.

I AM directed by the Earl of Malmesbury to transmit to you here-with a copy of a despatch† from Her Majesty's Minister at Washington, reporting his conversation with the President of the United States upon the subject of the negotiations to be opened for regulating the commercial intercourse between the two countries, including the settlement of the Fishery question; and I am to request that you will move Secretary Sir John Pakington to cause such a statement to be drawn up as regards the interests of Her Majesty's North American Colonies, as will enable Mr. Crampton to comply with the President's request to be furnished with a memorandum explaining the points upon which Her Majesty's Government are desirous of treating.

A copy of Mr. Crampton's despatch will also be sent to the Board of Trade, in order to obtain the opinion of that Board on points affecting the interests of the mother-country, independently of the Colonies.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 79.

Mr. Addington to Mr. Booth.

Sir,

Foreign Office, October 13, 1852.

I AM directed by the Earl of Malmesbury to transmit to you here-with, to be laid before the Board of Trade, a copy of a despatch† from Her Majesty's Minister at Washington, relative to a new commercial convention which it is proposed to negotiate with the United States of America; and I am to request that you will move the Board to favour his Lordship with a statement of the points which it may be desirable for Mr. Crampton to submit for the consideration of the President of the United States.

I am to add that a copy of Mr. Crampton's despatch has been laid before the Secretary of State for the Colonial Department with reference to the colonial interests involved in this question.

I am, &c.

(Signed) H. U. ADDINGTON.

* Nos. 75, 76.

† No. 66.

No. 80.

Mr. Addington to Mr. Booth.

Sir,

Foreign Office, October 14, 1852.

WITH reference to my letter of the 13th instant, I am directed by the Earl of Malmesbury to transmit to you, for the information of the Lords of the Committee of Privy Council for Trade, a copy of a further despatch* from Mr. Crampton, reporting the substance of a conversation with the President of the United States, respecting the commercial questions which, with the question of the British Fisheries, Her Majesty's Government are desirous of arranging definitively with the Government of the United States.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 81.

The Earl of Malmesbury to Mr. Crampton.

(No. 97.)

Sir,

Foreign Office, October 15, 1852.

I HAVE received your despatch No. 147, reporting your conversation with the President of the United States upon the Fishery Question, and the proposal for entering into negotiations for regulating the future commercial intercourse between the two countries; and I have to state to you, that if you should find that the President continues strongly to object to the negotiation being carried on in London, you are authorized, in conformity with President Fillmore's suggestion, to agree that the matter shall be discussed at Washington; and that whenever a project of arrangement shall have been generally agreed upon between the two Governments, the question of the alteration of the United States' Tariff, conformably to the sense of that arrangement, shall be brought forward in Congress.

It will of course be fully understood, that in case the House of Representatives should refuse to alter the American Tariff so as to meet the views of Her Majesty's Government, the whole project of Treaty falls to the ground, and that the British Government will consider itself in no way bound by any proposition or suggestion therein contained.

I am, &c.
(Signed) MALMESBURY.

No. 82.

The Earl of Malmesbury to Mr. Crampton.

(No. 98.)

Sir,

Foreign Office, October 15, 1852.

WITH reference to your despatches Nos. 125 and 145, respecting Mr. Perley's attendance, at your request, in Washington, for the purpose of furnishing information on the Fishery Question, I have to acquaint you that Vice-Admiral Sir George Seymour has forwarded to Her Majesty's Government a copy of a map of the Gulf of St. Lawrence which he had received from Commodore Perry, of the United States' Navy, and which purported to be drawn by Mr. Perley for the information of the United States' Government, as representing the lines of fishing-boundaries claimed officially by Her Majesty's Government.

The Secretary of State for the Colonial Department has informed me that Mr. Perley had no authority whatever for laying down such lines, and that they are in many essential points entirely erroneous.

I am, &c.
(Signed) MALMESBURY.

No. 83.

Lord Stanley to Mr. Merivale.

Sir,

Foreign Office, October 21, 1852.

I HAVE laid before the Earl of Malmesbury your letters of the 9th and 11th instant, respecting the North American Fisheries; and with reference to your inquiry whether the Lieutenant-Governor of New Brunswick should, in general terms, be told that the views of the Executive Council of that province will receive the careful consideration of Her Majesty's Government, or whether more particular notice should be taken of those views; I am directed by Lord Malmesbury to state to you, for the information of Secretary Sir John Pakington, that in his Lordship's opinion, the Lieutenant-Governor's despatch should be answered in general terms, adding, however, that it is the present intention of Her Majesty's Government to continue to protect the British Fisheries from encroachments, and to afford that protection by means similar to those now employed for that purpose.

I am at the same time to observe to you, that the Government of the United States have assured Her Majesty's Minister at Washington, that so soon as the Presidential election is over, they will be prepared to enter into a negotiation upon the broadest basis for reciprocal and equivalent concessions; and under these circumstances it may be desirable that Colonial Legislatures should not move in the matter beyond making known to Her Majesty's Government and to Her Majesty's Minister at Washington, their local requirements.

I am, &c.

(Signed) STANLEY.

No. 84.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, October 25, 1852.

I AM directed by Secretary Sir J. Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch marked "Confidential," from the Governor-General of Canada, inclosing copies of a private letter from Her Majesty's Minister at Washington, and of the Governor-General's reply, on the commercial policy of Canada, with reference to the continued refusal of the United States to admit the natural products of the province into that country, on the principle of reciprocity.

The memorandum* to which the Governor refers will be found amongst the inclosures to his despatch No. 86, of which a copy is forwarded to you in my other letter of this day's date.

I am, &c.

(Signed) T. FREDK. ELLIOT.

Incloure 1 in No. 84.

The Earl of Elgin and Kincardine to Sir J. Pakington.

(Confidential.)

Sir,

Government House, Quebec, September 23, 1852.

WITH reference to my despatch No. 86, of this day's date, I have the honour to transmit for your perusal the copy of a private letter which I have received from Her Majesty's Minister at Washington, with the copy of my reply. You will observe that Mr. Crampton's letter did not reach me until the memorandum on the commercial policy of the province inclosed in the despatch above named, had been finally adopted by this Government.

I have &c.

(Signed) ELGIN AND KINCARDINE.

* Inclosure 2 in No. 87.

Inclosure 2 in No. 84.

Mr. Crampton to the Earl of Elgin and Kincardine.

(Private.)

My Lord,

Washington, September 4, 1852.

I WAITED before writing to you in answer to your note of the 13th instant, in regard to the disposition of the Canadian Legislature to reimpose the discriminating duties and close the St. Lawrence against United States' vessels, to see whether I could ascertain what chance, or whether any chance exists, of settling the long-pending question of "reciprocity." It would be clearly impolitic in the Canadian Legislature to resort to these measures, unless the long-existing apathy of the Americans to their just expectations still continued; but this I think is no longer the case, and I think I can say that the impression left upon my mind, after a very long conversation I had two days ago with the President on this subject, is, that he is sincerely desirous to settle all our commercial questions before he leaves the administration, and that he really intends to do all that he can towards effecting the arrangement we have so long desired. The "Fishery difficulty" has at least had this good effect, that a general feeling now prevails that the whole of these matters should be settled. The adoption by Canada just now of retaliatory measures would, I think, be injurious, and would favour the cry of the opponents to reciprocity here, that we were trying to coerce the United States to negotiate, a notion sure to find a response among the masses. Unless, therefore, you have very cogent reasons to the contrary, it would, in my humble opinion, be more prudent to lay aside for the present the plan of resorting to retaliation.

Believe me, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 3 in No. 84.

The Earl of Elgin and Kincardine to Mr. Crampton.

[See Inclosure 2 in No. 76.]

No. 85.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, October 25, 1852.

WITH reference to my letters of the 18th and 21st August last and the 11th instant, I am directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Lieutenant-Governor of Prince Edward Island, inclosing a copy of a letter from the Commander of Her Majesty's hired armed schooner "Telegraph," referring to the refusal of the American fishermen to pay the anchorage dues leviable under an Act recently passed in that colony.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 85.

Sir A. Bannerman to Sir J. Pakington.

Sir,

Prince Edward Island, September 27, 1852.

IN reference to your despatch of the 19th August, inclosing copy of some further instructions from the Lords of the Admiralty to the Vice-Admiral commanding on the North American station, in regard to the protection of the fisheries, I beg to inclose extract of a letter from the Honourable W. Chetwynd, Lieutenant commanding the hired armed tender "Telegraph."

The American fishermen are now frequenting the harbour on the north side of the island in great numbers, and landing their crews unmolested. Should the Fishery question be amicably settled by negotiation, as I hope it will, I trust some provision will be made for the proper regulation and conduct of the fishermen who may frequent our shores.

On this and other subjects connected with the fisheries, I shall have the honour of addressing you at the termination of the fishing season, and

I have, &c.

(Signed) A. BANNERMAN, *Lieutenant-Governor.*

Inclosure 2 in No. 85.

Lieutenant the Hon. W. Chetwynd to Sir A. Bannerman.

(Extract.)

"Telegraph," Cascumpeque, September 1, 1852.

I HAVE the honour to acquaint you that I visited Richmond Bay during the past week, and the harbour-master informed me that a number of vessels had left the port without paying the anchorage-dues, a list of which he gave me for the information of the Commander-in-chief. I have the honour to inclose a copy of it. He complains greatly of the disgusting and abusive language made use of by the crews of some of the vessels towards him.

No. 86.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, October 25, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the accompanying copy of a despatch and its inclosures from the Lieutenant-Governor of Prince Edward Island, on the subject of the fisheries of that island.

I am, &c.

(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 86.

Sir A. Bannerman to Sir J. Pakington.

Sir,

Prince Edward Island, September 27, 1852.

I BEG leave to inclose copy of a letter from Commander Campbell, of Her Majesty's steam-sloop "Devastation," on the subject of the fisheries, with copy of my answer, and

I have, &c.

(Signed) A. BANNERMAN,
Lieutenant-Governor.

Inclosure 2 in No. 86.

Commander Campbell to Sir A. Bannerman.

Sir,

"Devastation," Charlotte Town, September 16, 1852.

I HAVE the honour to intimate to your Excellency that the American fishing-vessels, driven from other parts more easily protected, are now flocking in vast numbers to the shores of this island, no less than 110 having been seen off the North Point alone on Tuesday last. As, therefore, it will require the utmost exertion on the part of Her Majesty's cruisers to keep the intruders in check, my hands would be much strengthened in the performance of this very important and interesting duty, if I could leave boats from time to time, at places along the shore most frequented by the foreign fishermen.

As the season, however, is now far advanced, the crews of such boats would require shelter; and I have to request that your Excellency will be pleased to authorize me to give orders for any trifling expense which may be incurred for the housing of the men, to the people providing such accommodation.

From what I have seen I feel sure that the mackarel-fishing round the shores of this island might be a mine of wealth to its inhabitants as well as to those of the other British Provinces, and I trust if we succeed in our efforts, this will yet be found to be the case.

The water close to the shore is now absolutely teeming with mackarel in the finest possible condition, and this entirely within three miles of the land; so that by keeping the foreigners at that distance, the shore becomes a vast and valuable preserve for the fishermen to the British Provinces.

I have, &c.
(Signed) COLIN Y. CAMPBELL.

Inclosure 3 in No. 86.

Sir A. Bannerman to Commander Campbell.

Sir,

Prince Edward Island, September 17, 1852.

I HAVE the honour to acknowledge the receipt of your letter of yesterday's date; the information it contains confirms the statements I have already made to Her Majesty's Government, of the importance of the fisheries around the shores of this island. If the vessels belonging to this colony and those from the neighbouring provinces shall, as I understand they will, reap an abundant harvest within three miles of the shore, they will be indebted to the perseverance and unceasing vigilance of yourself and the officers commanding Her Majesty's ships on this station intrusted with a delicate and difficult duty. It affords me great satisfaction to have the opportunity of bearing testimony not only to the efficiency but to the prudence and discretion with which that duty has been performed.

In regard to your suggestion about affording shelter to your boats' crews, in the event of their requiring it, I am most happy to authorize you to give orders for the payment of any expense which may be incurred for their accommodation by the people who may afford them lodging.

I have, &c.
(Signed) A. BANNERMAN.

No. 87.

Mr. Elliot to Mr. Addington.—(Received October 26.)

Sir,

Downing Street, October 25, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Governor-General of Canada, inclosing the copy of a memorandum by the Inspector-General, embodying the views of the Executive Council on the subject of the commercial policy of the province, with reference more especially to the continued refusal of the United States to admit the natural products of Canada into that country, free of duty, on the principle of reciprocity.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 87.

The Earl of Elgin to Sir J. Pakington.

Sir,

Quebec, September 23, 1852.

I HAVE the honour to transmit the copy of a memorandum by the Inspector-General, on the subject of the commercial policy of the province, with reference more especially to the continued refusal of the United States to admit the natural products of Canada into that country, free of duty, on the principle of reciprocity. The views embodied in this memorandum are acquiesced in by all the members of the Executive Council with the exception of the Honourable Mr. Young, who, in consequence of their adoption by his colleagues, has resigned his seat in the Council and the office of Chief Commissioner of Public Works, and stated the grounds of his dissent in a letter to the Provincial Secretary, of which I herewith inclose the copy. I greatly regret the retirement from the Government, of Mr. Young, who is a gentleman of ability and high character, the more so that I consider that much weight attaches to his opinion on the subject which has been under discussion. At the same time I am bound to say that I believe the public of the province generally attach greater importance than Mr. Young does to the establishment of reciprocal freedom of trade between Canada and the United States, in the natural products of the two countries.

I have, &c.
(Signed) ELGIN & KINCARDINE.

Inclosure 2 in No. 87.

Confidential Memorandum by the Inspector-General of Canada.

[See Inclosure 3 in No. 76.]

Inclosure 3 in No. 87.

Mr. Young to the Provincial Secretary.

Sir,

Quebec, September 18, 1852.

THE memorandum of the Inspector-General on the future commercial policy of the country, and the adoption of that policy by the Government, places me in the unavoidable position of considering how far I can, under the circumstances, retain my relation to the Governor-General as

one of his advisers. I understand it is the intention of the Government to pursue towards the United States a retaliatory policy, which is to be carried out, first, by charging a higher toll on American than on Canadian vessels and their cargoes in passing through the Welland Canal; secondly, by laying a higher rate of duty on sugar, molasses, salt, tea, cotton and woollen goods, and on iron, hardware, glass and paper manufactures, than the same articles will be chargeable with if imported by the Gulf of the St. Lawrence.

This policy delays for an indefinite period the making free the navigation of the St. Lawrence between Quebec and Montreal to American vessels. It also involves the like delay in the commencement of the canal to connect the St. Lawrence with Lake Champlain, by charging a higher rate of toll to American than to Canadian vessels and cargoes; the American trade will be forced from Oswego and Ogdensburgh to Buffalo and the canal and railroads connected with it. Whatever might be the advantages of reciprocity, I believe far greater advantages would result to Canadian commerce by opening the St. Lawrence to all nations, abolishing agricultural duties, arranging for a reciprocal trade with the British West Indies, and constructing as speedily and possible a canal to connect the St. Lawrence with Lake Champlain, than could result from any retaliatory policy against the United States; such a retaliatory policy cannot fail to be understood by the American people; and the establishment of an aggressive commercial policy between the two countries, while it may be productive of other and remote evils, will, in my opinion, be subversive of the vast increase of trade which would follow the policy I have recommended.

I entered the Government as an avowed friend of free trade. My views have been the result of some years of action and reflection, and were well known to my colleagues on entering the Ministry.

To abandon free trade in order to carry out a retaliatory policy, which I am satisfied will in the end be most injurious, is a sacrifice of principle I am not prepared to make, and a sacrifice which, had I supposed it would have been required from me, would, without hesitation, have prevented my becoming a member of the Government.

Under these circumstances I have the honour to request you to tender my resignation to his Excellency the Governor-General, of my office of an Executive Councillor and also that of Chief Commissioner of Public Works.

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

No. 88.

Mr. Elliot to Mr. Addington.

Sir,

Downing Street, October 25, 1852.

WITH reference to your letter of the 13th instant, I am directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Governor-General of Canada, inclosing the copy of a minute of his Executive Council with a memorandum by the Inspector-General, submitting the views of the Provincial Government with respect to the requirements of Canada, in the event of its being determined to settle by negotiation the various commercial questions now pending between Great Britain and the United States.

I have, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 88.

The Earl of Elgin to Sir J. Pakington.

Sir,

Quebec, September 24, 1852.

I HAVE the honour to inclose herewith the copy of a minute of Council with the copy of a memorandum by the Inspector-General of the province, submitting the views of this Government with respect to the requirements of Canada, in the event of its being determined to settle by negotiation the various commercial questions now pending between Great Britain and the United States.

I have, &c.

(Signed) ELGIN AND KINCARDINE.

Inclosure 2 in No. 88.

Minute of Executive Council of Canada.

Council Chamber, September 23, 1852.

THE Committee of the Executive Council have had under consideration, on your Excellency's reference, a memorandum of the Inspector-General, submitting his views as to the requirements of Canada in case a negotiation should take place between Her Majesty's Government and the United States on the subject of the commercial relations between that country and the British North American Provinces; and as the Committee of Council concur in those views, they humbly recommend that your Excellency should communicate them to Her Majesty's Principal Secretary of State for the Colonies.

(Signed) WM. H. LEE, *Acting C. E. C.*

Inclosure 3 in No. 88.

Memorandum of the Inspector-General of Canada.

Inspector-General's Office, September 21, 1852.

THE Undersigned submits that in view of the probability of a negotiation taking place between Great Britain and the United States, for the settlement of the various commercial questions now pending between the two nations, it is expedient that Her Majesty's Imperial Government should be put in possession of the views of the Government of Canada on the subject; and he further submits his own views as to the requirements of Canada, for the consideration of the Governor-General. The object of most importance to Canada is to obtain the free admission into the United States of certain natural products of the two countries, and which will be admitted into Canada on the same terms. These are, grain and breadstuffs of all kinds, salted and fresh meats, animals of all kinds, cotton-wool, seeds, vegetables, undried fruits, poultry, fish of all kinds, hides, wool, butter, cheese, tallow, horns, manures, ores of all kinds of metals, ashes, wood and lumber of all kinds, plants, shrubs and trees, skins, pelts, furs or tails undressed, coal, fish-oil, printed books, not copyright, of British authors.

The imports into the United States in 1851 of the articles above mentioned, subject to duty, was, according to returns from the American custom-houses, 1,475,184 dollars, viz.:

Produce of forest	791,512
Fish	30,648
Animals	448,049
Agriculture	204,975

1,475,184

The imports into Canada of articles to which it is proposed to grant free admission, were in the same year:—

Mess pork	105,872
Printed books	220,111
Coal	46,442
Wheat	294,486
Maize, or Indian corn	67,824
Seeds	6,252
Manure	10,832
Fruit (green)	25,484
Fish	19,712
Hides	205,114
Cheese	17,208
Animals	31,954
Tallow	128,249
Cotton-wool	24,484
Plants, shrubs, and trees	28,440
	1,232,464

It will be found from the above, that the allegation that the measure of reciprocity is entirely for the advantage of Canada, is wholly without foundation, and that it presents advantages to the United States nearly, if not quite, equal to those which it would confer upon Canada. It is possible that in a general measure for the British Colonies coal might be objected to; the United States might fear large importations from the maritime provinces. Canada has no interest in pressing the insertion of coal. There are some articles not mentioned above, viz., broom-corn, bark, unwrought burr-stones, dye-stuffs, flax, hemp, and tow, all of which are imported from the United States into Canada, and might be included if necessary. It may be well to remark, that in taking the imports into the United States from Canada, the wheat and flour exported in bond was not taken into account, but only the articles which paid duty. The wheat and flour exported through the United States in 1851 was of the value of 1,500,000 dollars.

The next measure of importance to Canada is the privilege of registering Canadian-built vessels in the United States. This should be strongly pressed, but it is not a point of sufficient importance to be made a *sine qua non*. Assuming that the St. Lawrence navigation and the use upon equal terms of the Canadian canals were conceded to the United States, it would be most important, at the same time, to secure for Canada the free use of the United States' canals, upon equal terms with the citizens of that country, and also the waters of Lake Michigan, regarding which some doubt exists. At the same time a reciprocal coasting trade on the inland waters might be established, and this in all probability would be considered a boon to the United States. Canada would have no objection to such a measure, which is very desirable as a matter of convenience to both countries. It would therefore be desirable to press it if necessary, but if possible to use it as a concession. It might be well that Mr. Crampton should be instructed that in case the United States should stipulate to have any articles not included in the lists submitted above, placed in them, he should communicate on the subject with the Governor-General, so that no delay should ensue.

The whole humbly submitted.

(Signed)

F. HINCKS, *Inspector-General*.

No. 89.

The Secretary to the Admiralty to Mr. Addington.—(Received October 26.)

Sir,

Admiralty, October 25, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Malmesbury, an extract of a letter from Vice-Admiral Sir G. F. Seymour, dated the 14th instant, relative to the North American fisheries.

I am, &c.

(Signed)

AUG. STAFFORD.

Inclosure in No. 89.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

(Extract.)

"Cumberland," Halifax, October 14, 1852.

I HAVE no circumstances of any moment to report to the Lords Commissioners of the Admiralty by the present mail. My reports from Commander Colin Campbell, of "Devastation," are to the 7th instant. The great body of the United States' fishing-schooners whose encroachments he was employed to prevent, had, with the mackarel which form the principal object of their pursuit in the autumn, quitted the coasts of Canada, New Brunswick, and Prince Edward's Island, and are chiefly employed on the western side of Cape Breton, where they are in great numbers, and will remain until the conclusion of this month, or longer, if the weather will permit.

As the fishing-vessels are now within a more limited space, I shall be enabled to recall the "Devastation" and "Arrow" tender, previous to the "Cumberland" leaving Halifax, and I propose to leave the "Basilisk" till the close of the season, as directed by their Lordships, and then she will return to England.

The masters of the foreign fishing-vessels complain that they have been unable to make the successive voyages to and from the fishing-grounds, and that very many have been unable to complete their first cargoes.

It gives me satisfaction to inform their Lordships that the increased protection which has been given in consequence of their orders to the British fishermen, has, especially at Gaspé and Chaleur, enabled British fishermen to use their privileges with far less interruption than usual, and they have consequently made a successful season, and are highly impressed with the advantages they have derived from the measures that have been taken by the Government.

No. 90.

Mr. Merivale to Mr. Addington.—(Received October 30.)

Sir,

Downing Street, October 29, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you herewith, for the information of the Earl of Malmesbury, copies of three despatches inclosing returns of American vessels seized and prosecuted in the Vice-Admiralty Courts of Canada, Prince Edward Island, and Newfoundland, for violation of the Convention of 1818.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 90.

The Earl of Elgin to Sir J. Pakington.

(Confidential.)

Sir,

Quebec, October 1852.

WITH reference to your despatch of the 11th of September, marked confidential, I have the honour to inclose the copy of a return which I received from the Registrar of the Vice-Admiralty Court of Lower Canada, containing information similar to that conveyed in the return from Nova Scotia transmitted by you for my guidance.

I have, &c.

(Signed) ELGIN AND KINCARDINE,

Inclosure 2 in No. 90.

Mr. Drolet to the Hon. R. Bruce.

*Registry of the Vice-Admiralty Court of Lower Canada,
Quebec, October 5, 1852.*

Sir,

IN answer to your letter of the 4th instant, wherein you state that Her Majesty's Government being desirous to obtain correct information as to the number of vessels seized and prosecuted in the Courts of Vice-Admiralty in British North America, and condemned or restored for infraction of the Convention of 1818 between Great Britain and the United States of America, you are directed by the Governor-General to request that I will furnish, with the least possible delay, a return showing particulars of information similar to that contained in the accompanying return, &c.

I have the honour to state, for the information of his Excellency the Governor-General, that after the necessary search and inquiry, I find that no vessels belonging to American citizens have been prosecuted in this court and seized for fishing or preparing to fish in British waters from the year 1817 to 1821, both inclusive, or for violation of the Convention made between the Government of Great Britain and the United States of America in the year 1818.

I have, &c.
(Signed) C. DROLET, Registrar.

Inclosure 3 in No. 90.

Sir A. Bannerman to Sir J. Pakington.

Sir,

Prince Edward Island, October 11, 1852.

IN accordance with the instructions in your despatch marked confidential, of date the 11th ultimo, I beg leave to inclose the information required from the Registrar of the Vice-Admiralty Court of this colony. In reference to the schooner "Caroline Knight's" case, stated in the Registrar's return as not yet adjudicated, I consider it proper to inclose a memorial addressed to me from the owner of that vessel, paper No. 1, with my reply, No. 2.

2. You will observe that Mr. Knight, an intelligent United States' shipowner, seriously points out to me the "moral impossibility" of ascertaining the distance of three miles from the shore. I am persuaded that the professional man whom Mr. Knight has employed to draw up his memorial has induced him to urge so absurd a plea in justification, and that the commander of his schooner would be ashamed to acknowledge it.

3. I have only to add, that no Provincial vessel was ever fitted out by this colony for the protection of the fisheries; and from reasons stated in my former despatches, I should hesitate to place such powers in the hands of persons who could not have the means to enforce the law.

On the morning that the "Devastation" detained the "Caroline Knight," Commander Campbell might have seized eight other vessels fishing close to the shore; but he, as well as the other officers employed on this delicate service, commanding Her Majesty's ships stationed around this island, have performed their duty with the greatest forbearance, prudence, and discretion.

I have, &c.
(Signed) A. BANNERMAN, Lieutenant-Governor.

Inclosure 4 in No. 90.

*Registry of the Court of Vice-Admiralty.
Charlotte Town, October 6, 1852.*

A RETURN of American vessels detained and prosecuted in this Court for a violation of the Convention made between the Government of Great Britain and the United States of America, in the year A. D. 1818, and prosecuted in this Court.

Name of Vessel.	Date of Seizure.	Date of Condemnation.	Remarks.
	1852	1852	
Schooner "Florida," of Gloucester .. U.S.A.	August 3	Sept. 7	Detained by Her Majesty's schooner "Telegraph," Hon. H. Weyland Chetwynd, Commander, on northern coast of Prince Edward Island.
Schooner "Union," of Brooklyn .. U.S.A.	July 20	Sept. 24	
Schooner "Caroline Knight," of Newbury Port	Sept. 11	Not yet adjudicated.	Detained by Her Majesty's steam-sloop "Devastation," Colin Yorke Campbell, Commander, on the northern coast of Prince Edward Island.

(Signed) WILLIAM SWABEY,
Registrar.

In addition to this return, the schooner "Golden Rule" of Gloucester, United States, was detained by the "Telegraph," Lieutenant Chetwynd, and brought in to Charlotte Town. Before she was delivered over to the proper authorities in terms of the Imperial Statute, Vice-Admiral Sir George Seymour arrived in Her Majesty's steam-sloop "Basilisk," to whom the master of the "Golden Rule" appealed, stating he was part-owner of the schooner and would be ruined if she was condemned. The Admiral on the 23rd August left authority with the Lieutenant-Governor to direct Lieutenant Chetwynd to liberate the schooner, provided the captain acknowledged the violation of the Convention and that his liberation was an act of clemency on the part of the Commander-in-chief.

Bartlet, the captain of the "Golden Rule," left such an acknowledgment in writing, which was forwarded to Sir George Seymour, along with an addition, on a question from the Lieutenant-Governor, "that he had stood in-shore to fish, mistaking the 'Telegraph' tender for one of his countrymen's schooners."

(Signed) A. BANNERMAN, *Lieutenant-Governor.*
Prince Edward Island, October 11, 1852.

Inclosure 5 in No. 90.

Memorial of Mr. Knight.

To his Excellency Sir Alexander Bannerman, &c.
The Memorial of George Washington Knight, of Newbury Port,
Massachusetts, in the United States of America, merchant,
Most respectfully sheweth,

THAT your memorialist is one of the owners of the schooner "Caroline Knight," which has been recently seized by the commander of Her Britannic Majesty's steam-ship "Devastation," for an alleged violation of the Fishery Convention subsisting between the British Government and the Government of the United States of America.

That your memorialist is connected in business with Benjamin P

Lunt, under the firm of "Knight and Lunt, of Newbury Port;" and the said firm has been engaged in the coast fisheries for several years, in common with a large proportion of the inhabitants of Newbury Port, and your memorialist has been frequently interested in one or more small craft prosecuting the mackarel and cod-fisheries in the Gulf of Saint Lawrence.

That since your memorialist's attention has been called to the necessity of a strict observance of the Treaty subsisting between the two Governments, his instructions to the masters and crews of the vessels in which he has been interested, and which have been so employed in and about the said gulf, has invariably been to regard the Treaty aforesaid, which Treaty your memorialist unhesitatingly admits should be recognized and adhered to so long as it stands unrepealed between the two nations.

That the inhabitants of the New England States, and especially the residents of Newbury Port, to which your memorialist belongs, feeling the importance and value of the fisheries, have for some time past used all their influence and exertions to promote and bring about the establishment of reciprocal free trade between their Government and the British North American Colonies, and thereby (in addition to other objects of importance) to obtain the removal of the restrictions which the Convention of 1818 has imposed upon the citizens of the United States, in relation to the fisheries on these coasts.

That in order the more manifestly and openly to express their desires upon that subject, the inhabitants of many of the leading towns and communities in those States, and especially Newbury Port and Gloucester in Massachusetts, during the past winter originated petitions to Congress, praying, amongst other matters of a local nature, for the admission and establishment of the principle of reciprocal free trade with the North American Colonies, which petitions were very generally supported and signed, and the same were regularly presented to Congress.

That delegates were also appointed by the people of Gloucester to wait upon Mr. Webster, the Secretary of State for the American Government, upon the subjects embraced by the said petitions; and his reply to the deputation was, "that they should have all they asked for."

That the petition so presented from the inhabitants of Newbury Port was signed by one of the firm to which your memorialist belongs; and the principle of reciprocity has been for many years strenuously advocated in particular by your memorialist.

That your memorialist can assure your Excellency that the said petitions were favourably received by Congress and were referred to a Committee of both Houses to report thereon, which report has not yet been made.

That after all your memorialist's humble efforts to support a measure admitted on all hands to be eminently calculated to advance the best interests, and knit together in one common brotherhood the inhabitants of the two countries, it is now with feelings of pain and regret he is compelled to witness his vessel as one of those taken for a violation of the Treaty, and his best feelings and hopes on this question, thus for the present apparently destroyed.

That your memorialist was not on board the said vessel when taken, and therefore he will not advert to any matters connected with that circumstance; but he would fain call to the notice and observation of your Excellency the great difficulty that must ever connect itself with the strict observance of the Convention, from the almost moral impossibility there exists in ascertaining at all times the exact line or distance from the coast within which the prohibition extends; and, therefore, in doubtful cases, or where there has not been an obstinate and wilful disregard of the rights of the nation, your memorialist would humbly and respectfully submit that the great interests of both Governments would be best preserved, and feelings of amity and friendship best cherished and maintained, by forbearance on the part of those having the oversight of these matters, and by a disposition to act with leniency in cases such as those adverted to.

In making these observations, your memorialist does not for a moment

cast any the slightest reflection or blame upon the Commander or officers of Her Majesty's said ship "Devastation," nor upon your Excellency or any person connected with your Excellency's Government, acting as they have been in discharge of a duty imposed upon them, nor does he in any manner question the right of the British Government carefully to guard the said Treaty; his remarks having reference to his own individual case, and his feelings and sympathies in regard to the trade and interests of the two nations.

Your memorialist humbly hopes that your Excellency will be pleased to use your influence in regard to the seizure of the said schooner, in such way as may be most conducive to the best interests of both countries, and your memorialist is led humbly to trust that your Excellency will interpose your high authority in the matter, in such manner as will procure the release of said vessel, without subjecting your memorialist to a long and expensive investigation in court; and your memorialist will be ready to comply with all such just and reasonable terms as your Excellency may think fit, or under the circumstances be minded to impose.

And your memorialist, &c.

(Signed) GEO. W. KNIGHT.

Charlotte Town, Prince Edward Island, October 2, 1852.

Inclosure 6 in No. 90.

Sir A. Bannerman to Mr. Knight.

Sir,

Prince Edward Island, October 5, 1852.

I HAVE to acknowledge the receipt of your memorial dated the 2nd instant, in regard to the seizure and detention by Her Majesty's steam-sloop "Devastation," of the schooner "Caroline Knight," of Newbury Port, United States, of which vessel you are part-owner. The "Caroline Knight" having been detained, as you state, for an alleged violation of the Fishing Convention of 1818, and you hope "that I will use my influence in regard to the seizure of the said schooner, as I may deem most conducive to the interests of both countries," &c.

As I stated to you verbally in the presence of Mr. Palmer, your Consul, which he must be well aware of, I have no authority whatever to interfere in this matter, it rests entirely with Vice-Admiral Sir George Seymour, Commander-in-chief on the North American Station, under whose orders Captain Campbell, commanding the "Devastation," has been acting and to whom that officer is responsible. As you expressed a strong desire to communicate personally with the Admiral on this, to you, important subject, and wished to state your case, and that I should write to him, the best introduction I can give is to return copy of your memorial which you can present to his Excellency, showing him if you choose this letter. In regard to your own interests, regretting the serious loss which you are likely to suffer by the seizure of your vessel, I would venture to suggest that after obtaining correct information from your captain and crew, you believe that the "Caroline Knight" when seized was not violating the Treaty, I think the most prudent course for you to adopt would be to abide the investigation of the circumstances before the Admiralty Court, the parties making an illegal seizure being responsible for its consequences.

I see you call my attention "to the almost moral impossibility of ascertaining at all times the correct line or distance from the coast within which the prohibition extends." On this point I considered it necessary to observe that I am confident there are very few, if any, of the intelligent citizens of the United States commanding the fishing-vessels frequenting our shores, who cannot ascertain with the greatest accuracy (unless in thick weather) their distance from the shore by the usual and simple mode known to and practised by all navigators.

It is but justice to the commander of the "Caroline Knight" to state, that I have received a petition, numerously signed by the inhabitants on

the north side of the island, praying for the release of his vessel, and bearing testimony to his excellent conduct and friendly intercourse with them during the visits he has frequently made to their harbour for shelter and fuel.

I have, &c.
(Signed) A. BANNERMAN, *Lieutenant-Governor.*

Inclosure 7 in No. 90.

Mr. Crowdy to Sir J. Pakington.

Sir,

Newfoundland, October 5, 1852.

I HAVE the honour to acknowledge the receipt of your confidential despatch of the 11th ultimo, and to transmit herewith the return therein desired, which shows that no American vessels have been seized and prosecuted in the Vice-Admiralty Court of this colony, for infraction of the Convention of 1818 between Great Britain and the United States of America.

I have, &c.
(Signed) JAS. CROWDY.

Inclosure 8 in No. 90.

Court of Vice-Admiralty at St. John's, Newfoundland.

A RETURN of American vessels seized and prosecuted in this Court for fishing, or preparing to fish, within British waters, from 1817 to 1821. Also a return of the number of American vessels seized for violation of the Convention made between the Governments of Great Britain and the United States of America in the year 1818, and prosecuted in this Court, with the dates of their seizure and condemnation or restoration.

Name of Vessel.	Date of Seizure.	Condemnation or Restoration.
Nil.	Nil.	Nil.

Vice-Admiralty Office, St. John, October 5, 1852.

(Signed)

P. W. CARTER,
Registrar.

No. 91.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, October 29, 1852.

WITH reference to the inquiry contained in your letter of the 13th instant, as to the subjects which it will be necessary to discuss in the negotiation to be opened with the United States' Government, on the trade and fisheries of the British Provinces in North America, I am directed by

Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, extract of a despatch from the Governor of Vancouver's Island, reporting the heavy protective duties charged upon the staple exports of that settlement, on their admission into the American ports in California.

I have, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 91.

Governor Douglas to Sir J. Pakington.

(Extract.) *Vancouver's Island, Fort Victoria, August 2, 1852.*

THE Colony of Vancouver's Island is, from present circumstances; in a most unfortunate position for trade; at the distance of more than 4000 miles from the nearest British possession and separated from the mother-country by half the circumference of the globe, it has no available outlet for its productions, consisting of salt-fish, deals, limestone, and spars for masts, which with the exception of the last will do little more than defray the expensive transport to Great Britain. Added to that disadvantage, the colony has to sustain a competition with the American settlements in Oregon, whose staple exports are similar to those of Vancouver's Island, and are admitted into the American ports in California free of duty, while heavy protective duties, ranging from 20 to 30 per cent., are charged upon the staple exports of this country. Enterprise, therefore, languishes.

No. 92.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, October 29, 1852.

I AM directed by Secretary Sir John Pakington to transmit to you, for the consideration of the Earl of Malmesbury, copy of a despatch from the Earl of Elgin, inclosing a joint address to Her Majesty from the Legislative Council and Assembly of Canada, on the subject of the protection of the rights of British fishermen on the coasts of British North America.

I have, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 92.

The Earl of Elgin to Sir J. Pakington.

Sir,

Quebec, October 8, 1852.

I HAVE the honour to inclose herewith, in order that it may be laid at the foot of the Throne, a joint address to Her Majesty, of Her Majesty's dutiful and loyal subjects the Legislative Council and Commons of Canada, in Parliament assembled, on the subject of your despatch on the protection of the rights of British fishermen in the fisheries on the coasts of British North America.

I have, &c.
(Signed) ELGIN AND KINCARDINE.

Inclosure 2 in No. 92.

Address to Her Majesty.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

WE, your Majesty's dutiful and loyal subjects the Legislative Council and the Commons of Canada, in Provincial Parliament assembled, most respectfully approach your Majesty, for the purpose of expressing the grateful sense which we entertain of the prompt attention, which it appears by the despatch of the 27th May, 1852, from the Right Honourable Sir John S. Pakington, your Majesty's Secretary of State for the Colonies, to his Excellency the Governor-General, your Majesty's Government has given to the representations made on the part of this province and other provinces of British North America, on the subject of the encroachments of the fishing-vessels of the United States upon those waters from which they were excluded by the terms of the Convention of 1818; and of the readiness with which your Majesty's Government has sent out a sufficient naval force to enforce the observance of that Convention; and also to express the confident hope which we entertain, that no treaty will be made with the United States of America, by which any of the rights secured to British fishermen by that Convention may be ceded or impaired, unless such treaty shall also include provisions embracing the whole policy of the commercial intercourse between the said United States and the British North American Colonies.

(Signed) E. CARON, *Speaker.*

(Signed) JOHN SANDFIELD MACDONALD, *Speaker.*

Legislative Council Chamber, Quebec, October 6, 1852.

Legislative Assembly Hall, Quebec, September 27, 1852.

No. 93.

Lord Stanley to Mr. Merivale.

(Confidential.)

Sir,

Foreign Office, November 1, 1852.

I HAVE laid before the Earl of Malmesbury your letter of the 25th ultimo, stating, with reference to the letter from this office of the 13th ultimo, that it would be desirable to furnish Mr. Crampton with a copy of the address of the Newfoundland Assembly, dated the 12th of June last, on the Fishery and Reciprocal Free Trade questions; and I am directed by his Lordship to state to you that Mr. Crampton will in due time be furnished with copies of all such representations from the Colonies as may have been forwarded to this office by Sir John Pakington; but I am to observe that when, by the letter before mentioned of the 13th ultimo, and by a letter of the same date to the Board of Trade, Lord Malmesbury requested Sir John Pakington and the Board of Trade to take steps to enable Mr. Crampton to furnish the President of the United States with a memorandum of the points upon which Her Majesty's Government are desirous of treating, his Lordship was anxious to receive from Sir John Pakington and from the President of the Board of Trade a joint statement embracing at one view the whole of the questions affecting the various interests of the different Provinces of British North America and of the mother-country; such a statement, in fact, as would form the basis of the negotiations to be entered into with the United States.

Such a statement, involving as it will interests of the highest importance, commercial and political, cannot be drawn up at this office or by Mr. Crampton from the various partial reports from the Colonies which are received from the Colonial Office, but must necessarily be prepared as a State paper on the policy to be adopted by Her Majesty's Government in negotiating with the United States, and must be carefully considered by the Cabinet, before Lord Malmesbury instructs Mr. Crampton to make use of it.

It appears, however, to Lord Malmesbury to be important that as little time as possible should be lost in furnishing Mr. Crampton with

instructions, inasmuch as the Presidential election in the United States will shortly be over, and the moment will then have arrived when Her Majesty's Government should press the American Government to conclude the proposed arrangement regarding the Fishery and Reciprocal Trade questions.

I have, &c.
(Signed) STANLEY.

No. 94.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, November 9, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Earl of Malmesbury, the copy of a letter from Vice-Admiral Sir George Seymour, dated the 27th ultimo, and of its inclosures, respecting fishing-vessels detained at Port Hood, Cape Breton, for alleged irregularity in their papers.

I am, &c.
(Signed) AUG. STAFFORD.

Inclosure 1 in No. 94.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, October 27, 1852.

MY intended departure from Halifax on this day has been delayed by circumstances which have occurred at Port Hood, in Cape Breton, which Commander Campbell, of the "Devastation," has reported to me in the inclosed letter of the 21st instant.

2. The number of vessels under English colours fishing near Cape Breton having greatly increased, and Commander Campbell thinking that he had recognized some which had changed their flag, his suspicions of fraud appear to have been excited.

3. On the 13th, nearly one hundred schooners under English colours had anchored in Port Hood, and in consequence of their irregularity and want of documents to satisfy him, Commander Campbell thought himself justified in obliging the whole to remain in the harbour until he had fully examined their papers, which intention he communicated to me by a Provincial vessel to Picton.

4. The measure appeared of so grave a character, and I considered it so unadvisable that vessels which might *bonâ fide* belong to these provinces should be detained from their avocation when the fish were unusually abundant, and possibly be sent on to this port at great inconvenience and delay, that I requested the Honourable J. B. Uniacke, Attorney-General, to proceed with Captain Seymour, of the "Cumberland," and conduct the investigation at Port Hood.

5. The weather was unfortunately unusually violent and severe for the season, and they were obliged to put back to Picton in the schooner in which they had embarked, from whence they were making their way by the coast roads to Canso and Cape Breton, when I last heard of them.

6. On the 21st, however, the "Basilisk" having joined him, and Commander Campbell finding that in a great majority of cases evidence of fraud was without clear proof, released all the vessels but three, one of which was towed here by the "Basilisk" and proceedings have been instituted against her. This vessel, the "Creole," had been wrecked on the coast of the United States two years since, where she was given up to the underwriters and sold for their benefit, but sailed this year with her former register under circumstances of much suspicion.

7. Commander Campbell's conduct during the preceding part of the service in which he has been employed has been marked with so much discretion as well as zeal, that I doubly regret he should have adopted a measure to which the result has furnished no justification.

8. I believe with him that the fraudulent assumption of British colours has been frequent, but most of the vessels which had adopted it took care to keep out of harbours in which Her Majesty's ships were anchored, and though I understand there have been many irregularities in the registers and clearances of Nova Scotian vessels, I believe the vessels detained in Port Hood belonged very generally to the British Provinces.

9. I have recalled the "Devastation," and the "Arrow" and "Netley" tenders, and as soon as they and Captain Seymour return, I shall proceed to the southward.

10. I may observe that heavy gales from the west prevailed during part of the six days the vessels were detained in Port Hood, during which many others were wrecked on Prince Edward's Island, and on the 21st and 22nd the gales from the eastward were very violent, and I fear will also have caused much damage.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 94.

Commander Campbell to Vice-Admiral Sir G. Seymour.

Sir,

"Devastation" Port Hood, October 21, 1852.

I HAVE the honour to state that on the 13th instant, about one hundred sail of vessels under English colours came into this port, and on the morning of the 14th I boarded several of them, when finding that they were in scarcely any instance sailing according to British law, and that two had not even a certificate of registry, I thought it my duty to examine all their papers which I did on board this sloop. The weather being so bad it was some days before I could get them in, and as I proceeded finding the papers, except in a few cases, contrary to the Acts of Parliament, I thought it right to detain the vessels until I could get through them all.

On the 20th, having got through all the papers and finding many circumstances denoting that fraud was carried on to a great extent without clear proof, I returned the papers with the exception of those mentioned on the inclosed list, and which are forwarded herewith.

While the vessels were detained I unrove their halliards and unbent the sails of several to prevent their going out and placed parties on board some of them.

A very great number of vessels have no clearances from any custom-house except a fishing-pass for Newfoundland, dated in the spring, which pass is by Act 8 & 9 Vic., cap. 93, Art. 28, only for Newfoundland.*

I found in several instances where this pass alone was produced, that the vessel had during the summer been in the United States.

It appears certain that after clearing out for a fishing voyage, if they go over there, it can only be with fraudulent intention and I believe such vessels have both Colonial and United States' ownership which enables them to fish with the British flag and to land the proceeds under that of the United States.

Certain it is that fraud to an enormous extent has been carried on and the British flag has been unwarrantably used to cover it.

In consequence of this I have considered it my duty to take the steps which are above described to prevent evils which were rapidly increasing, and whatever the responsibilities may be which have been incurred, I can only give as my reason that I considered it my duty to act to the full extent, seeing that the honour of the national flag required me to do so, and feel sure my having done it will be the means of checking this great evil.

I feel sure also that there are many American bottoms under English colours, but have not been able to detect them except on circumstantial evidence which might not be sufficient to condemn them.

* I have ascertained this pass is the only document furnished by the Board of Customs for Nova Scotia.—G. F. S.

Having been detained here by the circumstances stated above, I only received your letters dated the 25th ultimo to 17th instant inclusive, by "Basilisk," yesterday.

Considering that the letter of the 17th authorized it, I shall remain here until receiving instructions from you and shall send "Basilisk" with these letters.

As I could not write fully I sent Mr. Crawford to you, being much in want of such assistance as would enable me to detect the many cases of fraud which I have mentioned.

The two vessels without registers are certainly condemnable, although not worse cases than many I have been obliged to release from want of sufficient evidence.

(Signed) C. Y. CAMPBELL.

Inclosure 3 in No. 94.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, October 27, 1852.

I BEG to acquaint you for the information of the Lords Commissioners of the Admiralty that I considered it so desirable that the papers of vessels detained in Port Hood should be examined by the Law Officers of the Crown, to whom their cases would have been in the first instance submitted, had they been sent round to Halifax, that I retained the Honourable J. B. Uniacke, Attorney-General, for the purpose, informing him that I was ready to authorize 100*l.* to be paid to him to undertake this service.

I hope their Lordships will under the peculiar circumstances which are reported in my other letter, sanction my having done so, and I should add that I consider myself under an obligation to Mr. Uniacke for undertaking a journey which has been of a very laborious description, from the weather which prevailed at the time and the difficulty of getting forward.

I have, &c.

(Signed) G. F. SEYMOUR.

No. 95.

Mr. Crampton to the Earl of Malmesbury.—(Received November 17.)

(No. 169.)

My Lord,

Washington, November 1, 1852.

I HAVE had the honour to receive your Lordship's despatch No. 98, of the 15th instant, acquainting me that Vice-Admiral Sir George Seymour has forwarded to Her Majesty's Government a copy of a map of the Gulf of St. Lawrence which he had received from Commodore Perry, of the United States' Navy, and which purported to be drawn by Mr. Perley for the information of the United States' Government, as representing lines of fishing-boundaries claimed officially by Her Majesty's Government; and further informing me that Mr. Perley had no authority whatever for laying down those lines, and that they are in many essential points erroneous.

It may be well that I should state to your Lordship that I requested Mr. Perley to repair to Washington as a person well qualified to furnish me with the statistical and local information I was in need of, and in no way as a person having authority to pronounce upon, or as even being officially acquainted with the views of Her Majesty's Government in regard to the application of the provisions of the Convention of 1818. In presenting Mr. Perley to Mr. Webster, who had expressed a desire to converse with him, I distinctly stated that Mr. Perley was invested with no official character whatever. With regard to certain coloured lines which Mr. Perley had added to a map of the Gulf of St. Lawrence and the adjacent islands, and of which map Mr. Perley had presented a copy to

the President of the United States, I took an opportunity of informing the President that the lines in question were not inserted by the authority of Her Majesty's Government as defining the lines of fishing-boundaries claimed by them, but were merely meant by the constructor of the map to show the limits of maritime jurisdiction which might by the fair application of the principle laid down by American authorities, be claimed by Her Majesty's Government.

Mr. Perley himself made the same statement to me, and also, as I understood, to the President, and I can only account for the erroneous impression on this subject which seems to have been entertained by Commodore Perry, by supposing that the map in question had been sent to him without the above necessary explanation.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 96.

Mr. Crampton to the Earl of Malmesbury.—(Received November 17.)

(No. 171.)

My Lord,

Washington, November 1, 1852.

I HAVE the honour to inclose to your Lordship the copy of a letter and its inclosure which I have received from Vice-Admiral Sir George Seymour, describing the circumstances under which Commander Campbell, of Her Majesty's ship "Devastation," took possession of the enrolments and mackerel-licences of the American fishing-vessels "Olive Avery" and "Accumulator." Sir George Seymour not being of opinion that Commander Campbell was, under the circumstances of the case, justified in detaining these papers, has forwarded them to me with a view to their being transmitted to the proper officer of the port to which the vessels in question belong.

As this proceeding of Commander Campbell may possibly be made the subject of a representation to the United States' Government by the masters of the vessels on their return to port, I have thought it right to send these papers to the United States' Secretary of State in a note (a copy of which is herewith inclosed) containing an explanation of the circumstances under which they came into my possession, and an expression of regret for the error into which Commander Campbell has fallen in detaining them.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 96.

Vice-Admiral Sir G. Seymour to Mr. Crampton.

Sir,

"Cumberland," Halifax, October 25, 1852.

I HEREWITH inclose the enrolments and mackerel-licences of the United States' schooners "Olive Avery" and "Accumulator," of Camden, in the State of Maine, which Commander C. Y. Campbell, of Her Majesty's steam-ship "Devastation," has sent with a letter describing the circumstances under which he took these papers into his possession, a copy of which is inclosed.

You will observe that Commander Campbell did so with the intention of sending the papers to the United States' authorities, but I consider that he was not justified in adopting that course regarding the papers of a vessel belonging to a foreign State, and I request you will take the proper means to cause the two enrolments and licences to be returned to the collector of the port to which the vessels belong, or deal with them otherwise as you may deem the circumstances require.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 96.

Commander Campbell to Vice-Admiral Sir G. Seymour.

Sir,

"Devastation," Port Hood, October 21, 1852.

I HAVE the honour to forward the enrolments and mackerel-licences of the United States' fishing-schooners "Olive Avery" and "Accumulator," which I considered it my duty to ask the masters of the said vessels to give me on my receipt, which they now hold.

With respect to the "Olive Avery," I have to state that on boarding her in this harbour on or about the 17th instant, I found the master, Jesse Mills, to be the same person who had represented himself to be the master of an English vessel, with English colours up, two days before—two of my boat's crew also remembering the man Jesse Mills so situated.

On looking at the "Olive Avery's" papers, being suspicious that the licence was not genuine, but not seeing sufficient cause to detain the vessel, I considered that under all the circumstances I ought to retain the papers.

On or about the 18th instant I boarded the "Accumulator," and found the said Jesse Mills on board of her, and it appearing to me that she was very like the vessel in which he was under English colours, and that her dimensions did not appear to agree with those given in her enrolment, I asked the master to wait till I should have her measured, and to give me his papers on receipt; but before I could send the carpenter he weighed when I again boarded the "Accumulator," anchored her and lowered her sails, when the carpenter, being sent for, came and measured the length and breadth, which not agreeing with those on the enrolment, and the master refusing to clear his hatchways to allow the depth of hold to be measured, I withdrew my men from his vessel, retaining the papers.

As such extensive fraud has been committed on these shores, through unprincipled individuals claiming the protection of each country, I trust I shall be held justifiable in this step.

I have to request that you will be pleased to have the papers forwarded to the authorities of the United States in whatever way you may deem most expedient.

I have, &c.
(Signed) COLIN Y. CAMPBELL.

Inclosure 3 in No. 96.

Mr. Crampton to Mr. Conrad.

Sir,

Washington, October 31, 1852.

I HAVE received a letter, a copy of which I have the honour to inclose, from Vice-Admiral Sir G. Seymour, Commander-in-chief of Her Majesty's Naval Forces on the North American station, inclosing a copy of a letter describing the circumstances under which Commander Campbell, of Her Majesty's ship "Devastation," took into his possession the enrolments and two mackerel-licences of two American fishing-vessels, the "Olive Avery" and the "Accumulator."

You will perceive that Sir G. Seymour is not of opinion that Commander Campbell was justified in adopting that course regarding the papers of the vessels of a foreign State, and that he has consequently forwarded to me the enrolment and mackerel-licences in question, requesting me to take the proper means to cause them to be returned to the collector of the port to which the vessels belong.

Entirely concurring in the view taken by his Excellency in this matter, and regretting the error into which Commander Campbell has fallen in detaining these papers, I have now the honour to inclose them to you herewith.

I avail, &c.
(Signed) JOHN F. CRAMPTON.

No. 97.

Mr. Crampton to the Earl of Malmesbury.—(Received November 17.)

(No. 173.)

My Lord,

Washington, November 1, 1852.

IN obedience to the instruction contained in your Lordship's despatch No. 87, of the 16th of September, "that I should at an early moment inform your Lordship to what extent the United States' Government assert at this moment an exclusive right and power over the large bays of the United States, such as Cape Cod, the Sound (Long Island), Chesapeake Bay, and others of the same description," I have the honour to inform your Lordship that I have not failed, with the assistance of an eminent American lawyer, to give this subject an attentive consideration, and carefully to examine all the cases in the Federal courts of the United States, which either directly or collaterally bear upon the question of international law involved in the assertion of this right.

The result of this examination has been, that I have found nothing which could in the least degree invalidate the statement which I had the honour of transmitting to your Lordship with my despatch No. 115, of the 9th of August last, of the doctrine in regard to the maritime jurisdiction over bays recognized by the highest American authorities. On the contrary, the further investigations which I have made enable me more confidently to state to Her Majesty's Government, that the received doctrine of the United States at this day is the same which is laid down by the late Mr. Chancellor Kent in his Commentaries, as quoted in that paper, and as practically illustrated to a great extent by the rejection by the United States' Government of the application made to them in 1830, on behalf of the British fishermen of the Bahama Islands, to fish within certain bays on the coast of Florida, to which subject I had the honour of calling your Lordship's attention in my despatch No. 154, of the 26th of September. It may be well, however, that I should now succinctly point out to your Lordship the several cases bearing upon this question, which I have lately examined, making such references in the margin to authorities as may enable Her Majesty's Government to submit the subject, if necessary, to a fuller investigation by competent legal authority in England.

The earliest case involving the question of jurisdiction over bays and arms of the sea, the capes or headlands of which are territory of the United States, so far as I am informed, is the case of the "Grange,"* a British vessel. This was the case of a capture made by the French frigate "L'Ambuscade," in the Delaware, within the capes.

It appears by the letter of Mr. Jefferson, then Secretary of State, to the French Minister, that he, Mr. Jefferson, had received several notes from the British Minister on this and kindred subjects. I have not access to these notes, nor to the replies to them *in extenso*. It appears clearly, however, that the United States' Government in that case fully recognized the doctrine of Grotius, Puffendorf, Rutherford, and Vattel.†

Mr. Jefferson says to the French Minister,—

"The capture of the British ship 'Grange' by the French frigate 'L'Ambuscade,' within the Delaware, has been the subject of a former letter to you. On full and mature consideration, the Government deems the capture to have been unquestionably within its jurisdiction; and that according to the rules of neutrality, and the protection it owes to all persons within its limits, it is bound to see that the crew be liberated and the vessel and cargo restored to their former owners. The Attorney-General of the United States has made a statement of the grounds of this determination, a copy of which I have the honour to inclose to you. I am in consequence charged by the President," &c.‡

The letter of Citizen Genet to Mr. Jefferson acquiesces in this determination, and announces that the "Grange" has been restored.

* An. 1793.

† Grotius, lib. ii, cap. 3, s. 7. 2 Rutherford, lib. ii, cap. 9, s. 6. Puffendorf, lib. iv, cap. 5, s. 8. Vattel, lib. iv, tit. 1, p. 685.

‡ 1 American State Papers, p. 148.

§ May 27, 1793.

The year following, Congress passed* the "Act in addition," &c. for the "punishment of certain crimes," &c., relating to the subject of neutrality.† The 6th section is in the following words:—

"Sec. 6. *And be it farther enacted* and DECLARED, that the district courts shall take cognizance of complaints by whomsoever instituted, in cases of captures made within the waters of the United States, or within amarine league of the coasts or shores thereof."

The cases which have arisen under that Act (and all of which I have examined) do not any of them present any question on the doctrine of public law declared by the sixth section. Nor, after diligent search, have I been able to find any case whatever in the courts of the United States in which that doctrine has been disputed, though it has been incidentally recognized in several. Of these it may be sufficient to refer to the case of *Martin, &c. v. Waddell*, in the Supreme Court of the United States, January Term 1842.‡ In that case plaintiffs below brought ejectment for one hundred acres of land covered with water in Raritan Bay, New Jersey.

They claimed under the grant of King Charles II to the Duke of York, from which they undertook to deduce title by various mesne conveyances. The valuable right involved was the exclusive right to take oysters in that part of the bay under which lay the land described in the declaration; the case was on a special verdict.

The opinion of the court § was delivered by Mr. Chief Justice Taney, and a dissenting opinion on behalf of himself and Mr. Justice Baldwin was delivered by Mr. Justice Thompson.||

On one point, the court, the dissentients, and the bar on both sides were agreed, viz., that the King's prerogative extended to the bays and arms of the sea in the whole territory described in the grant, extending along the Atlantic coast from the River Ste. Croix to the Delaware Bay. The case went against the plaintiffs upon another ground, viz., that the King held the shores, rivers, bays, and arms of the sea and the land under them as a public trust for the benefit of his subjects; that this trust passed to the Duke of York, and had come to the State Government of New Jersey (so far as it concerned the jurisdictional limits of that State), and was then held by it, except so far as granted by the Federal Constitution to the General Government. So that the case was decided upon grounds affirming the right now in question as a great public inalienable national right.

I am not aware of any judicial authority upon this subject in this country which would add anything to the weight of the citations in this despatch and in my previous memorandum inclosed in No. 115; nor do I suppose that any attempt will be made to impugn the general doctrine of the public law as stated by Chancellor Kent, but that reliance must be placed upon some fanciful grounds of distinction deduced from the condition of the United States prior to the Revolution, as part of the British Empire, and from the assumption that the Treaty of 1783 was rather a partition of a right common to both parties than a grant from Great Britain in this particular matter. It seems to me that there can be little difficulty in refuting this view of the question.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 98.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, November 23, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Malmesbury, copies of a letter from Vice-Admiral Sir G. Seymour, dated the 4th instant, and of an address presented by the inhabitants of Bonaventura, in the

* 1 Stat. at Large, 381.
‡ 16 Peters, 367. An. 1842.

+ Act 1794, cap. 2.
§ Page 406.

|| Page 418.

district of Gaspé, to Commander Campbell, of Her Majesty's steam-sloop "Devastation," for his services in protecting the fisheries on that part of the coast of Canada.

I am, &c.
(Signed) AUG. STAFFORD.

Inclosure 1 in No. 98.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sr,

"Cumberland," Halifax, November 4, 1852.

I TRANSMIT herewith a copy of an address presented to Commander Campbell by the inhabitants of Bonaventura, in the district of Gaspé, which I forward as an additional proof of the diligence and zeal with which he conducted the protection of the fisheries on that part of the coast of Canada.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 98.

Address to Commander Campbell.

Sir

*County of Bonaventura, District of Gaspé,
October 18, 1852.*

WE, the Undersigned, magistrates, merchants, shipowners, and other inhabitants of this county and district, deem it our duty to make known to you the high sense we entertain of the valuable services you have rendered to the inhabitants generally on this coast, during the past summer.

To your untiring perseverance and active zeal we owe the disappearance of the American fishermen from the waters of the Bay Chaleurs, and for the first time during the last fifteen years, our waters have teemed with mackerel. The benefits which you have conferred on our fishermen can only be appreciated and understood by those who, like yourself, have studied the subject and been eye-witnesses of the evils arising from the encroachments of strangers, who have no earthly right to trespass on our fishing-grounds.

To the present Advisers of our Most Gracious Sovereign we are indebted for this tardy and long-sought-for act of justice, as well as for the judicious selection of a steam-sloop commissioned by so well-qualified and efficient a commander. Your duty has been both delicate and harassing, and we feel justified in asserting that though enforcing the terms of the Treaty, you have carefully and studiously avoided all harsh and arbitrary acts.

We likewise beg leave, through you, to tender our sincere acknowledgments to the officers under your command, for the efficient manner in which they have seconded your exertions, more especially in the dangerous and arduous task of boat-duty, which has been so judiciously and effectively performed. Most sincerely do we hope that the good work thus commenced will be persevered in by the Home Government, and that Her Majesty's ship "Devastation" will return to our shores under your command next spring.

We have, &c.
(Signed) Jno. Fanwell. George Athier.
Alfred Caicaud. Elias Romeuil.
Philip Vibert. Danl. Orange.
Jno. G. Thompson. Jno. Pitou.
Jno. Wilkie. Jno. Hacquoil.
S. D. Dubard, Surgeon. &c. &c.
Boissonnault Brothers.

No. 99.

The Secretary to the Admiralty to Mr. Addington.

Sir,

Admiralty, November 24, 1852.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Malmesbury, a copy of a letter from Vice-Admiral Sir George Seymour, dated the 4th instant, proposing certain regulations for the future protection of the North American fisheries.

I am, &c.
(Signed) AUG. STAFFORD.

Inclosure in No. 99.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, November 4, 1852.

I HAVE to report that the "Devastation" steam-sloop arrived here on the 29th ultimo, and the tenders on the 31st, and having paid off the "Arrow" and dismantled the "Netley," I should have sailed on the 1st, but have been detained by heavy gales from the southward, I expect however to get to sea to-morrow. The "Devastation" and "Bermuda" will proceed to the southward as well as the "Cumberland."

With regard to the circumstances reported in my letter of the 27th ultimo, the general irregularity of the Nova Scotian vessels, which the custom-houses have not sufficiently checked, appear to be now acknowledged, as well as the difficulties in which Commander Campbell was placed to separate cases of fraud from those of irregularity. I have in consequence conferred with the Lieutenant-Governor of this province on the subject and have suggested to him that if the same necessity shall exist next season of protecting the Colonial fisheries, the task will be much lightened if the fishing-vessels of a certain tonnage are numbered and bear their number on the hull and mainsail like the pilot-vessels in the Channel, which I think, with the proper enforcement of the customs regulations and more care about granting British registers, may check the growing disposition to carry on an American trade under British colours, with the assistance of the labouring fishermen, who are indifferent under what flag they serve.

As Sir G. Le Marchant approves this proposal I shall communicate it to the Governor-General and the Lieutenant-Governors of New Brunswick and Prince Edward Island.

I have, &c.
(Signed) G. F. SEYMOUR.

No. 100.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, November 29, 1852.

WITH reference to my letter of the 29th ultimo, I am directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Lieutenant-Governor of New Brunswick, inclosing a return of the number of vessels seized, prosecuted, and condemned in the Vice-Admiralty Court of that province, for infractions of the Fishery Convention of 1818.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 100.

Sir Edmund Head to Sir J. Pakington.

(Confidential.)

Sir,

Fredericton, N.B., October 16, 1852.

WITH reference to your confidential despatch of the 11th ultimo, I have the honour to inclose a letter from the Honourable the Provincial Secretary, covering a copy of a return from the Registrar of the Vice-Admiralty Court of New Brunswick, of the number of vessels seized, prosecuted, and condemned in that Court, for infractions of the Convention of 1818 between Great Britain and the United States of America.

I have, &c.

(Signed) EDMUND HEAD.

Inclosure 2 in No. 100.

The Provincial Secretary to Sir Edmund Head.

May it please your Excellency,

Fredericton, October 14, 1852.

PURSUANT to your Excellency's directions I have obtained from the Registrar and Scribe of the Vice-Admiralty Court of New Brunswick, a list of all vessels seized and prosecuted in that Court for the infraction of the Convention of 1818 between Great Britain and the United States, relating to the Fisheries, a copy of which I have the honour of inclosing herewith.

I have, &c.

(Signed) J. R. PARTELOW.

Inclosure 3 in No. 100.

Return of Vessels Seized.

Vice-Admiralty Court of New Brunswick.

THE following is a List of Vessels seized and prosecuted in this Court for infraction of that part of the Convention of 1818 between Great Britain and the United States of America, relating to the Fisheries, during the period from the time of the Convention to the present time.

Name of Vessel.	Date of Seizure.	Condemnation or Restitution with date.
Shallop "L'Orient"	June 26, 1822	Condemned September 14, 1822
Schooner "Gallion"	July 18, 1824	„ August 16, 1824
Schooner "William"	July 18, 1824	„ August 16, 1824
Schooner "Escape"	October 7, 1824	„ November 18, 1824
Schooner "Rover"	October 7, 1824	„ November 18, 1824
Schooner "Sea-Flower" ..	October 7, 1824	„ November 18, 1824
Schooner "Coral"	June 16, 1852	„ July 28, 1852

St. John, New Brunswick, October 11, 1852.

(Signed)

J. M. ROBINSON,
Registrar, &c.

No. 101.

*Mr. Merivale to Mr. Addington.*Sir, *Downing Street, November 29, 1852.*

WITH reference to my letter of the 29th ultimo, I am directed by Secretary Sir John Pakington to transmit to you, for the information of the Earl of Malmesbury, the copy of a despatch from the Lieutenant-Governor of Prince Edward Island, reporting the condemnation of the American vessel "Caroline," in the Vice-Admiralty Court of that colony, for violating the Fishery Convention of 1818.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 101.

*Sir Alexander Bannerman to Sir J. Pakington.*Sir, *Prince Edward Island, October 25, 1852.*

IN reference to my despatch of the 11th instant, forwarding, in accordance with your instructions, a return from the Vice-Admiralty Court here, of American vessels detained and prosecuted for a violation of the Fishery Convention of 1818; in that return the case of one vessel, named the "Caroline Knight," had not then been decided, the owner having made appearance to defend; since, however, he has withdrawn the defence, and the vessel was condemned and ordered to be sold in terms of the Imperial statute.

I have, &c.
(Signed) A. BANNERMAN, *Lieut.-Governor.*

No. 102.

*Mr. Addington to Mr. Merivale.*Sir, *Foreign Office, November 30, 1852.*

I AM directed by the Earl of Malmesbury to transmit to you a copy of a despatch* from Vice-Admiral Sir George Seymour to the Admiralty, stating that he has suggested to the Governors of the North American Colonies to take certain steps for the better protection of the British Fisheries during the next fishing season; and I am to request that you will submit to Secretary Sir John Pakington the propriety of giving instructions to the Governors to carry into effect Sir George Seymour's recommendation, which appears to Lord Malmesbury to be of urgent importance.

I am, &c.
(Signed) MALMESBURY.

* Inclosure in No. 99.

Mr. Crampton to the Earl of Malmesbury.—(Received January 4, 1853.)

(No. 212.)

My Lord,

Washington, December 19, 1852.

SINCE the receipt of your Lordship's despatch No. 97 of the 15th of October last, by which I am authorized to agree that the negotiations for regulating the Fishery Question and other matters regarding the future commercial intercourse between Great Britain and the United States, should be entered upon at Washington, I have omitted no fitting opportunity of pressing the consideration of these subjects upon the attention of the United States' Government.

The assurances which I have received both from the President and the Secretary of State, of their entire concurrence in the importance of these questions, have been on all these occasions such as have satisfied me that a sincere desire existed to settle them upon satisfactory terms; but it was not until the 16th instant that Mr. Everett announced to me, by a private note, of which I have the honour to inclose a copy, that the American Cabinet had "unanimously consented that he should treat with me on a basis upon which he had no doubt we could agree."

In compliance with Mr. Everett's request conveyed to me by the same note, I waited upon him on the following day. He began our conversation by referring to the short memorandum of the different commercial questions between the two Governments, in regard to which a definite arrangement was desired, which memorandum I had, in September last, placed in Mr. Fillmore's hands, at his own desire, and of which I had the honour to forward a copy to your Lordship in my despatch No. 156 of the 27th of that month. Mr. Everett remarked that he did not apprehend that there would be any serious difficulty to our coming to an agreement upon all the matters adverted to in my memorandum, and substantially upon the conditions therein indicated, with the exception of one point; but in regard to this he feared that there was an insurmountable objection: the point he alluded to was, he said, the participation desired by Her Majesty's Government for British vessels in the trade between the Eastern States of the Union and California, on the same terms as American vessels, claimed by the British Government on the ground that this trade resembles in its nature and character the trade between Great Britain and her colonies, which is open to American vessels upon the same terms as to British vessels. His objection to this concession was not, he said, based upon commercial considerations, nor did it proceed from an unwillingness on the part of the United States' Government to respond to the liberal measures of the British Government as regarded the admission of American vessels to the trade between the mother country and the colonies, but arose from the insuperable barrier which was placed by the constitution of the United States to any enactment by which, however much the United States' Government might feel inclined to make the concession, it could be practically carried into effect. By the first Article, sect. 9, of the Constitution of the United States, it is stipulated that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

Now California, Mr. Everett remarked, is a State and not a colony, or even a "territory" of the United States; nothing less, therefore, than a revision of the Constitution would be required in order to alter the provisions of the Article in question, and this, he said he need scarcely add, was clearly out of the question. Mr. Everett admitted that when the provision in question was inserted in the Constitution, it was meant to apply to the Atlantic States alone, which are contiguous to each other, the future existence of a State on the Pacific, separated from the rest of the Union by several thousand miles of navigation, not having been contemplated; nor did he dispute the general resemblance of the nature and character of the trade in question to that between Great Britain and her

colonies, although he sought to establish some distinction between the two cases, from the contiguity by land of California with the rest of the Union, which did not exist in the case of Great Britain and her colonial possessions; but he said that any attempt to disregard so plain a provision of the Constitution would, even were the Government of the United States disposed to make it, be certainly defeated. He hoped, therefore, that Her Majesty's Government would appreciate the necessity under which the President felt himself obliged to exclude the consideration of this subject from our discussions, and that I should nevertheless feel myself authorized to go forward with the negotiation of the other important commercial questions between the two countries.

I replied that although by the instructions of Her Majesty's Government, I was directed to endeavour to effect an arrangement on the broadest possible basis, and one which should comprehend all the commercial questions between the two countries in regard to which a settlement was desired, I should nevertheless consider myself justified in proceeding to consider those to which I had called the President's attention without pressing that of the California trade, in case Mr. Everett and myself could agree upon the terms of a Project of Convention upon these matters, at a sufficiently early period to enable me to refer it to Her Majesty's Government, and to receive your Lordship's instructions as to concluding such a Convention or not, before the expiration of the present session of Congress, to whose ultimate decision it had been agreed that the arrangement should be deferred. I reminded Mr. Everett that, as I could not reasonably expect to receive such instructions in less than a period of five weeks, and that as the present session of Congress must necessarily terminate on the 4th day of March next, no time was now to be lost in putting me in possession of the views of the Government of the United States.

Mr. Everett said that he saw no reason why such a Project of Convention as would embody those views might not at once be reduced to writing; and after some conversation upon the matter he requested me to draw up a sketch of such a Project, which, he said, if we could agree that it was generally adapted to the objects in view, he would immediately submit to the consideration of the President.

I lost no time in complying with Mr. Everett's suggestion, and drew up the Project of Convention of which I have the honour to inclose a copy. With a few exceptions in respect to some of the commodities, and more especially in respect to coal, in the Schedule attached to the III^d Article, which contains the stipulations regarding reciprocity of trade between the United States and the British North American colonies, Mr. Everett seemed to think that we should have little difficulty in concluding a Convention which would be concurred in by Congress upon the terms sketched out by this Project. It has accordingly been submitted to the President, and has this moment been returned to me accompanied by Mr. Fillmore's observations and suggestions. Mr. Everett wishing to explain the motives which weighed with the President in some of these suggested alterations, and anxious that I should be enabled to communicate them to your Lordship by the present mail, has been so obliging as to bring me the document himself. The time which remains to me before the necessary departure of the mail is so short, that I fear I shall not be able to convey to your Lordship the explanations of Mr. Everett in as clear a manner as I could wish; but in order to direct your Lordship's attention more particularly to the points to which Mr. Fillmore's suggestions apply, I have caused the Project to be copied as it was, in the first instance, provisionally agreed upon between Mr. Everett and myself, together with the Article VI, respecting the reservation of the power of Congress, as afterwards added by Mr. Everett, to which it did not appear to me that there was any reason to object; and I have added Mr. Fillmore's suggested alterations in red ink in the margin.

The alterations suggested in regard to Article I are chiefly designed,
1st. To extend the privilege of fishing thereby granted, to any islands which may appertain to the colonies in question.

2ndly. To extend the right of drying and curing fish to that part of the north-eastern shore of Newfoundland on which American citizens

have already, under the Convention of 1818, a right to fish, while their right of drying and curing extends only to the southern shore. With regard to this right being confined to the southern shore of Newfoundland by the Convention of 1818, I stated to Mr. Everett that it appeared to me to be probable that it was so restricted from the fact of the French having a concurrent right with the Americans to fish on the north-western shores of the island, and the consideration of the inconvenience which would result from the fishermen of two foreign nations carrying on the operation of drying and curing on the shores of an island belonging to a third country; as it would have been impossible to grant this privilege to the Americans and to withhold it from the French.

3rdly. By omitting the words "or with the operations of British fishermen," to avoid the occurrence of disputes between British and American fishermen, which Mr. Fillmore thinks might arise from a misunderstanding of this phrase, which he considers to be unnecessary, as it would, as a matter of course, be understood that no right could exist on the part of the fishermen of either nation to interfere with the operations of the other, if legally and properly conducted.

4thly. To prevent the occurrence of disputes in consequence of a misunderstanding of the phrases "estuaries and mouths of rivers," by an enumeration, by name, of the particular Salmon fisheries reserved to British fishermen. Mr. Fillmore also suggests that the exact limits of such fisheries ought to be defined by a joint Commission, and a particular description of them attached to the Treaty.

No alteration of importance is proposed by Mr. Fillmore in the wording of the II^d and III^d Articles; but in the Schedule annexed to the III^d Article is suggested:

1st. A more specific definition of the word "Lumber," for the purpose, Mr. Everett stated, of avoiding fraud by the introduction of manufactured articles of wood under cover of the vague denomination of Lumber of all sorts.

2nd. The articles Skins, Pelts, and Furs are proposed to be struck out, as being a class of articles of luxury more than of necessity, and therefore properly liable to duty for the sake of revenue.

3rd. The important article Coal is struck out by Mr. Fillmore, not, as Mr. Everett stated, from an unwillingness on the part of the United States' Government to allow its admission, but from Mr. Fillmore's opinion that it would be certain to be rejected by Congress. Neither Mr. Everett nor myself, however, share in this impression to the same extent as Mr. Fillmore; and if, upon consultation with the interests concerned, it should appear that the objection is not as strong as Mr. Fillmore supposes, it is proposed to allow this article to remain upon the Schedule. The President has thought it right nevertheless, that I should state to Her Majesty's Government that the consent of Congress to the admission of Nova Scotia coal would be very uncertain.

Your Lordship will observe that the Schedule attached to Article III, contains several items which were not before inserted in the drafts of the bills which have been brought forward on previous occasions for establishing a reciprocal free trade in natural productions between the United States and British North America; and I would here state that the additions were made at the suggestion of the Canadian Government, and with the concurrence of Mr. Everett, who thought that the insertion of the additional articles proposed by Mr. Hincks in a memorandum of which I have the honour to inclose a copy herewith, would conduce to the success of the measure in Congress. The article "Printed books, &c.," is certainly not one of "natural production," but it appears from Mr. Hincks' memorandum to be one of considerable importance in the exports of the United States into Canada, and its introduction would probably serve to gain for the proposed measure considerable support in the United States' Congress. It is of course to be stipulated that such books shall not be the copyright of British authors when imported into Canada. The class of books exported from the United States to Canada generally, it appears, consist of school books, which are produced in great quantities and at a very cheap rate in the New England States.

With regard to Article IV, by which the free navigation of the River St. Lawrence is to be conceded to the United States, the President proposes that this right should be extended to the Great Lakes. But I confess I am at a loss to understand the meaning of the marginal note of the President, by which he remarks that the right reserved by the British Government of suspending the privilege of navigating the St. Lawrence "ought to be reciprocal."

Mr. Fillmore makes the same remark in regard to Article V, which confers on British vessels, when owned by American citizens, the advantage of an American register. As American vessels, owned by British subjects, already enjoy the privilege of British registry, there could of course be no difficulty on this head.

The most important of the modifications proposed by Mr. Fillmore, and that which appears to me to be more liable to objection on the part of Her Majesty's Government, regards Article VI, by which it is proposed to reserve the power of Congress in regard to those parts of the Convention which are to be carried into effect by legislative enactment. Your Lordship will have observed that Mr. Fillmore, in his last annual message, expressed an opinion that it would be more expedient to make the proposed arrangements regarding the fisheries and the reciprocity of trade with British North America the subject of two separate Conventions. I represented so strongly to Mr. Everett the inexpediency of dividing the two subjects, from the difficulty of finding any equivalent other than reciprocity of trade for the cession by the colonies principally interested in the fisheries of their exclusive right of fishing, that he consented to include them in the same Convention. The President, however, seems to have considered himself committed to the opinion expressed in his message; and although he has conceded the point I contended for by comprising both arrangements in one Convention, he appears to have sought, to a certain extent, to divide them again as regards the legislative enactments required for carrying them into effect. The provisions of this Article seem to me to be unnecessarily complicated, and their practical effect difficult to be calculated. I stated to Mr. Everett frankly, that if it was to appear to Her Majesty's Government that they would enable the United States' Government to suspend one part of the arrangement at pleasure while the other might be left in force, this could scarcely be expected to prove satisfactory to the colonies concerned, or to the Imperial Government. Mr. Everett denied that this was the intention of the President, or that such could ever be the effect of the provisions of the Article. I confess that his reasoning did not appear to me to be quite satisfactory on this point. At the same time it is right to state that the late hour at which the document was communicated to me has precluded me from giving it that attentive examination which the somewhat complex provisions of the Article in question would properly require, in order to form a correct estimate of all their possible bearings.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 103.

Mr. Everett to Mr. Crampton.

Dear Mr. Crampton,

*Department of State,
December 16, 1852.*

INSTEAD of coming to your house this evening as I proposed, I will if you please receive you at the Department to-morrow at half-past 2, when I will manage to be undisturbed.

The Cabinet yesterday unanimously consented that I should treat with you on a basis upon which I have no doubt we can agree.

Yours, &c.

(Signed) EDWARD EVERETT.

Inclosure 2 in No. 103.

Draft Convention.[*Alterations suggested by the President.*]

HER Majesty the Queen of Great Britain, &c., and the United States of America, being equally desirous to avoid the possibility of misunderstanding between their respective subjects and citizens, in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I of a Convention between Her Britannic Majesty and the United States, signed in London on the 20th of October, 1818, and being also desirous to regulate by a Convention, the commerce and navigation between their respective territories and people, and more especially between Her Majesty's possessions in North America and the United States, in such a manner as to render the same reciprocally beneficial and satisfactory, have respectively named Plenipotentiaries, &c., who have agreed upon and concluded the following Articles:

ARTICLE I.

It is agreed by the High Contracting Parties, that in addition to the liberty secured to American fishermen by the above-named Convention of 20th October, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies, therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind on the sea-coasts, ^a and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, and Prince Edward's Island^a, with permission to land upon the coasts of those colonies^b for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the owners of private property [or with the operations of British fishermen].^c It is understood that the above-mentioned liberty^d [applies solely to the sea-fishery, and that the fisheries in estuaries and in the mouths of rivers] ^e are hereby reserved exclusively for British fishermen.

^a and shores of the several islands.

^a without being restricted to any distance from the shore

^b and the islands thereof, and also upon the Magdalen Islands, and such parts of the western and northern coasts of the Island of Newfoundland as they are now permitted to fish upon.

^c out

^d shall not extend to the right of salmon-fishing in the following rivers, namely:

^e all of which

ARTICLE II.

[Alterations suggested by the President.]

° being the produce of British colonies, and

△ from those fisheries

It is agreed that all fish, either cured or fresh,° imported into the United States from the British North-American colonies in vessels of any nation or description, shall be admitted free of duty, and upon terms, in all respects, of equality with fish imported by citizens of the United States.△

(This provision to be reciprocal.)

ARTICLE III.

omitted or of

It is agreed that the articles enumerated in the Schedule hereunto annexed, being the growth and produce of the aforesaid British Colonies [and] the United States [respectively] shall be admitted into each country respectively free of duty.

Schedule.

Grain, Flour, and Breadstuffs
of all kinds.
Salted and fresh Meats
Animals of all kinds
Cotton wool
Seeds
Vegetables
Undried fruits
Fish of all kinds
Poultry
Hides
Wool
Butter
Cheese
Tallow
Horns
Manures
Ores of all kinds of metals
Ashes
Wood and Lumber△[of all kinds]
Plants, Shrubs, and Trees
[*Skins, Pelts, Furs or Tails,
undressed]
[*Coal]
Fish-oil
Broom Corn
Bark
Unwrought Burr-Stones
Dye Stuffs
Flax
Hemp and Tow
Printed Books, not the copy-
right of British authors, when
imported from the United
States into the British pos-
sessions, or the copyright
of American authors, when

△ round, hewn, and sawed, unmanu-
factured in whole or part

* Out. Query? Hides?

* Out.

[*Alterations suggested by the President.*]

and of the great lakes connected therewith

This ought to be reciprocal.

This must be reciprocal

ARTICLE VI.

[*As suggested by the President.*]

The Ist and IInd Articles of this Treaty shall not take effect until the United States shall, by a law of Congress, give its assent to the same; but, such assent being given, those Articles shall be binding for ten years, and until one year after the same authority shall withdraw such assent, when those Articles shall cease to have any binding force, and the rights of the respective parties, modified by said Articles, shall be restored to what they were prior to the adoption of this Treaty.

The IIIrd and IVth Articles of this Treaty shall not take effect until the legislative authority in both countries (including the colonies affected thereby) shall, by legal enactments, have assented to the same; but, such assent being given, shall be binding for ten years, and until one year after such assent shall be withdrawn by one of the parties to this Treaty, when said Articles shall cease to have any binding force; but if prior to that term the rights of navigation secured to the United States by the IVth Article of this

imported from the British possessions into the United States.

ARTICLE IV.

It is agreed that the citizens and vessels of the United States shall be admitted to the full and free navigation of the River St. Lawrence and of the canals (herein specified), it being understood, however, that the British Government retains the right of suspending this privilege, on giving due notice thereof to the Government of the United States.

ARTICLE V.

It is agreed that vessels built in Great Britain or in British colonies, when they are the property of American citizens, shall be entitled to registration in the United States upon the same conditions and in the same manner as American built vessels.

ARTICLE VI.

[*As suggested by Mr. Everett.*]

The foregoing Agreement shall take effect whenever the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and the British Provincial Assemblies, on the one hand, and by the Congress of the United States, on the other; and shall be binding only so long as said laws, whether now existing or hereafter to be enacted, shall remain in force; and whenever the Imperial Parliament or the Provincial Assemblies, on the one hand, and the Congress of the United States, on the other, shall repeal said laws or either of them, the aforesaid Agreement shall cease to be binding on the other Party.

[Alterations suggested by the President.]

Treaty shall be suspended, then the United States may elect to consider all the provisions of the III^d and IVth Articles as suspended during the time that such right of navigation may be suspended, or to consider the remaining portion of said Articles as still binding; and the Vth Article of this Treaty shall not take effect until the legislative authority in both countries (including the colonies affected thereby) shall, by legal enactments, have assented to the same; but, such assent being given, shall be binding for ten years, and until one year after such assent shall be withdrawn; but the failure to give the legislative assent hereinbefore required either to the Ist and II^d Articles, or to the III^d and IVth, or to the Vth, or the withdrawal of such assent, shall not affect the validity of those Articles to which such assent may be given, and not withdrawn.

Inclosure 3 in No. 103.

Memorandum of the Inspector-General of Canada.

Inspector-General's Office, September 21, 1852.

THE Undersigned submits that in view of the probability of a negotiation taking place between Great Britain and the United States, for the settlement of the various commercial questions now pending between the two nations, it is expedient that Her Majesty's Imperial Government should be put in possession of the views of the Government of Canada on the subject; and he further submits his own views as to the requirements of Canada, for the consideration of the Governor-General. The object of most importance to Canada is to obtain the free admission into the United States of certain natural products of the two countries, and which will be admitted into Canada on the same terms. These are, grain and bread-stuffs of all kinds, salted and fresh meats, animals of all kinds, cotton-wool, seeds, vegetables, undried fruits, poultry, fish of all kinds, hides, wool, butter, cheese, tallow, horns, manures, ores of all kinds of metals, ashes, wood and lumber of all kinds, plants, shrubs and trees, skins, pelts, furs or tails undressed, coal, fish-oil, printed books, not copyright, of British authors.

The imports into the United States in 1851 of the articles above mentioned, subject to duty, was, according to returns from the American custom-houses, 1,475,184 dollars, viz. :—

Produce of forest	\$ 791,512
Fish	30,648
Animals	448,049
Agriculture	204,975
	\$1,475,184

The imports into Canada of articles to which it is proposed to grant free admission, were in the same year:—

Mess pork	\$ 105,879
Printed books	220,111
Coal	46,442

Wheat	294,486
Maize, or Indian corn	67,824
Seeds	6,252
Manure	10,832
Fruit (green)	25,484
Fish	19,712
Hides	205,114
Cheese	17,208
Animals	31,954
Tallow	128,249
Cotton-wool	24,484
Plants, shrubs, and trees	28,440
	\$1,232,464

It will be found from the above, that the allegation that the measure of reciprocity is entirely for the advantage of Canada, is wholly without foundation, and that it presents advantages to the United States nearly, if not quite, equal to those which it would confer upon Canada. It is possible that in a general measure for the British Colonies coal might be objected to; the United States might fear large importations from the maritime provinces. Canada has no interest in pressing the insertion of coal. There are some articles not mentioned above, viz., broom-corn, bark, unwrought burr-stones, dye-stuffs, flax, hemp, and tow, all of which are imported from the United States into Canada, and might be included if necessary. It may be well to remark, that in taking the imports into the United States from Canada, the wheat and flour exported in bond was not taken into account, but only the articles which paid duty. The wheat and flour exported through the United States in 1851 was of the value of 1,500,000 dollars.

The next measure of importance to Canada is the privilege of registering Canadian-built vessels in the United States. This should be strongly pressed, but it is not a point of sufficient importance to be made a *sine qua non*. Assuming that the St. Lawrence navigation and the use upon equal terms of the Canadian canals were conceded to the United States, it would be most important, at the same time, to secure for Canada the free use of the United States' canals, upon equal terms with the citizens of that country, and also the waters of Lake Michigan, regarding which some doubt exists. At the same time a reciprocal coasting trade on the inland waters might be established, and this in all probability would be considered a boon to the United States. Canada would have no objection to such a measure, which is very desirable as a matter of convenience to both countries. It would therefore be desirable to press it if necessary, but if possible to use it as a concession. It might be well that Mr. Crampton should be instructed that in case the United States should stipulate to have any articles not included in the lists submitted above, placed in them, he should communicate on the subject with the Governor-General, so that no delay should ensue.

The whole humbly submitted.

(Signed)

F. HINCKS,
Inspector-General.

No. 104.

Mr. Crampton to the Earl of Malmesbury.—(Received January 10, 1853.)

(No. 213.)

My Lord,

Washington, December 27, 1852.

WITH reference to my despatch No. 212, of the 19th instant, with which I had the honour of transmitting to your Lordship a project for a Commercial Convention between Great Britain and the United States, I omitted to state that, acting upon the suggestion contained in the memorandum drawn up by Mr. Hincks, the Inspector-General of Commerce in Canada, I drew Mr. Everett's attention to the points treated of in the latter part of that document; viz., 1st, the importance of securing to

Canada the free use of the canals of the United States in consideration of the concession to the United States of the free navigation of the St. Lawrence and of the Canadian canals therewith connected; 2nd, the expediency of establishing a reciprocal coasting trade between Canada and the United States on the inland waters, the advantages of which latter arrangement, I said, would evidently lie with the United States, who possess a much greater amount of shipping upon the lakes, than Canada.

Mr. Everett said that he would rather not attempt to introduce any provisions in relation to those points into the Project, inasmuch as this could not be done without previous inquiry involving so much delay as would render it impracticable to submit the Convention to Congress this session.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 105.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, January 14, 1853.

I AM directed by Lord John Russell to transmit to you, for the information of the Duke of Newcastle, copies of two dispatches from Mr. Crampton,* Her Majesty's Minister in the United States, reporting his proceedings in the negotiation for regulating the Fishery Question, and other matters affecting the future commercial intercourse between the two countries. In one of those dispatches, Mr. Crampton incloses a Draft of Treaty on those subjects, in the margin of which are various alterations suggested by the President of the United States.

I am also to transmit to you a Draft of Instruction, which Lord John Russell proposes to address to Mr. Crampton in reply to his dispatches, together with an amended Draft of Treaty, to be proposed to the Government of the United States; and I am to request that you will lay these papers before the Duke of Newcastle, and move his Grace to favour Lord John Russell with his opinion as to the Instruction and Draft of Treaty which he proposes to send to Mr. Crampton.

I am to add, that the departure of the American mail of the present day has been deferred until to-morrow, in order to enable Her Majesty's Government to send out their instructions to Mr. Crampton by that opportunity.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 106.

Lord John Russell to Mr. Crampton.

My dear Sir,

London, January 14, 1853.

I NOW send you an answer to your dispatch of the 19th of December.

In the present state of our information, we must take care that the British North American Colonies are not taken by surprise, and that they have full power of rejecting any law to carry the Treaty into effect.

With this caution, I leave the subject with confidence in your hands.

I remain, &c.
(Signed) J. RUSSELL.

* Nos. 103 and 104.

No. 107.

Lord John Russell to Mr. Crampton.

(No. 5.)

Sir,

Foreign Office, January 15, 1853.

I HAVE received and laid before the Queen your despatch No. 212, of the 19th ultimo, in which you inclose a draft of Treaty between Great Britain and the United States of America for regulating the fishery question and other matters affecting the future commercial intercourse between the two countries.

Her Majesty has commanded me to state to you in reply, that it is so desirable that the relations of the United Kingdom with the United States should be of the most friendly character, and that free intercourse between the two nations should be promoted, that Her Majesty has no hesitation in directing me to authorize you to sign the proposed Treaty. It is, however, necessary that the character of the Treaty as proposed by you to Mr. Everett, should not be altered, and that your original draft should be adhered to as nearly as possible.

I will now proceed to make some observations on the various points discussed in your despatch, and arising out of the Articles of the Draft, and the alterations suggested by the President. In the first place, I have to state to you that Her Majesty's Government are prepared to admit the validity of Mr. Everett's objection to include in the present negotiation the question of the admission of British vessels to the trade between the Atlantic and the Pacific ports of the United States, on the ground that it would be a violation of the Constitution of the United States to make that concession.

Considering, however, that the admission to the trade between the Atlantic and the Pacific ports of the Union is a very important part of the equivalent which Her Majesty's Government have throughout this negotiation expected to receive from the United States in return for the concessions which they were prepared to make, all of which concessions are retained in the Draft of Treaty, Her Majesty's Government conceive that while they yield to the constitutional reason assigned by Mr. Everett for omitting from the Treaty any stipulation respecting that trade, they have a just right to ask for some other concession in its place, and it seems to them that it would be suitable and proper that the United States' Government should concede to British fishermen a reciprocal right of fishing on the coasts and shores of the United States and of the islands thereto belonging, and in the bays, harbours, and creeks of the United States, without being restricted to any distance from the shore. An Article to this effect has accordingly been added to the draft. With regard to Article I of the draft, although Her Majesty's Government would have much preferred its remaining altogether as it was drawn up by you, they will nevertheless not absolutely refuse to adopt some part of the additions thereto which have been suggested by Mr. Fillmore. The President objects to the words which stipulate that fishermen of the United States, in drying their nets and curing their fish upon the coasts of the British Colonies shall not interfere with the operations of British fishermen. It is true that those words might possibly give rise to occasional disputes, but, on the other hand, it is essential that where long usage has affixed a kind of prescription to the operations of British fishermen in particular places, they should not be ejected by the force of superior numbers. We could not consent, therefore, to expunge the stipulation in question, but there would be no objection to employ a different phrase, provided the intent and effect were similar, and you will therefore consider whether any other words less capable of doubt or misconstruction could be substituted for those which the President wishes to be omitted. The President's objection to the vagueness of the words, "estuaries and mouths of rivers," seems reasonable. You are therefore authorized to assent to the alteration suggested by him, according to which the excepted estuaries and rivers will be specified in the Article. If from want of sufficient information, you

should find it impracticable to prepare the list of the rivers with accuracy before the Treaty is signed, you might arrange that the list should be agreed upon at the time of exchange of the ratifications, and annexed to the Treaty by means of a declaration.

The reservation in favour of British fishermen must, however, not be confined to salmon-fishing only, which would be the effect of the alteration proposed by Mr. Fillmore, but must, as in your draft, extend to fishing of all kinds in the estuaries and rivers to be specified in the Article. From what was stated with regard to Newfoundland in Viscount Palmerston's despatches to Sir H. Bulwer, No. 3, of November 1, 1849, and No. 4, of January 25, 1850, you are aware that Her Majesty's Government do not wish that the arrangements of the proposed Treaty should apply to that island. They could not, therefore, assent to the words which the President proposes to add, and which would concede to citizens of the United States, the right of landing to dry nets and cure fish, on those parts of the coast of Newfoundland on which they have at present, under the Convention of 1818, only the liberty to take fish. On the contrary, it will be necessary to add to the Draft of Treaty, an Article for the purpose of recording that Newfoundland is excepted from its stipulations.

Her Majesty's Government have no objection to make the stipulations of Article II reciprocal.

Neither have they any objection to the insertion in the Schedule annexed to Article III, of the additional items suggested by Mr. Hincks, and concurred in by Mr. Everett, as being likely to conduce to the success of the proposed arrangement with the American Congress.

One of the articles comprised in the Schedule is of great importance, namely, coal. If it is to be feared, on the one hand, that the retention of this article in the Schedule may give rise to opposition to the whole arrangement on the part of the United States' Legislature, it cannot be doubted, on the other hand, that its omission would cause very serious discontent in Nova Scotia, and would very probably cause the Treaty to be rejected by the Legislature of that colony.

You must therefore insist upon the retention of the article coal in the Schedule.

You will state that, upon full consideration, Her Majesty's Government find it necessary also to retain in the Schedule the articles skins, pelts, furs, or tails.

They would also desire that metals should be inserted in the Schedule as well as ores of metals. Although metals are not, strictly speaking, articles of raw produce, yet Her Majesty's Government think it would be advisable to include them, for the same reason that printed books are to be included, namely, that the success of the whole arrangement will be promoted thereby.

With regard to Article IV, Her Majesty's Government cannot consent to the introduction of the words suggested by the President, extending the application of that Article to the great lakes in favour of the United States. Her Majesty's Government indeed cannot perceive the utility of the proposed addition, because the United States already have free access to those four of the great lakes through which the boundary runs between Canada and the United States; and, moreover, with regard to Lake Michigan, you state in your despatch No. 213, that Mr. Everett declined to enter into the present negotiation upon the question of conceding to British subjects the free navigation of that lake.

There is, however, a point connected with this Article on which you are at liberty to exercise a discretion. It is that proviso which reserves to the British Government the power of suspending the free navigation of the St. Lawrence by United States' vessels. That power of suspension must be reserved to Great Britain, as it stands in your Draft. But as it would seem fair that, in the event of such temporary suspension, the equivalent for which the free navigation of the St. Lawrence was conceded should be equally placed in abeyance, you are at liberty if you think it necessary, to admit into the Article a further proviso that, during any such suspension of the free navigation of the St. Lawrence, the present duties on Canadian and United States' produce should revive and continue.

There can be no objection whatever to making the provisions of Article V reciprocal, as proposed by Mr. Fillmore. Such was the intention of Her Majesty's Government; and the boon is, in fact, now enjoyed in this country by American vessels.

Article VI, as proposed by Mr. Everett, is, in the opinion of Her Majesty's Government, far preferable to the Article as proposed by the President. Her Majesty's Government view the arrangements of the Treaty as a whole, and could not assent to any stipulation which, even although not so intended, might convey the impression that it would be possible to separate it into parts, and to leave some of those parts in operation, while others were rescinded. They acknowledge, however, the value of that suggestion of the President, which would assign a fixed duration to the Treaty. It would indeed be to the last degree undesirable that an arrangement so important to all parties concerned should be suddenly terminated, as, without some stipulation for a fixed period of duration, it might be by an Act of Congress, or by the Act of one of the Provincial Assemblies; I have therefore proposed an Article founded partly on that proposed by Mr. Everett, and partly on that suggested by the President, stipulating that the Treaty shall come into operation as soon as the necessary legislative measures shall have been passed on both sides; that it shall then have a fixed duration of ten years, and that after the expiration of the term of ten years, it shall not be terminable until after twelve months' notice on either side.

You are at liberty to accede to a term of seven years, if you should find that the United States' Government are unwilling to agree to a period of ten years.

With the exceptions which I have pointed out in this despatch, Her Majesty's Government do not think that any alteration should be made in your draft; but for the sake of greater clearness, some of the terms are expanded and rendered definite. I inclose a revised draft drawn up in conformity with the preceding observations.

You will understand that, subject to my previous remarks, this draft must not be altered without reference to Her Majesty's Government, and that we should prefer some longer delay to any greater sacrifices than those which are contained in this draft.

It is desirable that a treaty of this kind should be signed, even though the views and interests represented by the Congress of the United States on the one hand, or by the British Provincial Assemblies on the other, should for a time defeat its beneficent provisions. It would remain as a proof that the Governments of the two countries, animated by a sincere desire to communicate to each other the benefits which those countries respectively enjoy, have agreed to carry on the intercourse between them on principles of confidence, liberality, and justice.

I am, &c.

(Signed) J. RUSSELL.

Inclosure in No. 107.

Draft of Treaty with the United States.

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, being equally desirous to avoid further misunderstandings between their respective subjects and citizens, in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I of the Convention between Great Britain and the United States, signed at London on the 20th of October, 1818; and being also desirous to regulate by a treaty the commerce and navigation between their respective territories and people, and more especially between Her Majesty's Possessions in North America and the United States, in such a manner as to render the same reciprocally beneficial and satisfactory, have named as their respective Plenipotentiaries, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, John Fiennes Crampton, Esq., &c.

And the President of the United States of America, Edward Everett, Esq., &c.

Who, after having communicated to each other their respective full-powers, found in good and due form, have agreed upon the following Articles :

ARTICLE I.

It is agreed by the High Contracting Parties, that in addition to the liberty secured to United States fishermen by the above-mentioned Convention of the 20th of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies, therein defined, the inhabitants

of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind on the sea-coasts and shores of the several islands, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, and Prince Edward Island, without being restricted to any distance from the shore; with permission to land upon the coasts 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 owners of private property, or with the operations of British fishermen.

It is understood that the above-mentioned liberty shall not extend to the right of fishing in the estuaries and rivers hereinafter designated, that is to say :

which right is reserved exclusively to British fishermen.

ARTICLE II.

It is agreed by the High Contracting Parties, that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind on the sea coasts of the United States and on the shores of the several islands belonging thereto, and in the bays, harbours, and creeks of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the coasts of the United States and of the islands aforesaid for the purpose of drying their nets and curing their fish, provided that in so doing they do not interfere with the owners of private property or with the operations of United States' fishermen.

It is understood that the above-mentioned liberty shall not extend to the right of fishing in the estuaries and rivers hereinafter designated, that is to say :

which right is reserved exclusively to United States' fishermen.

ARTICLE III.

It is agreed that all fish, either cured or fresh, being the produce of the fisheries of the British Colonies, imported into the United States from the British North American Colonies, in vessels of any nation or description, shall be admitted free of duty, and upon terms in all respects (whether in regard to bounties or otherwise) of equality with fish imported by citizens of the United States from those fisheries.

It is also agreed that all fish, either cured or fresh, being the produce of United States' fisheries, imported into the British North American Colonies from the United States, in vessels of any nation or description, shall be admitted free of duty, and upon terms in all respects (whether in regard to bounties or otherwise) of equality with fish imported by British subjects from those fisheries.

ARTICLE IV.

It is agreed that the articles enumerated in the Schedule hereunto annexed, being the growth and produce of the aforesaid British colonies or of the United States, shall be admitted into each country respectively free of duty.

Schedule.

Grain, flour, and bread-stuffs of all kinds.
 Salted and fresh meats.
 Animals of all kinds.
 Cotton-wool.
 Seeds.
 Vegetables.
 Undried fruits.
 Fish of all kinds.
 Poultry.
 Hides.
 Wool.
 Butter.
 Cheese.
 Tallow.
 Horns.

Manures.

Metals, and ores of metals of all kinds.

Ashes.

Wood and lumber, round, hewn, and sawed,
unmanufactured in whole or part.

Plants, shrubs, and trees.

Skins, pelts, furs, or tails undressed.

Coal.

Fish-oil.

Broom-corn.

Bark.

Unwrought burr-stones.

Dye-stuffs.

Flax.

Hemp and tow; also printed books, not the copyright of British authors, when imported from the United States into the British Possessions, or the copyright of American authors, when imported from the British Possessions into the United States.

ARTICLE V.

It is agreed that the citizens and vessels of the United States shall be admitted to the full and free navigation of the River St. Lawrence and of the Welland and Rideau Canals, in the same manner and on the same terms, and subject to the like tolls, as British subjects; it being understood, however, that the British Government retains the right of suspending this privilege, on giving due notice thereof to the Government of the United States.

It is further agreed that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the operation of Article IV of the present Treaty, for so long as the suspension of the free navigation of the River St. Lawrence may be continued.

ARTICLE VI.

It is agreed that vessels built in Great Britain or in any British Colony, shall when they are the

property of American citizens, be entitled to registration in the United States, upon the same conditions and in the same manner as United States built vessels.

It is in like manner agreed that vessels built in the United States shall, when they are the property of British subjects, be entitled to registration in the British dominions, upon the same conditions and in the same manner as British-built vessels.

ARTICLE VII.

The stipulations of the present Treaty shall not in any way apply to the Island of Newfoundland, or the coasts thereof.

ARTICLE VIII.

The present Treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain, and by the Provincial Parliaments of those of the British North American Colonies which are affected by this Treaty on the one hand, and by the Congress of the United States on the other. Such assent having been given, the Treaty shall remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards.

It is clearly understood, however, that this stipulation is not intended to affect the reservation made by Article V of the present Treaty with regard to the right of temporarily suspending the operation of Articles IV and V thereof.

ARTICLE IX.

The present Treaty shall be ratified by Her Britannic Majesty, and by the President of the United States, by and with the advice and consent

of the Senate thereof; and the ratifications shall be exchanged at _____ as soon as may be within _____ months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the _____ day of _____ in the year of our Lord one thousand eight hundred and fifty-three.

No. 108.

Mr. Crampton to Lord John Russell.—(Received February 23.)

(No. 35.)

My Lord,

Washington, February 5, 1853.

YOUR Lordship's despatch No. 5 of the 15th ultimo reached me on the 31st ultimo; and I lost no time in communicating to the United States Secretary of State the views of Her Majesty's Government therein set forth in regard to the Draft of a Treaty between Great Britain and the United States for regulating the Fishery Question, and other matters affecting the future commercial intercourse between the two countries, which I had the honour to transmit to the Earl of Malmesbury in my despatch No. 212 of the 19th of December last.

As there would not be sufficient time for a further reference to Her Majesty's Government before the termination of the present Session of Congress, and as moreover the time still remaining to the Legislature for the consideration of the various points involved in the Treaty would be short even were the project at once adopted by the Executive, I thought it expedient to state at once to Mr. Everett, with entire frankness, the decision of Her Majesty's Government respecting the main features of the arrangement which I had originally proposed, and in regard to which your Lordship's instructions preclude me from admitting any essential alterations.

Mr. Everett assured me that he would on his part deal with me in the same spirit,—that he felt the most sincere desire to be instrumental in effecting an arrangement which would promote the free intercourse and increase the friendly feeling between the two countries, and he added that I might rest satisfied that any objections which he might have to state in regard to the provisions of the project, would be brought forward not for the purpose of obtaining any small advantage in the negotiation, but from a sincere conviction of the impracticability of carrying through the Legislature the points to which those objections should apply.

After some conversation, I furnished Mr. Everett, at his request, confidentially, with a copy of the amended draft of Treaty, inclosed in your Lordship's despatch No. 5, and he promised that the subject should receive the immediate consideration of the President.

I have not yet received any official notification of the decision of the American Cabinet; but from several conversations which I have since had with Mr. Everett on the subject, as well as with some other gentlemen in the confidence of the Government, I have reason to fear that their reply will be unfavourable to the project in so many essential points, as to leave me very little hope that any counter-proposition will be made to me to which I could agree, without entirely losing sight of the instructions of Her Majesty's Government, and indeed of the principles to which Her Majesty's Legation has invariably adhered in the discussion with the United States Government of the questions involved in the proposed Treaty.

I will now state shortly to your Lordship the objections which I gather from my conversations with Mr. Everett, as well as with Mr. Abbott Lawrence, who is now at Washington, and who, being practically acquainted with many of the commercial interests of this country, was requested by the President to converse confidentially with me on the subject of the Treaty. Your Lordship will remark that many (indeed, the most important) of these objections apply to articles of the project of Treaty which were admitted into the original draft as proposed by me and transmitted to your Lordship. It is consequently evident that these objections have arisen since that project was drawn up, in consequence of suggestions or representations from the parties whose interests were more immediately involved.

1st. Mr. Everett informs me that the information which he has obtained, leads him to the conclusion that the Article conferring the right of

American registry upon British colonial built vessels, would never be concurred in by Congress. He is still, he says, himself in favour of the Article; but the shipping interest have taken the alarm in regard to it, and the measure would be so unpopular that the President would not be willing to sign a Treaty in which it should be included. I thought it my duty to state to Mr. Everett that the instructions of Her Majesty's Government would not allow me to exclude this provision from the Treaty. The information which I have lately received from the Lieutenant-Governor of New Brunswick, leaves little doubt that no arrangement by which the right of fishing should be ceded to citizens of the United States, and which did not include the right of registry, would be willingly acquiesced in by that colony. The privilege of British registry being already enjoyed by American-built vessels, would seem to render this concession one of just reciprocity, even if not considered as part of a fair equivalent for a participation in the valuable right of fishery on the coasts of British North America.

2nd. With regard to the article Lumber, in the Schedule of Article IV of the amended draft of Treaty, strong objection being felt by the Representatives of Maine to the free admission of New Brunswick lumber, an addition is proposed by the Committee on Commerce in the House of Representatives, to be added to the Schedule, by which among other arrangements, which Mr. Everett himself said he thought were of a cumbrous nature, it would be stipulated that American lumber should be admitted into the ports of Great Britain, on the same terms as lumber from the British colonies. In the omission of lumber from the Schedule, or in a stipulation by which the existing discriminating duty in favour of Colonial lumber in the British market should be done away with, I stated to Mr. Everett that I did not feel myself authorized to concur.

3rd. An objection is made to the admission of the article Coal into the Schedule.

4th. The exclusion of Newfoundland from the arrangement is objected to, and if I rightly understand Mr. Everett and Mr. Lawrence, the ground of this objection is, that it is thought that were the American market thrown open to the fish and fish-oil, &c., of the other colonies, it would not be practically possible to ascertain whether those articles, when imported into the United States, were *bonâ fide* the productions of the colonies which were included in the Treaty, or whether they were not in reality the produce of Newfoundland; which would thus enjoy the benefit of the American market for its fish, without having conceded the equivalent right of fishing to citizens of the United States.

5. The introduction into the Schedule of the article Metals, is objected to; upon what grounds I have not yet been exactly informed.

These objections in regard to points so essential to the whole arrangement, seem to indicate that the present Administration of the United States have relinquished all intention of settling, by a comprehensive arrangement, the various commercial questions existing between the two countries, and, under all the circumstances of the case, have made up their minds to leave this arrangement to their successors in office. With regard to the Fishery Question, however, they feel the responsibility which they incur, by not at least endeavouring to effect some independent or even temporary arrangement in regard to it, before another fishing season is allowed to elapse. With this view it is proposed, as I understand from Mr. Everett, to introduce into Congress a Bill by which British fish shall be admitted into the American market on equal terms with American caught fish, conditionally, upon the admission of American fishermen to the free use of the British fisheries. It is hoped that this measure will be responded to by legislation on our side, and many persons here, notwithstanding my assurances to the contrary, seem to think that a full equivalent will have been thus offered to the colonies for the right of a free participation in their fisheries. It is, however, intended to accompany the recommendation of this Bill to Congress, with a declaration on the part of the President that this proposed separate arrangement in regard to the fisheries is in no wise intended to prejudice the negotiations for a reciprocity of trade in other articles, the completion of which, it will be stated,

has only been delayed by a want of time sufficiently to mature and to agree upon all the points of so extensive an arrangement.

I did not hold out to Mr. Everett the least hope that this step would prove satisfactory either to the colonies or to Her Majesty's Government.

I have, &c.

(Signed) JOHN F. CRAMPTON.

P.S.—I have the honour to inclose a copy of a Bill introduced by Mr. Davis, the Senator from Massachusetts, for regulating the rights of fishing between the British North American provinces and the United States for the purpose alluded to in the body of this despatch.

I am informed, however, by Mr. Everett that this Bill was drawn up by Mr. Davis, without any previous consultation with the United States Government, and although it is generally of the same nature as that which the Government intends to suggest to the consideration of Congress, it is susceptible of modifications which, he does not doubt, would be adopted.

J. F. C.

Inclosure in No. 108.

Copy of a Bill introduced for Regulating the Rights of Fishing, between the British North American Provinces and the United States.

A BILL to regulate the rights of fishing and the rights of disposing of the proceeds of the fisheries in the British North American Provinces and the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall receive satisfactory evidence that the fishermen and *fishing* vessels of the United States engaged exclusively in fishing are admitted to the common rights and privileges of British subjects resident in those provinces to fish in the waters thereof and adjacent thereto, together with the right of curing and preparing for the market the proceeds of such fisheries, both upon the water and the land, then he shall issue his proclamation authorizing the fisherman and *fishing* vessels of the said provinces engaged exclusively in fishing to enjoy like privileges in the waters of the United States, together with the privilege of entering the ports of entry in the United States, and making sale of fish and the proceeds of the fisheries upon the payment of the same duties which are required by law of the fishing vessels and their cargoes belonging to the United States: Provided, That nothing herein contained shall affect private rights of fishing, or give any right to occupy private property except upon agreement.

No. 109.

Mr. Crampton to Lord John Russell.—(Received February 28.)

(No. 38.)

My Lord,

Washington, February 13, 1853.

WITH reference to my despatch No. 35, of the 5th instant, upon the subject of the fisheries and reciprocity of trade between the United States and the British North American Colonies, I have now the honour to inclose a copy of a message from the President to Congress, accompanied by a report from the Secretary of State, informing the President that the conclusion of a Treaty with Her Majesty's Government for the arrangement of these questions in time to be submitted to Congress this session, having, from the number and variety of the details which have presented themselves in the course of the negotiation, and from want of time for further reference to England, been found impossible, and it being nevertheless desirable that some settlement of the Fishery Question should be

made before the commencement of the next fishing season, recommends to Congress the adoption of a measure for that purpose. Your Lordship will perceive that by this measure it is intended to admit British caught fish free of duty into the United States, so soon as the President shall have learnt that American citizens are admitted to a full participation in the British fisheries.

Mr. Everett, in the latter part of this document, expresses an opinion that the "Government of Great Britain would give effect to the measure by requisite legislation on her part;" and states, "that, if the Act in question should fail to produce the desired effect, which is not apprehended, it would relieve the United States of the responsibility of the consequences."

With regard to this opinion of Mr. Everett, I would remark to your Lordship that it certainly cannot have been formed from the language which I have invariably held to him in regard to this matter. I have stated to him distinctly, from the beginning of the negotiation, that my instructions did not allow me to treat the subject of the fisheries and of reciprocity of trade separately. I have reminded him that the proposal to make the cession by the colonies of their exclusive rights of fishing part of a general arrangement of reciprocal trade with them first emanated from the United States Government, having been made to me by Mr. Clayton when Secretary of State in 1849; and that the consent of the colonies interested in the fisheries to relinquish those exclusive rights had been obtained on that understanding. I have, moreover, read to Mr. Everett, confidentially, a report of the Executive Council of New Brunswick, dated December the 11th, 1852, a copy of which was transmitted to me by Sir Edmund Head, and which, I presume, has been communicated by him to Her Majesty's Government, as well as other confidential communications from his Excellency, clearly showing that that colony would never willingly give up the rights of fishing secured to it by the Convention of 1818, on the terms of the measure now recommended to Congress.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 109.

Message of the President to Congress, and Report from the Secretary of State.

To the Senate and House of Representatives:

HAVING in my Message to Congress at the opening of the Session adverted to the pending negotiations between this Government and that of Great Britain relative to the fisheries and commercial reciprocity with the British American Provinces, I transmit for the information of Congress the accompanying Report from the Department of State on the present state of the negotiations, and I respectfully invite the attention of the two houses to the suggestion in the latter part of the report

(Signed) MILLARD FILLMORE.

Washington, February 7, 1853.

To the President of the United States:

The Secretary of State has the honour to submit to the President the following Report, relative to the negotiation pending between this Government and that of Great Britain on the subject of the fisheries, of reciprocal intercourse with the British North American Provinces, and the navigation of the St. Lawrence and the canals connected with it.

The prospects of the negotiation, at the commencement of the session, were alluded to in a general way in the President's Message. The attention of this Department was given to the subject at the earliest day possible, and it has been pursued with diligence. It has been perceived with satisfaction that the Government of Her Britannic Majesty is prepared to enter into an arrangement for the admission of the fishing vessels of the United States, to a full participation in the public fisheries on the coasts

and shores of the Provinces (with the exception, perhaps, at present, of Newfoundland), and in the right of drying and curing fish on shore, on condition of the admission, duty free, into the markets of the United States, of the products of the colonial fisheries; similar privileges, on like condition, to be reciprocally enjoyed by British subjects on the coasts and shores of the United States. Such an arrangement the Secretary has reason to believe would be acceptable to the fishing interest of the United States.

It is also understood that the British Government is desirous, in concert with the Provinces, to come to an agreement with the United States for reciprocal free trade with the Provinces in certain natural productions; and that the free navigation of the St. Lawrence and the Welland and Rideau canals would be conceded as part of the arrangement.

An arrangement of this kind has for several years received the attention of Congress, and a Bill providing for reciprocal free trade in certain articles on one occasion passed the House of Representatives. The present negotiations have been conducted by the Department, under the impression that if the details of the arrangement could be satisfactorily settled, and in such a way as to afford a prospect of mutual benefit, Congress would be disposed to perform its part to carry it into effect.

Even if the United States, as the party to the compact which furnishes by far the largest market to the other, should think it necessary in some respects to limit, and in others to enlarge, the number of articles subject to the arrangement, beyond what the British Government or the Provinces would prefer, the Secretary has been of opinion that the main provisions above alluded to promised so much benefit on both sides, that it would be felt to be expedient to enter into the arrangement for a definite time, leaving to future legislation and negotiation, guided by experience, to render it still more satisfactory by further limitation or enlargement.

The number and variety of the details which have presented themselves in the progress of the negotiation, and the important interests in different parts both of the United States and the British provinces, requiring to be carefully considered, taken in connection with the necessity of a reference to London for instructions as to all questions of moment that arise unexpectedly, have thus far prevented, and will probably render impossible, the conclusion of a comprehensive arrangement of the kind contemplated in season to be submitted to the Senate, and to become the subject of legislative action during the present short session. It is believed, however, from the progress made and the present state of the negotiations, that time only is wanted for a satisfactory agreement between the two Governments on all the subjects above alluded to.

The only part of the proposed arrangement which may be considered as of an urgent nature is such an adjustment of the Fisheries Question as would remove all danger of trouble on the fishing grounds during the approaching season. This is an object of great importance, and worthy the immediate attention of Congress. As belonging to a general settlement, the British Government is not willing to dispose of it separately; but the Secretary of State is of opinion that, under the circumstances of the case, if Congress should pass an act admitting provincial fish free of duty into the United States, on condition that the fishermen of the United States are admitted to a full participation in the provincial fisheries, the Government of Great Britain would give effect to the measure by the requisite legislation on her part, in the expectation on both sides that the question of reciprocity, and of the use of the St. Lawrence and the canals connected with it, will be taken up hereafter, with a favourable disposition to come to a mutually advantageous agreement on that part of the subject also. Even if such an act should fail to produce the desired result, which is not apprehended, it would relieve the United States of the responsibility of the consequences.

All which is respectfully submitted.

(Signed)

EDWARD EVERETT.

Department of State, Washington, February 7, 1853.

Mr. Crampton to Lord John Russell.—(Received February 28.)

(No. 43.)

My Lord,

Washington, February 13, 1853.

WITH reference to my despatch, No. 35, of the 5th instant, in regard to reciprocal trade between the United States and the British North American Colonies, and on the subject of the fisheries, I have now the honour to transmit to your Lordship copies of a Report from the Committee of the House of Representatives, accompanying the draft of a Bill, by which it is proposed to arrange both these questions so far as their arrangement depends upon legislative enactment. These documents will be found in the accompanying newspapers,* and I will not fail to forward them again to your Lordship, so soon as they appear in an executive form.

The Report is elaborate and is well worthy of the attention of Her Majesty's Government. The advantages to the United States of a freer commercial intercourse with the neighbouring British Colonies, are fully demonstrated, and the statements made will go far to remove any objections which may be still entertained in Congress against the general policy of the measure recommended.

The provisions of the proposed Bill are, however, not such as would conform to the terms of such an arrangement as, under the instructions of Her Majesty's Government, I should feel myself justified in agreeing to.

Your Lordship will remark that the chief points in which the arrangement proposed by the Bill differs from that to which I am authorized to accede on the part of Her Majesty's Government, are,

1st. The absence of any provisions for granting the right of American registry to British and Colonial built vessels.

2nd. The extension from the Schedule, of commodities to be reciprocally free of duty, of the important articles of coal, metals, and also of the articles, vegetables, poultry, pelts, furs, and tails, plants, shrubs and trees, and printed books; and the introduction into the Schedule of the articles, unmanufactured tobacco, unrefined sugar, agricultural implements, including axes, gypsum, stone and marble, rice, sheep pelts, and lard.

3rdly. The introduction of a special stipulation regarding American lumber, by which it is proposed that it should be put on the same footing as Colonial lumber in the markets of Great Britain and the West India Islands.

4thly. That Newfoundland should be included in the arrangement both as regards her fisheries and her trade.

There are other points of importance in which the proposed Bill also differs from the draft of Treaty partly agreed upon between Mr. Everett and myself, which will not escape your Lordship's attention; I allude particularly to the absence in the draft of the Bill of any provision regarding the suspension of the free navigation of the St. Lawrence by Her Majesty's Government, and also, as respects the fisheries, to the omission of the reservations in regard to the fisheries in estuaries, and in regard to the operations of British fishermen.

Defective as the proposed Bill is, I do not despair of its being much amended before its final passage by Congress; and in this view I cannot help regretting that the present Executive of the United States did not deem it expedient to sign and submit to Congress the Treaty as substantially agreed upon between Mr. Everett and myself. It is true that objections would have been raised to some of its provisions, but it would have acted as a guide to Congress in regard to many essential points which are plainly requisite to secure to the measure the assent of Her Majesty's Government and of the Provincial Legislatures. It is in this country peculiarly difficult, and, in many cases, highly inexpedient, for a foreign Minister to make suggestions on these subjects to individual members of the Legislature.

I have, &c.

(Signed) JOHN F. CRAMPTON.

* See Congressional Papers, 32 Congress Rep. No. 4. House of Representatives, Feb. 11, 1853

No. 111.

Mr. Crampton to Lord John Russell.—(Received March 9.)

(No. 46.)

My Lord,

Washington, February 21, 1853.

I HAD the honour of transmitting to your Lordship, in my despatch No. 43, of the 13th instant, the copy of a report from the Committee on Commerce in the House of Representatives of the United States, accompanying the Draft of a Bill for establishing reciprocity of trade between the United States and the British North American Colonies, and for settling the question of the Fisheries.

I have now the honour to inclose an extract from the "New York Herald" newspaper, containing a short report of a debate which has taken place on this subject in the House of Representatives. An abstract is given of Mr. Seymour's speech in support of the Bill; but I will not fail to transmit to your Lordship a fuller report of it so soon as it shall have been published.

The debate will be resumed at the beginning of next week, but, from the number of amendments which members seem disposed to offer to its different provisions, it does not seem probable that it will pass during the present session of Congress.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 111.

Extract from the "New York Herald" of February 18, 1853.

House of Representatives, Washington, February 17, 1853.

The Bill establishing reciprocal trade with the British-American colonies, upon certain conditions, was taken up.

Mr. Seymour (Democrat), of New York, took the floor, and briefly referred to the political policy of Canada, from 1775 to the present time, and said that notwithstanding the efforts, on the part of the people of the country heretofore, to induce the British provinces to come under our form of government, they have adhered firmly to the British Crown. He likewise adverted to the action of the English Government in relaxing its commercial policy towards its North American colonies, giving them control over the imposition and expenditure of their own revenue. The sentiment of those colonies, so far as appertains to commerce, is a liberal one. From the very first moment they escaped from the thralldom of British rule over their internal affairs, they addressed themselves to this liberal measure of reciprocity, which he hoped would eventuate in the establishment of free commercial relations with this Republic. He believed that the first proposition of free trade came from the British provinces themselves. Certain he was that the first law passed upon this subject was by the Canadian Legislature. This proposition is one which presents itself to our highest consideration, coming as it does from a people less able than we are to break down the barriers of protection. They are comparatively a sparsely-settled population, and, so far as capital is concerned, are poor as compared with the people of this country. They desire, but cannot entirely abolish, the commercial restrictions. He had been assured by gentlemen on the other side, that they desire absolute free trade with us; but when the mother country gave them the power of governing their revenue, they prescribed the mode by which the revenue should be raised, and it was the only one practicable in that country and in this, namely, by indirect taxation upon imports. This was the reason why we have not absolute free trade with them. He then traced the progress of the measure of reciprocity, both in Canada and this country, and then said, the question is, shall we meet the colonists on equal grounds, and shall we

accept the proposition which the colonists have made to us, and go one step further, and admit their staple agricultural products free of duty? This Bill is a broader and more comprehensive one than that which passed the House heretofore, and was lost in the Senate for want of time, and would draw more closely the relations between us and the colonies.

Mr. Washburn (Whig), of Maine, interrupted *Mr. Seymour* by saying, that he understood the gentleman to remark that the people of the provinces would like to have free trade, or even to admit our domestic manufactures free, but cannot do it. We should have entire reciprocity, and not in name only.

Mr. Seymour replied—They must support their Government as we do ours, and they cannot do this by direct taxation. They can only support their Government by the imposition of duties on imports. If admitted free, they would have no revenue.

Mr. Washburn observed—They have no army or navy to support, and no Government but such as pertain to the States. Why cannot Canada or New Brunswick support their Governments as the States do? He knew it had been said by citizens of the provinces that they have great advantages over us, getting along with small duties, and having no direct taxation. Is there any reason why our people should support the Governments of the provinces, as they would do, indirectly, by the Bill which the gentleman from New York has reported?

Mr. Seymour replied by asking whether we can support our Government by direct taxation?

Mr. Washburn responded—Do not our State Governments do it, and may not the provinces be similarly regarded?

Mr. Seymour would reply, by adopting the method pursued by the people of that gentleman's section; namely, by asking another question—whether he would vote for a repeal of the navigation laws at this time, and the imposition of direct taxes?

Mr. Washburn said he was not talking about direct taxation, and that if we are going on in this way, passing the bill and breaking down one interest after another, and injuriously affecting the interests of New England and the West, destroying protection piecemeal, and opening the coasting trade to all nations, he would say, let direct taxation come. The only reason he was opposed to it was that he desired to have protection; but, if we cannot have it, then it would be more economical that the Government should have free trade and direct taxation, and he would go for them.

Mr. Seymour resumed, saying, he could not leave the subject without referring to the sentiment which has existed for a long time in the eastern part of the country, and of which he was reminded by the gentleman from Maine. He alluded to the doctrine of protection to the manufacturing interests. But we are approaching a new order of things, and this is a subject which legislation cannot control. It arises out of the progress of our country. They must now look to the extension of our markets to manufacturers, and, by the liberality of legislation, to invite the trade of all the world. No strong nation should be afraid of free trade. We needed protection when our manufactures were in their infancy, but not now. He then proceeded to direct attention to the treaty-making power, the existence of which is made a precedent to the operation of this Bill. In this connection, he said the Fishery Question must be settled, and something done to put this Government on terms of understanding with Great Britain, at least for a temporary period if not permanently. Something should be done by this Congress, otherwise we run a hazard of collision which none like to contemplate. He had heard it said the British Government would not insist on the absurd Convention of 1818; but from

information in his possession, he made a contrary assertion. By this Bill this question is to be settled by the treaty-making power, as also that of the free navigation of the St. Lawrence and of the St. John, and the abolition of the export duty, which, ever since the Ashburton Treaty, has been levied by the British colonies upon the timber cut on American soil and floated down the last-named river. Those four important pre-requisites of the Bill devolved on the treaty-making power. He believed the British Government are willing to grant what we ask in relation to these subjects, if we meet the proposition of reciprocity on fair and just grounds.

Mr. Bowie (Whig), of Maryland, asked whether the necessary effect of the Bill was not to allow the British colonies to have all the advantages of the coasting trade enjoyed by our citizens?

Mr. Seymour replied that the question of opening the ports to the navigation of the two countries formed no part of the Bill, inasmuch as it involves a repeal of the navigation laws.

Mr. Bowie asked—Is not this the necessary effect of the Bill should it become a law?

Mr. Seymour replied he was confident there was no such provision in the Bill. It does however refer to navigation in Canada, on the canals and rivers, but not to the sea coast. As he had promised to restrict himself within an hour, he would say no more upon the present occasion, but might at a future time.

Mr. Clingman (Whig), of North Carolina, gave notice that he should offer the following amendment:—"Provided, that before any of the provisions of this bill shall take effect, the Government of Great Britain shall agree with the Government of the United States that all the ports of the British dominions and of the United States, respectively, shall be open to all vessels of both countries, whether engaged in the coasting trade or other trade, in the same manner and under like regulations as they are now authorized to do with reference to the foreign trade of the two countries."

Mr. Washburn likewise submitted an amendment.

Mr. Fuller (Democrat), of Maine, took this early occasion to obtain the floor, for the purpose of explaining his own position, being a member of the Committee which reported the Bill. While he professed to be a thorough-going free trade man, at the same time he wished to be understood as believing that free trade in certain things, and protection in certain other things, is the very worst kind of protection, more objectionable than the entire system of protection, and operating more injuriously on certain industrial pursuits of the country. The measure reported from the Committee on Commerce, has an important bearing on the revenue question as well as on that of free trade. In 1846, when the tariff question was under consideration, it was so adjusted and arranged in its details as to operate with something like equality on all the great industrial pursuits of the country. In that adjustment, the State which he in part represented had a right to complain. While its great industrial pursuit, the production and manufacture of lumber, was protected at the rate of 20 per cent., the coal and iron of the great State of Pennsylvania were protected 30 per cent., or a difference in favour of the latter of one-third. This Bill, so far as it affects the interests of Maine, proposes to strike off all protection, leaving on the people the most onerous burden of that tariff and revenue measure. While the planters of Louisiana, the growers of hemp, the manufacturers of iron, and the manufacturers of Massachusetts are protected, Maine, which consumes all their products, produces only lumber, and this is to be admitted from the British colonies comparatively free. There is a law which pervades the ocean, called the

sea law—by that it is the prerogative of the great fish to eat up the little ones; on no other principle could he understand the tariff law, than that it looked to the interests of all and protected all equally, and so adjusted and arranged the common burden that it should fall as equally as possible on all. Go back to 1824—at that time Massachusetts was eminently a State of commerce and navigation; prior to that she opposed the protective policy—but her interests changed, she became a manufacturing State, and asked for protection, and got it—and on no State did taxation bear more heavily than on Maine.

No. 112.

Mr. Merivale to Mr. Addington.—(Received March 9.)

Sir,

Downing Street, March 8, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, the copy of a letter from Major R. B. Mc Cumming, protesting against any Treaty being concluded with the United States, which would throw open the fisheries in the Gulf of St. Lawrence, as an interference with his rights as the proprietor of a Seigniori in that locality.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 112.

Major R. B. Mc Cumming to the Duke of Newcastle.

My Lord Duke,

St. Peter's, Bedford, February 25, 1853.

I DO myself the honour to address your Grace, being the proprietor of a large Seigniori, situated on the south shore of the Gulf of St. Lawrence, in the Province of Lower Canada.

In a Message from the President of the United States to the Senate and House of Representatives, laid before the House on the 7th instant, the Secretary of State's report on the negotiation pending between that Government and Great Britain on the subject of the fisheries, contains the following passage :

“ It has been perceived with satisfaction that the Government of Her Britannic Majesty is prepared to enter into an arrangement for the admission of the fishing vessels of the United States, to a full participation in the public fisheries on the coasts and shores of the Provinces, with the exception at present of Newfoundland, under the right of drying and curing fish on the shore:” which message was referred to the Committee on Foreign Relations.

Hitherto by the rights of international law and of treaties, the Gulf of St. Lawrence has been closed against the subjects of the United States as a fishing station.

It is surrounded, north and south, by Seigniories granted originally by the French Government for the purpose of establishing cod fisheries, and the right of the fishery and of curing fish was conceded to the holders of these seigniories.

This right is therefore inalienable.

In the case of the seigniori of which I am the proprietor, this right was confirmed by the British Government in 1783. There are at the present moment from 100 to 150 Canadians supporting themselves on this seigniori by the fishery, as well as some hundreds of others along the whole extent of the south coast, including the Bay of Chaleur, who have no other means of subsisting themselves and their families.

Your Grace will not be surprised, therefore, at my feeling considerable anxiety on the subject of the present negotiation pending between

the British Government and that of the United States, or that I should feel anxious to ascertain what I presume can be no State secret, whether the concessions to be made to the subjects of the United States are to include the "right of fishing in the Gulf of St. Lawrence."

Your Grace will observe that the wording of that portion of the Message gives sufficient ground for apprehension, and I think will sufficiently justify me, if it be in contemplation to throw open the fisheries of the Gulf of St. Lawrence, which are to a great extent what may be termed "shore fisheries," to the subjects of the United States, in entering my protest as far as regards my own individual rights and those of my children, against the completion of any such arrangements.

I have, &c.

(Signed) R. BEAUMONT McCUMMING.

No. 113.

Memorandum.—Protection to British Fisheries in North America.

Foreign Office, March 8, 1853.

THE question of protecting the British Fisheries on the coast of Her Majesty's North American Colonies may be divided into two parts; namely, those relating—

First,—To the Fisheries on the coast of North America Proper, and the islands attached to the mainland colonies; and

Secondly,—To the Fisheries on the coast of Newfoundland.

The first has reference solely to our relations with the United States.

The second, mainly to those with France.

The first is principally a colonial question, inasmuch as the steps which have been taken on the subject have originated entirely in complaints of our colonists.

The second is not merely colonial, since the course adopted has been suggested by negotiations with the French Government.

It may not be necessary to enter into details of events previously to 1852, beyond stating that, as regards the colonies, complaints were repeatedly made of the encroachments of American fishermen, and that general orders were given to Her Majesty's ships of war to protect our Fisheries; and, as regards Newfoundland, that the French Government had renewed representations on the subject of French rights under the Treaty of 1814, and had obtained the concurrence of Her Majesty's Government to the reopening of a Commission to inquire into and arrange the matter.

Proceeding with the Newfoundland part of the question, the correspondence shows that it soon became obvious to the British Commissioner that the French demands were extravagant, and that these demands received encouragement from the impunity with which the French fishermen infringed British regulations, and damaged British interests; and he suggested, therefore, that the surest, if not the only means of bringing the French to reason, was to keep a strict maritime police, which, while it could not give umbrage, would make the French Government more sensible of the value of the boon which they desired to gain, and more disposed to give us a sufficient equivalent for any concession on our part.

A letter was accordingly written to the Admiralty on the 29th of May, 1852, in the following terms:

"I am directed by the Earl of Malmesbury to acquaint you that the Newfoundland Fishery Question has for a long time past engaged the serious attention of Her Majesty's Government, to whom numerous complaints have been made regarding the encroachments of the French on British rights.

"It has now been determined by the British and French Governments to establish a Commission, for the purpose of thoroughly investigating this

matter, and of making such arrangements as may prevent future disputes and conflicts between the authorities and subjects of the two countries; and Sir Anthony Perrier, Her Majesty's Consul at Brest, has been selected to act as Commissioner on the part of Her Majesty's Government.

"Sir Anthony Perrier being thoroughly conversant with this subject, and having studied all the records which bear upon it, has addressed to Lord Malmesbury a despatch, of which I herewith inclose a copy, calling his Lordship's attention to the important fact that, while very efficient naval protection is afforded by the French Government to the French fishing operations off the coasts of Newfoundland and the neighbouring countries, British fishermen and British fishing-grounds are left comparatively unprotected by Great Britain. I am accordingly to request that you will inform the Lords Commissioners of the Admiralty that Lord Malmesbury is of opinion that it is essential, not only for the due maintenance of British rights, but also for the success of the negotiation about to be reopened, that a ship of war be forthwith dispatched to protect the British Fisheries off Newfoundland and Labrador, and that the suggestion made in this respect by Sir Anthony Perrier, with reference to the peculiar class of ships, should, if no valid objection exist, be adopted.

"So soon as the Lords of the Admiralty shall have informed Lord Malmesbury that a ship of war will be sent for the above-named object, his Lordship will request the Secretary of State for the Colonies to instruct the Governor of Newfoundland to render such assistance as may be necessary to the officer employed on this duty."

The Colonial Office concurred in this step, and on the 2nd of June, 1852, the Colonial Secretary of State gave the following orders for naval protection against American encroachments:

"Sir John Pakington to the Admiralty.

"My Lords.

"Downing Street, June 2, 1852.

"Urgent representations having been addressed to Her Majesty's Government by the Governors of the British North American provinces, complaining of the encroachment of vessels belonging to citizens of the United States of America on the fishing-grounds reserved to Great Britain by the Convention of 1818, whereby the colonial fisheries are most seriously prejudiced, I have to signify Her Majesty's commands to your Lordships to give directions for stationing off New Brunswick, Nova Scotia, Prince Edward Island, and in the Gulf of St. Lawrence, such a force of small sailing vessels and steamers as shall, in the judgment of your Lordships, be sufficient to prevent the infraction of the Treaty.

"It is the command of the Queen, that the officers employed upon this service should be specially enjoined to avoid all interference with the vessels of friendly Powers, except when they are in the act of violating the provisions of the Treaty; and on all occasions to avoid giving ground of complaint by the adoption of harsh or unnecessary proceedings when circumstances compel their arrest or seizure.

"It is of importance that the cruisers in question should be stationed immediately on the fishing-grounds, as the fishing season has commenced, and is of short duration."

These orders from the two Secretaries of State were sent to Vice-Admiral Sir George Seymour, who made very simple but efficient arrangements for preserving British waters from Foreign intrusion. Those were, by manning several boats and small-decked vessels with naval and colonial officers and seamen, and stationing them at such points as seemed most exposed to encroachment. The effect of these arrangements has been to drive the poachers away; and the result has been proportionably beneficial to the British fishing interests.

The French said little or nothing to this arrangement, which is only similar to the naval police maintained by Great Britain and France, by mutual arrangement, in the British Channel; but the American Secretary

of State, Mr. Webster, a former Representative of Massachusetts in Congress, and who was in hopes of being elected to the Presidency, made a great display in search of popularity by raising an outcry against England for attempting, as he alleged, to deprive American fishermen of their just Treaty rights.

Her Majesty's Government shewed that Mr. Webster had no ground whatever for his language, and that one of the principal facts which he alluded to—the seizure of an American vessel—occurred within pistol-shot of the British shore, where confessedly she was, by Treaty, encroaching. The American Government then found out, which they did not know before, that the only fishing-ground that was of value to them, and where, in fact, the Americans had, by dint of overpowering numbers, successfully intruded of late years, was that from which they were by Treaty indisputably excluded; namely, in the waters within a mile and a-half of the land; and hence the anxiety of the American Government to obtain from Her Majesty's Government a concession of this privilege, but without giving in return such equivalent as was deemed on our part to be indispensable.

Meanwhile, it appears to be impossible, after what has already happened, for Her Majesty's Government to neglect the protection which was so successfully afforded last year, and of which the subjoined extracts give evidence; and it might be held to be very impolitic on the part of Great Britain to slacken her protective measures, while enforcing them seems to afford the only reasonable ground of hope that the United States will concede to us the commercial advantages which we claim, or that France will come to any equitable agreement for settling the Newfoundland Fishery Question.

Extract of a document addressed to his Excellency the Governor of Newfoundland, and transmitted by him to the Colonial Office on the 23rd of September, 1852.

May it please your Honour,

WE, the Undersigned, being the fishermen and planters resident in the upper part of Green Bay, commonly called Cape Shore, most respectfully beg leave to tender to your Honour, to the honourable gentlemen of the Council, and to those gentlemen of the Assembly who took a prominent part in the introduction and carrying out of a Bill for the protection of the fisheries from French encroachment, our grateful acknowledgments for the services rendered thereby, being manifest to any casual observer from the following statement, based as it is upon a strict and correct investigation:

Fish hauled in lascies in 1851	... ..	Quintals.
Corresponding Quarter, 1852	... ..	18,000
		9,100
Decrease on the catch of one harbour	... ..	8,900
Average catch per man on Cape Shore, 1851	... ..	20
Ditto, ditto, 1852	... ..	60
Increase on catch of British subjects, per man	... ..	40
N.B. The above is for the Capelin Shoals.		

The result is obvious, that while our catch for the Capelin Shoals is treble that of last year; so has the French catch, on the other hand, decreased fully one-half. In the other French harbours of Pacquet, Minnx, Fleur de Luce, &c., the fishermen of which antecedent to this summer were accustomed to take fish from Cape John, the catch is miserably bad; in common parlance, having done nothing at all. We therefore most humbly solicit a continuance of the said protection, which is of such vital importance to the inhabitants of this Bay. In addition to the above good, it prevents the recurrence of those fierce conflicts

between memorialists and the French, in several of which serious wounds were inflicted and life endangered."

Extracts from Hon. A. Cochrane's Report on the Fisheries of the Straits of Belle Isle and Labrador.

THE loss the French have suffered this year has been enormous, as not only has the fishery been bad on their own shores, but by the boat of Mr. Crockwell, Mr. Tobin's schooner, the presence of a man-of-war, and the ship's cutter permanently left at Belle Isle, they have been prevented from taking fish to the amount of 160,000 quintals, the value of which, in addition to the bounty they receive, may be represented by 80,700*l.*; the oil extracted from the livers would have been worth at least 30,000*l.*, making a total loss at the lowest calculation of 110,700*l.*

To their having been warned early in the spring by Mr. Tobin and Mr. Crockwell, that such infringements of the Treaty would not be permitted, is in a great measure to be attributed the fact of no Frenchmen having been seen at that part.

Extract of a Report from Commander Campbell to Vice-Admiral Sir Geo. Seymour, dated Her Majesty's ship "Devastation," Picton, August 15, 1852.

THE often-repeated visits of this sloop seem to have banished the Americans from Chaleur Bay for some days; but as will be seen by Lieutenant Newport's list, they came in fifteen together on the 11th, and the pinnace having followed them into Miscon Harbour at 11 P.M., was at anchor among them at daylight. The effect of this will be good, as they cannot know for some time that the boat has been lifted. I trust she may be back in time to meet their next effort. I feel convinced from the great success which our boats have had in keeping off the Americans, that they are the only efficient means of performing this service, and that with twelve boats, or eighteen at most, the whole coast may be efficiently guarded. So efficient are they that the Americans seem at once to leave any part of the coast on knowing that a boat is there, and the parts of the coast on which the fishing is carried on are so isolated that the system would be easily carried out, while the prevention would in a great measure obviate the necessity for seizure.

Arriving off Richmond, Prince Edward's Island, on the forenoon of the 14th, a great number of American vessels stood out at our approach, and I was informed by the English fishermen that they were just commencing to fish when we hove in sight.

I hear from the people of the country, that for years after the Treaty of 1818 was ratified, the Americans never did attempt to fish in any part of Chaleur Bay, and that they have only done so within the last twelve or fifteen years, or since the mackerel fishery has been followed by them with so much advantage. The obvious inference then is, that it was not till long after the Treaty of 1818 was concluded, that the fishing in the Bay of Chaleur was valued by them; consequently no exception as regards the words "bays" seems to have been thought of, and none would ever have been thought of, had not the lucrative mackerel fishery become known.

Surely, then, since they are excluded by the Treaty from fishing, &c., within three miles of any coasts, bays, creeks, or harbours whatever, they can have no right to fish in any part of Chaleur Bay. A contrary interpretation to this would be fatal to the interests of a vast number of Her Majesty's subjects on both sides of the Bay, on the waters of which they meet each other while fishing, a proof that there is no room for

foreign fishermen, and therefore that the reservation of the exclusive right to them was a just and necessary one.

The mischief done to the fisheries by the Americans is not perceived at once in all its bearings. They, with characteristic energy, pursue the mackerel to the spawning grounds, and such is their power of attracting the fish, that they leave few along the shores, and will certainly soon, if allowed, exterminate them.

On the cod-fishing, the effect of their depredations is not to be calculated; for not content with catching the mackerel close to the shore, they clean them there also, often in the very harbours. The consequence is, the cod-fish become gorged, and will not take bait: so that not only do our own fishermen lose the mackerel as bait, but the fish are prevented by feeding from taking the small quantity they can procure. As a proof of this, I found that no sooner had the cutter of this sloop been stationed at Point Peter, than (from the Americans being effectually kept off) the cod-fishery improved vastly. Indeed, I am assured on all hands, that the fishery is better than it has been for a great many years, and the people are surprised at discovering how much harm the Americans have done them in former years. It is the poorer fishermen who suffer most from want of bait while the Americans infest the coast, for they cannot compete in capturing the mackerel with the American vessels, which are fitted out at a great expense, and have the means of attracting all the fish, leaving none for those who cannot afford to pursue them on the same system.

If the Bay of Chaleur is to be open to the Americans, all the evils I have mentioned, with many others, must remain and increase, for it is in vain to attempt to keep them three miles from the shore, the fish being all close to the land for the purpose of spawning, and they will follow them to the very beach the instant a ship of war is out of sight.

Extract of a despatch from Vice-Admiral Sir. G. Seymour to the Secretary to the Admiralty, dated Her Majesty's ship "Cumberland," Halifax, October 14, 1852.

IT gives me satisfaction to inform their Lordships that the increased protection which has been given in consequence of their orders to the British fishermen, has, especially at Gaspé and Chaleur, enabled British fishermen to use their privileges with far less interruption than usual, and they have consequently made a successful season, and are highly impressed with the advantages they have derived from the measures that have been taken by the Government.

Extract of an Address to Commander Campbell by the Inhabitants of Bonaventura, in the district of Gaspé, dated October 18, 1852.

WE, the Undersigned, magistrates, merchants, shipowners, and other inhabitants of this county and district, deem it our duty to make known to you the high sense we entertain of the valuable services you have rendered to the inhabitants generally on this coast during the past summer.

To your untiring perseverance and active zeal we owe the disappearance of the American fishermen from the waters of the Bay of Chaleur, and for the first time during the last fifteen years our waters have teemed with mackerel.

The benefits which you have conferred on our fishermen can only be appreciated and understood by those who, like yourself, have studied the subject, and been eye-witnesses of the evils arising from the encroachments of strangers, who have no earthly right to trespass on our fishing-grounds.

No. 114.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, March 11, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, the copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing an address to the Queen from the House of Assembly, praying that no Treaty may be entered into with the United States for surrendering the reserved fisheries on the sea coasts, without the Provincial Legislature being afforded an opportunity of considering and expressing their opinion upon its terms.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 114.

*The Lieutenant-Governor of Nova Scotia to the Duke of Newcastle.**Government House, Halifax, Nova Scotia,
February 17, 1853.*

My Lord Duke,

I HAVE the honour to forward herewith to your Grace the accompanying address from the House of Assembly of Nova Scotia, to be laid at the foot of the throne, praying that no Treaty may be negotiated between Great Britain and the United States of America, which would surrender to foreigners the reserved Fisheries on the sea coasts of British North America, or any participation therein, without an opportunity being afforded to the Government and Legislature of this province to consider and express an opinion upon its terms.

I beg leave to place this address in the hands of your Grace, and I hope that your Grace may be pleased to commend the same to Her Majesty's most gracious consideration.

I have, &c.

(Signed) J. G. LE MARCHANT.

Inclosure 2 in No. 114.

Address from the House of Assembly of Nova Scotia.

To the Queen's Most Excellent Majesty.

The humble Address of the House of Assembly of the Province of Nova Scotia.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the representatives of your Majesty's faithful people of Nova Scotia, beg leave to approach the throne with the renewal of our tender and affectionate support to your Majesty's person and Government.

We have learned with deep interest that negotiations are pending between your Majesty's Government and the Government of the United States, involving not only questions of reciprocal trade between the two countries, but the surrender of national and colonial right of a very important character.

Warned by the experience of the past, and the results of treaty stipulations in which the interests of British America have been seriously compromised without the Provincial Governments and Legislatures being consulted, the House of Assembly pray that no treaty may be negotiated by your Majesty, which would surrender to foreigners the reserved

fisheries on our sea coasts, or any participation therein, without an opportunity being afforded to the Government and Legislature of Nova Scotia, to consider and express our opinion upon its terms.

House of Assembly, February 17, 1853.

(Signed)

W. YOUNG, *Speaker.*

No. 115.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, March 11, 1853.

I AM directed by the Earl of Clarendon to transmit to you a copy of a memorandum* which, by his Lordship's direction, has been drawn up at this office upon the question of affording protection, by means of a naval police, to British fisheries on the coasts of British North America and Newfoundland, and I am to request that you will submit this paper to the Duke of Newcastle, and move his Grace to consider whether there will be any objection to renewing, for the ensuing season, the orders to Vice-Admiral Sir George Seymour which proved so effectual last year.

I am at the same time to suggest, that any instructions which the Duke of Newcastle may think proper to give to the Admiral and to the Governors of Her Majesty's Colonies should be given confidentially, as well with a view of avoiding unnecessary excitement as of preventing a recurrence of the inconvenience which was occasioned last year by the improper publication in the colonies of orders issued by Her Majesty's Government to Her Majesty's officers.

I am, &c.

(Signed)

H. U. ADDINGTON.

No. 116.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, March 11, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, an extract from the speech with which the Lieutenant-Governor of Prince Edward Island opened the session of the Legislature on the 10th ultimo, together with a copy of the despatch to which Sir Alexander Bannerman refers on the subject of the reserved fisheries on the coasts of the island.

I am, &c.

(Signed)

HERMAN MERIVALE.

Inclosure I in No. 116.

Extract from the Speech with which Lieutenant-Governor Bannerman opened the Session of the Prince Edward Island Legislature on February 10, 1853.

AFTER the close of the fishery season, Her Majesty's Government and that of the United States were about to enter into "a negotiation upon the broadest basis of reciprocal and equivalent concessions in trade," and it was my duty (indeed, I was instructed) to furnish a statement of the several points affecting the interests of this island, proper to be considered in such negotiations. You may be assured that those interests will not be neglected.

You will therefore, I hope, concur with me that it would be desirable, at present, to abstain from taking any active measures on the subject of the Fisheries or of Trade, which might by any possibility embarrass or impede the proceedings of the respective Governments, in bringing these negotiations to a successful and amicable termination; an event which I

* See No. 113.

am sure would be hailed by you and the people of Prince Edward Island with the greatest satisfaction,—for you will remember the excitement which prevailed in the United States in the early part of last summer on the Fishery Question, which partly arose from statements promulgated in the colonies, without that due caution, the want of which was foreseen by the Minister who held the colonial seals in 1845, when he alluded “to the danger which cannot fail to arise from an overstated assumption of the power of excluding the fishermen of the United States from the waters in which they have the right to follow their pursuits.” On the other hand, the American press, at the time I refer to, seemed entirely to overlook the flagrant breaches of the Treaty which were daily committed by American subjects, *within limits* where their ablest statesmen admit their countrymen have neither right nor title to trespass. By the Convention of 1818, United States fishermen have liberty, in common with Her Majesty’s subjects, to take fish of every kind in those waters which are defined in the Treaty, and they have liberty “to dry and cure fish in any of the *unsettled* bays, harbours, and creeks, on the southern part of Newfoundland and of the coast of Labrador.”

Should the American Government therefore agree to make such equivalent concessions as may make it advisable to accord to its citizens the same privileges which are enjoyed by Her Majesty’s subjects here, the Fishery Question, in so far as Prince Edward Island is concerned, admits of easy solution; for the colony is in possession of numerous reserves, abutting on its sea shores, bays, harbours, and creeks, where the tides ebb and flow, expressly granted and secured for fishery purposes by His late Majesty King George III. With the advice of the Executive, I have forwarded to the Queen’s Government a map delineating the localities of these reserves, distinguishing the tenures by which they are held, and copies of that map will be laid before you.

Inclosure 2 in No. 116.

Sir A. Bannerman to Sir John Pakington.

*Governor’s House, Prince Edward Island,
December 6, 1852.*

Sir,

IN accordance with the instructions contained in your confidential despatch of the 23rd October, I have now the honour to submit for consideration the points which I consider it necessary to notice, affecting the interest of the island under my government in regard to the important question of the Fisheries, and quite concurring in the views stated by you in your second confidential despatch of the 30th of same month. You may be assured that the Legislature of Prince Edward Island will abstain from taking any active measures “on the subject of the fisheries or of trade” pending those important negotiations which you announce are now carrying on with Her Majesty’s Government and that of the United States, a successful termination to which the Legislature and people of this colony will hail with the greatest satisfaction.

2. In the first place, I would beg leave to draw your attention to the importance which has always been attached to the fisheries of this island. His late Majesty George III, in the year 1767 on the 8th July, by an Order in Council, was pleased to direct, that “in order to promote and encourage the fisheries, for which many parts of this island are conveniently situated, there be a clause in the grant of each township that abuts on the sea shore containing a reservation of liberty to all His Majesty’s subjects in general of carrying on a free fishery on the coast of the said township, and of erecting stages and other necessary buildings for the said fishery, within the distance of 500 feet from high-water mark.”

Eleven townships only contain a reservation, in accordance with the terms of this Order in Council, and some of these are now occupied by Her Majesty’s subjects.

3. There are thirty other townships, some not abutting on the sea shore, but where the tides ebb and flow, whereof the right of soil remains

in the Crown, and these grants of township contain the following reservation: "And further saving and reserving for the disposal of His Majesty, his heirs, and successors, 500 feet from high-water mark, on the coast of the tract of land hereby granted to erect stages and other necessary buildings for carrying on the fisheries."

4. There are six townships of which no grants from the Crown appear on record in this island, and no reservation appears in the remainder. I think there are in the whole colony sixty-seven.

5. In order to denote the situation of these townships and fishery reserves, I have sent herewith two maps of Prince Edward Island, and directed that one of them be carefully coloured and marked off, distinguishing the free fishery reserves, those in the Crown, the unrecorded ones, and those in which there are no reservations.

6. I have been anxious to call the attention of Her Majesty's Government to these reserves, because assuming the probability of such an arrangement being made with the United States Government as would render it desirable to permit the citizens of the States the same privileges as are enjoyed by Her Majesty's subjects in this colony, there is nowhere in North America where it could be more easily accomplished than in this island.

7. By the Convention of 1818, the United States renounce for ever any liberty heretofore enjoyed, &c., to take, dry, or cure fish in or within three miles of any of the coasts, bays, creeks, &c., of North America, "not included in the above limits;" the limitation is as follows:

"The inhabitants of the said United States shall have for ever, in common with His Majesty's subjects, the liberty to take fish, &c., and the American fishermen shall also have liberty to dry and cure fish in any of the *unsettled* bays, harbours, or creeks, of the southern part of *Newfoundland, &c.*; 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."

8. Having before stated that eleven fishery reserves are free to Her Majesty's subjects, and thirty reserves in the Crown, I apprehend there would be little difficulty in any new conventions to extend such privileges to American fishermen under such stipulations as would be applicable to this colony, as were agreed to and ratified by the Convention of 1818, in a part of Her Majesty's dominions not many miles distant from this colony.

9. Having in my despatches of October 1851, and February 1852, troubled you at considerable length on the importance of the fisheries of Prince Edward Island, I shall now only allude to its geographical position in the Gulf of St. Lawrence, its coasts abounding with fish, and its shores affording every facility for carrying on so useful a branch of trade. It has been the chief resort of the United States fishermen for several years past, and as a fishing station will daily become of greater consequence to them. Bedeque, on the southern shore, is within a few hours' *sail* of Shediac, in New Brunswick, where a branch of the railway from St. John's is contracted for, and the produce of the Gulf fisheries will be quickly transported to the United States.

10. Already a submarine cable has been laid down in the Strait of Northumberland, between Cape Travers in this island and Cape Tormentine in New Brunswick, and in a fortnight hence the telegraph will be in operation with the neighbouring provinces and United States, and I annex a printed notice of the telegraph communication, which Mr. Gisbone the manager assures me he is very sanguine would be completed next year from here to Newfoundland.

11. Should Her Majesty's Government concede to the citizens of the United States, the same privileges which her subjects enjoy in this colony, they will expect in return that their produce shall be admitted into the United States on the same duties which are levied from American citizens, and also that they shall be placed in regard to the registration of colonial-built vessels on the same footing that the British navigation accords to vessels built in the United States.

12. I inclose an Act, passed some years ago by the Legislature of this

colony, to authorize free trade with America in certain enumerated articles. It has, as far as the United States is concerned, remained a dead letter.

13. Should the negotiations which Her Majesty's Government are now carrying on terminate happily, which I most sincerely hope they will, I think regulations for the guidance of the fishermen of both nations may be easily framed, similar to those contained in the Schedule of the Act 6 and 7 Victoria, cap. 69, for giving effect to the convention between Her Majesty and the King of the French concerning the fisheries between the British Islands and France.

14. In regard to the general question of the fisheries, it is impossible for me to express an opinion of what may be the views of the colonists in the neighbouring provinces, where their interests are dissimilar to those of this island; but I will venture to say that a *settlement* of the question, in one way or another, must be of paramount importance to all the colonies. It cannot be expected that Her Majesty's Government will continue for a series of years to be at the expense of sending a naval force to protect the fisheries on the coasts of North America, and therefore it becomes necessary, should no arrangement be come to, that the limits to which foreign fishermen may approach the shore should be clearly defined, as it appears to be in the colonial statute of this island, three marine miles from the shore, which would be ample protection for its fisheries.

I am, &c.

(Signed) A. BANNERMAN.

Inclosure 3 in No. 116.

An Act to authorize Free Trade with the United States of America, in certain enumerated articles.

[Passed March 19, 1849.]

WHEREAS reciprocal free trade in articles, the produce or growth of the United States of America and of this colony, would be mutually beneficial to the people of both countries: Be it therefore enacted, by the Lieutenant-Governor, Council, and Assembly, That when the Lieutenant-Governor, or other Administrator of the Government of this island for the time being, shall issue his proclamation, declaring that the articles hereinafter enumerated, being the growth or production of Prince Edward Island, are admitted into the United States of America by law, free of duty; that on and after that day, the like articles, being the growth or production of the United States of America, shall be admitted into Prince Edward Island free of duty, when imported direct from the United States of America, so long as the said enumerated articles are admitted into the United States of America, from Prince Edward Island, free of duty; to wit: grain and breadstuffs of all kinds vegetables, fruits, animals, hides, wool, tallow, horns, salted and fresh meats, ores of all kinds of metals, timber, staves, wood and lumber of all kinds; also, seeds, butter, cheese, pot and pearl-ashes.*

No. 117.

Mr. Crampton to Lord John Russell.—(Received March 14.)

No. 54.)

My Lord,

Washington, February 27, 1853.

WITH reference to my despatch to your Lordship No. 43 of the 13th instant, transmitting to your Lordship a copy of the report from the Committee of the House of Representatives, accompanying the draft of a Bill by which it is proposed to arrange the question of reciprocal trade

* It is very singular that fish, an article which ought to have formed a prominent one in this Act, is omitted.

between the United States and the British North American Colonies, as well as that of the fisheries, I have now the honour to inclose a copy of the report in question, as printed for the use of the House of Representatives.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 117.

Report of the Committee on Commerce, on Reciprocal Trade with the British North American Colonies.

[See Congressional Papers, Report No. 4, 32nd Congress, 2nd Session.]

No. 118.

Mr. Crampton to Lord John Russell.—(Received March 14.)

(No. 56.)

My Lord,

Washington, February 27, 1853.

I HAVE the honour to inclose a copy of the message from the President of the United States communicating, in compliance with a resolution of the Senate, information regarding the fisheries on the coasts of Florida.

This resolution was moved by the Senator from Florida, Mr. Mallory, evidently with a view of showing the inexpediency of granting to British fishermen the right of fishing upon the coasts of the United States as part of the equivalent for a free participation by American citizens in the fisheries of the British colonies, contemplated in the arrangement between Her Majesty's Government and that of the United States in regard to those fisheries and reciprocity of Trade between the United States and the British North American colonies.

I have already had occasion to allude to the subject of the fisheries on the coast of Florida in my despatch to the Earl of Malmesbury No. 154 of the 26th of September, as offering an instance in which the doctrine with regard to the maritime jurisdiction over bays, &c., contended for by Her Majesty's Government, but which the Government of the United States seemed disposed to question, had been asserted and enforced by the latter Government.

I then stated that I had learned that the real motive of the Government of Florida in refusing the privilege asked for by the fishermen of the Bahamas was an apprehension that the inhabitants of those islands might, under the pretext of fishing, interfere with the profitable business of "wrecking" which the Floridians desired to keep exclusively for themselves.

Your Lordship will perceive this ground of objection fully stated by Mr. Westcott, Senator from Florida, in his letters of the 29th of May, and 2nd of June, 1847, on the subject, to the United States Secretary of State, which accompany the President's message; but your Lordship will observe that another very strong objection is also stated to the proposed concession, founded upon the supposition that it might be made available for the purpose of introducing free black people from the British colonies into Florida, and of facilitating the escape of slaves from that State.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 118.

Message from the President of the United States, dated February 19, 1853, communicating Information in relation to the Fisheries on the Coast of Florida.

[See Congressional Papers, Ex. Doc., No. 45, 32nd Congress, 2nd Session.]

No. 119.

Mr. Merivale to Mr. Addington.

Sir,

Downing Street, March 17, 1853.

WITH reference to my letter of the 7th instant, I am directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, the copy of a further letter from Major Mc Cumming, on the subject of the proprietary rights of the Seigniors in the coast fisheries in the Gulf of St. Lawrence.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure in No. 119.

Major R. B. Mc Cumming to the Duke of Newcastle.

My Lord Duke,

St. Peter's, Bedford, March 5, 1853.

ON the 25th ultimo I did myself the honour to address your Grace on the subject of the negotiation now pending between the Government of Her Britannic Majesty and that of the United States, relative to a Treaty of reciprocity now under consideration, and in which the question of granting the right of coast fisheries including the Gulf of St. Lawrence, appears to be entertained.

In a report presented to the House of Representatives at Washington by Mr. Seymour, appears the following passage:

"At the same time the Americans desire the privilege of navigating the Rivers St. Lawrence and St. John, and of participating equally with British subjects in the coast fisheries."

Your Grace is probably aware that the severity of the winter, with other causes, have hitherto retarded the establishments along the coast of the St. Lawrence, and that the fisheries from now in the Gulf the main inducement for the Canadian to migrate to these shores. Your Grace must also be aware of the difficulty which now exists in Lower Canada, in clearing away the *redundant population of some of the parishes.*

Surely, after having so long neglected to give any encouragement to the peopling of these shores, it cannot be the intention of the British Government to take away the only inducement now existing for the Canadian to take lands in these parts.

Such would be result, I apprehend, of throwing open the right of the coast fishery to the Americans.

My Seigniory has six miles of coast; I was at the expense of visiting it in 1848, and 1851, and then took steps, as I judged expedient, to ensure my own rights, and the more speedy settlement of the Seigniory. In the latter year the cod fish alone sold for about 2500*l.* currency; I say nothing of mackerel, haddock, herrings, and other fish.

Am I to believe, my Lord Duke, that all my expenses are to be lost to me, incurred upon the faith of the then existing order of things, and in the full confidence of the inviolability of vested rights? The Legislature of the Canadas may know little of the Gulf of St. Lawrence, or of the rights of those possessing hitherto almost uninhabited Seigniorics.

Most assuredly it behoves the British Government to ascertain this point, and consider well, ere it throws obstacles in the way of the settle-

ment of these shores, throwing them into the hands of the enterprising Americans, to the detriment of the Canadians, and serious injury of the Seigniors.

In 1822, I found that in defiance of treaties, an American schooner had wintered in the River of Grande Vallée for the purpose of enabling the owner and his party to hunt. The vessel sailed with her cargo of peltry, and there were neither the means to prevent it, nor in fact to seek redress. Scarcely a wild animal of any description is now to be found in this district, and I apprehend I should neither have the power to prevent the Americans from interfering with my rights, nor be able to obtain redress, should they, as they most assuredly would do, encroach where they have no permission.

The enforcing the law is here, under the present state of things, impracticable, or a well known character named "Gormache," for years settled upon the Island of Anticosti, would, it is probable, long ago have been in the hands of justice. I speak of what was reported to me when last in that vicinity. Your Grace may ask, why my Seigniori has been for so long a period of years unsettled? What I have before said will account for it; but I may remark that in 1837, I addressed the late Lord Glenelg, then in office, on the subject of forming a settlement, from the then starving fishermen on the north coast of Scotland, and expressed my willingness, with the Government aid, to proceed with them to the Gulf.

The proposition was not acceded to on the plea that there were no funds for that purpose, but stating that at a future period his Lordship would be happy to hear from me again on the subject. That exigency passed over, and I have not thought it would tend to any purpose my renewing the subject. Had it been possible for the Government to have attended to it, what an advantage to that part of the colony would such a measure have been, and how many others of a suffering population would have found it their interest to emigrate!

I have only to add, my Lord Duke, that during the rebellion in 1839-1840, I was a Justice of the Peace in Canada, and had command of the Bouville district; that my duties were arduous, and that I made myself useful. I should regret much should the British Government now enter into any arrangement that may be attended with injury to the many Canadians now living on the shores of the Gulf of St. Lawrence, or which may interfere with my own vested rights.

I beg to refer your Grace to my former letter, and I entertain a hope that your Grace will do me the honour to favour me with a reply.

I have, &c.

(Signed) R. BEAUMONT Mc CUMMING.

No. 120.

Mr. Crampton to Lord John Russell.—(Received March 21.)

(No. 58.)

My Lord,

Washington, March 7, 1853.

IN conformity with the provisions of the Constitution, the second session of the 32nd Congress of the United States closed on the 4th instant.

As is usual, however, at the commencement of a presidential term, the Senate has been summoned by proclamation to resume its labours in its executive capacity, in an extraordinary session. This is done for the purpose of obtaining their concurrence in the new appointments rendered necessary by the change of administration. It is however believed, that this session of the Senate will be prolonged for some weeks for the dispatch of the arrears of the executive business. Among the subjects which will be taken into consideration, will be that of the Copyright Convention with Her Majesty's Government, which I had the honour to forward to your Lordship in my despatch No. 45 of the 21st ultimo.

The debates in Congress during the past session have been animated

by the discussion of subjects of great importance, as regards both the foreign and domestic policy of the United States; and yet your Lordship will perceive by a reference to the list,* which I have the honour to inclose, of the Acts and Resolutions of that body, that with the exception of those of a purely local character, no measure of any importance has been passed.

Of those in which the interests of Great Britain were directly involved, I mean Mr. Seymour's Bill, in the House of Representatives, for establishing reciprocity of trade (including the fisheries) with British North America; and Mr. Davis' Bill, in the Senate, for adjusting the fishery question by an offer of the American market for colonial fish in exchange for a free participation in the British fisheries by the citizens of the United States, neither has become law.

The failure of these measures is, I think, under all the circumstances of the case, by no means to be regretted; nor can it be attributed to a determination on the part of the American Legislature to decline an extension of the commercial relations between the colonies and the United States, but rather to the complex nature of the subject to which their attention has now, for the first time, been seriously aroused; and perhaps, in some degree, to the want of decision and energy on the part of the late Administration, resulting from their peculiar position in regard to the legislative majorities in both Houses of Congress.

Mr. Seymour's Bill, although the general principle of reciprocity was embraced in it, was not calculated to form the groundwork of a Treaty which could have been satisfactory to Her Majesty's Government; nor was it such as the colonial assemblies would have met with reciprocal legislation.

Mr. Davis' Bill, treating the fishery question separately, and offering, as it did, to the colonies, as an equivalent for their exclusive rights of fishery, a consideration which it was evident would have been rejected by them as inadequate, was even more objectionable, and could only have had the effect of aggravating the danger which it professed to guard against; for by seeking, in a manner not altogether candid, to remove from the United States the responsibility of the consequences of a collision between British and American fishermen by a seeming offer of a settlement of the question, the very encroachments out of which such collisions are to be apprehended, would seem to have been encouraged, if not justified.

I have thought it right to lose no opportunity of making known my opinion very explicitly, in regard to this matter, to influential members of the Senate; and this has, I trust, not been without its effect in defeating the measure.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 121.

Mr. Merivale to Mr. Addington.—(Received March 22.)

Sir,

Downing Street, March 21, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, a copy of a despatch from the Governor of Trinidad with reference to two American vessels fishing for whales within the Gulf of Paria.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure I in No. 121.

Lord Harris to the Duke of Newcastle.

My Lord Duke,

Trinidad, February 10, 1853.

I HAVE the honour to call your attention to a report which I have just received from the Comptroller of the Customs in Port of Spain, a report inclosing a statement of which I forwarded a copy,

By this it will appear that two American vessels are now within the Gulf of Paria fishing for whales, and are carrying on their operations within a quarter of a mile of the shores of this colony, and are interfering with the right of the native fishermen.

It appears also by the Comptroller's account that he cautioned the captain of one of these vessels about taking his vessel within the prescribed limits.

I have written to the Governor-General of Barbadoes to request him send down a vessel of war, should there be one at Barbadoes; and I have also written to acquaint Admiral Sir George Seymour of the circumstance.

I have, &c.
(Signed) HARRIS.

Inclosure 2 in No. 121.

Mr. White to the Colonial Secretary.

Sir,

Custom-House, Trinidad, February 10, 1853.

I HAVE the honour to inclose for the information of his Excellency the Governor copy of a letter addressed to me by Mr. Charles Llanos, proprietor of the whaling establishment at Chacacharere, stating that he has sustained a loss in consequence of two American barques (one named the "Solon") fishing beyond their limits.

I beg leave to observe with reference to the "Solon," which vessel reported at this office, that I informed the captain that his limits for fishing were three miles from a line drawn from headland to headland; and with this remark to leave the case for the consideration of his Excellency the Governor.

I have, &c.
(Signed) J. WHITE,
Comptroller of Customs and Navigation Laws.

Inclosure 3 in No. 121.

Mr. Llanos to Mr. White.

Sir,

Trinidad, Island of Chacacharere, February 10, 1853.

I HAVE to inform you that at this present moment we have two American barques, one named the "Solon," whaling within one quarter of a mile of the British shore. On the 4th instant, we lost a whale on their account, and, therefore, we beg of you to see his Excellency and beg his interference, as otherwise the expenses incurred this year will be a heavy loss.

I am, &c.
(Signed) C. LLANOS,
Proprietor of the Whaler Establishment.

No. 122.

Mr. Merivale to Mr. Addington.—(Received March 23.)

Sir,

Downing Street, March 23, 1853.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 11th instant, and to state in reply, for the information of the Earl of Clarendon, that his Grace does not consider that there will be any objection to renewing for the ensuing season the instructions to Vice-Admiral Sir George Seymour for the protection of the fisheries on the coasts of British North America, but thinks that, under existing circumstances, it would be very desirable to take that step at once.

I am to add, that care will be taken to avoid a recurrence of the excitement and inconvenience to which you refer, by issuing confidential instructions to the Lords Commissioners of the Admiralty, and to the respective Governors of the North American Provinces.

I am, &c.

(Signed) HERMAN MERIVALE.

No. 123.

Lord Wodehouse to Mr. Merivale.

Sir,

Foreign Office, March 24, 1853.

I HAVE laid before the Earl of Clarendon your letter of the 21st instant, respecting the encroachment of American fishermen in the Gulf of Paria, Trinidad, and I am directed by his Lordship to request that you will submit to the Duke of Newcastle the propriety of desiring the Admiralty to instruct Vice-Admiral Sir George Seymour to afford efficient protection to the British fisheries off Trinidad.

I am, however, at the same time to suggest, whether steps should not be taken in the colony, similar to those in Nova Scotia, for protecting its own shores by armed boats acting under the orders of Sir George Seymour.

I am, &c.

(Signed) WODEHOUSE.

No. 124.

Mr. Merivale to Mr. Addington.—(Received March 26.)

Sir,

Downing Street, March 24, 1853.

WITH reference to my letter of the 11th of August last, I am directed by the Duke of Newcastle to transmit to you the copy of a despatch from the Governor of Newfoundland, inclosing a petition to the Queen from the House of Assembly, praying that Newfoundland may be included in any Treaty for the establishment of reciprocal trade which may be entered into between this country and the United States; and I am to state that his Grace would be glad to receive the opinion of the Earl of Clarendon as to the terms of the answer which should be returned to this petition.

In connection with this subject I also inclose the copy of a despatch received from the officer administering the Government of Newfoundland at the time it was in contemplation to include that island in the proposed Treaty with the United States.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 124.

Sir Ker B. Hamilton to the Duke of Newcastle.

My Lord Duke,

Newfoundland, February 23, 1853.

I HAVE been requested by the House of Assembly to transmit to your Grace the accompanying petition from that body to the Queen, relative to the negotiation now going forward with reference to the question of Reciprocal Trade between Her Majesty's Government and that of the United States.

2. Having literally only sufficient time to forward the petition, I must confine myself to observing that, in the event of the views of the Assembly being acted on, it may be wise to limit the existence of the arrangement for such period only as will enable both parties to test its working, and form their judgments as to rendering it permanent.

I have, &c.

(Signed) KER B. HAMILTON.

Inclosure 2 in No. 124.

Petition from the Newfoundland House of Assembly.

To the Queen's Most Excellent Majesty.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the Commons of Newfoundland in legislative session convened, most respectfully beg leave to approach your Majesty with feelings of the most profound devotion to your Majesty's person and Government.

We most humbly beg leave to inform your Majesty that the Assembly in its last session affirmed the principles of reciprocal free trade between the United States and this colony, in resolutions which are recorded on the journals of the House:

That in reply to the address of the Assembly, requesting your Majesty to include this colony in any general scheme of reciprocal trade between the North American colonies and the United States, your Majesty's Secretary of State for the Colonies, in his despatch dated the 26th day of August last, gives assurance that the interests of this colony shall receive the serious consideration of your Majesty's Government:

That Mr. Everett, the American Secretary of State, in an official letter to the President of the United States, dated the 7th day of February instant, affirms that the "Government of Her Britannic Majesty is prepared to enter into an arrangement for the admission of fishing-vessels of the United States to a full participation in the public fisheries on the coasts and shores of the provinces (with the exception, perhaps, at present, of Newfoundland), on the condition of the admission of colonial produce duty-free into the United States;" a statement which is regarded by the Assembly with surprise and regret, because of the special exception of this colony from the proposed arrangement.

The House of Assembly further beg leave to assure your Majesty, that the best interests of the population of this colony would be vitally compromised, and their opinions and desires disregarded, by excluding Newfoundland from the contemplated Treaty; and they therefore most respectfully beg leave to reiterate their former request, that this colony may be included in any arrangement that may be effected by your Majesty's Government on this important subject.

Passed the House of Assembly, February 23, 1853.

(Signed) JOHN KENT, *Speaker.*

Inclosure 3 in No. 124.

Mr. Crowdy to Sir J. Pakington.

(Confidential.)

Sir,

Government House, Newfoundland, November 30, 1852.

I HAVE the honour to acknowledge the receipt of your confidential despatch of the 23rd ultimo, and in compliance with your direction I proceed to state the points affecting the interests of this island, which it appears to me should be considered in any negotiation between Her Majesty's Government and that of the United States, and also my own views on the subject generally.

Our present relations with the United States leave the preponderating advantages greatly on their side, as whilst our imports from those States during the last year amounted to upwards of 200,000*l.*, they took from us to the value of 20,000*l.* only. This great difference is occasioned by the large protective duties exacted in that country, amounting to at least 20 per cent. Were these lowered, and the bounties given in aid of their fisheries withdrawn, the probability is, a very considerable market would be found for our fish, and these objects are the principal points to be considered as respects our interest in any Treaty between the two Governments.

As our revenue is derived altogether from a tax on imports, we are not in a position to give up so large a portion of it as that derived from the imports from the United States; but if their Government would consent to an *ad valorem* duty on our produce of equal amount with that imposed by us on theirs, and which, with one exception, does not exceed 7 per cent., an arrangement might be effected, which in my opinion would be most advantageous to this colony, and unobjectionable as regards all parties.

The citizens of the United States already possess considerable fishing rights on our coasts, and especially at the Labrador, and on this latter coast they are particularly favoured, as whilst supplies sent there from the settlements of this colony pay the colonial duty, those to a very large amount supplied by the Americans altogether escape this tax. I would add, that in the exercise of these rights, few, if any, instances have occurred of complaints or collision between British and American fishermen or traders.

I beg to repeat, that the principal object for our interest in negotiating with the Government of the United States is a scale of *ad valorem* duties in the two countries similar in amount, and the abolition or reduction of the American bounties.

I fear we have not much to offer them as an inducement to yield to us these advantages, except we consent to their being placed on an equal footing with our own people as regards the fisheries on this coast; and on this point I beg to refer you to Sir Gaspard Le Marchant's confidential despatch to Earl Grey of the 31st December, 1849, in which the advantages and probable results of such a measure are fully treated.

I beg with all diffidence to express my concurrence in Sir Gaspard's views. Our fishery continues in a very depressed condition, and when the potatoes fail or become diseased, as is the case this year, pauperism and dependence on Government support most extensively prevail.

In the present position of our fisheries I see no remedy for this evil, and I therefore incline to the opinion that for the reasons stated in the despatch above adverted to, the colony would benefit by the introduction amongst us of enterprising American traders, and that the abolition of bounties and reduction of duties would be full compensation for such competition to those already engaged in the trade of the colony, who would have the advantage of residence, property, and existing establishments.

At the same time I would suggest that as such arrangement would involve changes of an important character, and be viewed with considerable alarm by the established mercantile houses, it should not be adopted

without the trade, as well as the Legislature, having an opportunity of first expressing their views thereon.

I am not aware of any other point which would require to be considered on our behalf in the proposed negotiation.

I have, &c.
(Signed) JAS. CROWDY.

No. 125.

Lord Wodehouse to Sir J. Emerson Tennent.

Sir,

Foreign Office, March 28, 1853.

WITH reference to Mr. Addington's letter of the 13th of October last, requesting that the Board of Trade would prepare a statement of the points which it might be desirable that Mr. Crampton should submit for the consideration of the United States Government in regard to a new commercial convention between Great Britain and the United States, I am directed by the Earl of Clarendon to acquaint you, for the information of the Lords of the Committee of Privy Council for Trade, that in the absence of the statement in question, which has not been received at this office, Mr. Crampton was instructed to agree to a project of a Convention proposed on the part of the United States, and sanctioned, with certain reservations, by Her Majesty's Government.

The Government of the United States, however, declined to admit these reservations, and the matter remains accordingly at this moment in nearly the same position as before this project of convention was submitted by the United States Government for the consideration of Great Britain.

I inclose herewith copies of papers* relating to this subject; and as a change of Government has intervened in the United States, and as the question will probably be again brought forward by the new President, Lord Clarendon is desirous of obtaining a joint opinion from the Board of Trade and from the Colonial Office upon the course which it may be desirable for Her Majesty's Government to adopt in this matter.

I am accordingly to request that you will move the Lords of the Committee of Privy Council for Trade to consult upon this subject with the Secretary of State for the Colonies, and to favour Lord Clarendon with their opinion upon the whole question.

Lord Clarendon has submitted a similar proposition to the Secretary of State for the Colonies.

I am, &c.
(Signed) WODEHOUSE.

No. 126.

Lord Wodehouse to Mr. Merivale.

Sir,

Foreign Office, March 28, 1853.

WITH reference to Mr. Addington's letter of the 14th of January last, referring to you the draft of a despatch which Her Majesty's Government proposed to address to Her Majesty's Minister at Washington instructing him to agree, with certain reservations, to a proposed Convention with the United States for regulating the fisheries and the commercial intercourse between the two countries, I am directed by the Earl of Clarendon to transmit to you herewith copies of despatches† from Mr. Crampton stating that he has not been able to come to any final agreement with the Government of the United States upon this matter; and as a change of Government has intervened in America, and as the question will probably soon again be brought forward by the new President, Lord Clarendon is desirous of obtaining a joint opinion from the Colonial Office

* See Nos. 103, 104, 107, 108, 109, 110.

† See Nos. 108, 109, 110.

and the Board of Trade upon the course which it may be desirable for Her Majesty's Government to adopt in this matter.

I am accordingly to request that you will move the Duke of Newcastle to consult upon this subject with the Board of Trade, and to favour Lord Clarendon with his Grace's opinion upon the whole question.

Lord Clarendon has caused a similar proposition to be submitted to the Board of Trade.

I am, &c.
(Signed) WODEHOUSE.

No. 127.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, March 28, 1853.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your letters of the 8th, 11th, and 17th instant, relative to the fisheries off the coast of British North America; and I am to state to you, for the information of the Duke of Newcastle, that due notice will be given to the Colonial Office of any proceedings between the British and American Governments for negotiating a Treaty regarding the fisheries and reciprocal free trade.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 128.

Mr. Crampton to Lord John Russell.—(Received March 29.)

(No. 61.)

My Lord,

Washington, March 13, 1853.

IN my despatch No. 23, of the 24th of January, I had the honour to inclose an extract from an American newspaper, containing the substance of a report of the Secretary of the United States Treasury on the state of the finances. I have now the honour to forward to your Lordship three copies of this report in full, in the form of a Congressional document.

Among other papers of interest appended to the report, your Lordship will find a report on the subject of the fisheries, drawn up by Mr. Sabine, comprising a review of the controversy between the United States and Great Britain as to the extent and meaning of Article I of the Convention of 1818.

Mr. Sabine is at present a member of Congress for one of the districts of Massachusetts, which are most largely interested in the fisheries. Mr. Sabine's statement is elaborate, but by no means remarkable for its impartiality. Its accuracy, except where he quotes from official documents, is not, I think, to be implicitly relied on.

Mr. Sabine, as I had the honour to state to the Earl of Malmesbury in my despatch No. 125, of the 15th of August last, was summoned by Mr. Webster, late Secretary of State of the United States, in order to furnish him with information with regard to the British North American colonies. He, at that time, however, was very imperfectly acquainted with the facts connected with this subject, and he conveyed to Mr. Webster some very erroneous notions in regard to it, which the more accurate knowledge of Mr. Perley, Her Majesty's Emigration Officer in New Brunswick, whom I had invited to repair to Washington, fortunately enabled me to correct.

Congress has ordered 3,250 additional copies of Mr. Sabine's report to be printed in a separate form, and I therefore the more regret to remark that the tone he has adopted in speaking of the supposed motives of the British North American colonies, and more especially of Nova

Scotia, in their efforts to preserve their undoubted rights from encroachment, while they are not unwilling to make a cession of them for the equivalent which it must be recollected was first proposed by the United States Government itself in 1849, namely, reciprocity of trade in all natural productions, is one little calculated to promote good feeling between Her Majesty's subjects in those colonies and the people of the United States.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 128.

Report of the Secretary of the United States Treasury on the State of the Finances.

[See Congressional Papers, .]

No. 129.

Mr. Merivale to Mr. Addington.—(Received March 31.)

Sir,

Downing Street, March 31, 1853.

WITH reference to my letter of the 23rd instant, I am directed by the Duke of Newcastle to transmit to you for the information of the Earl of Clarendon a copy of the instructions which his Grace has addressed to the Lords Commissioners of the Admiralty, signifying the Queen's commands that adequate naval protection be afforded in the ensuing season to the British fisheries on the coasts of British North America and Newfoundland.

I am, &c.
(Signed) HERMAN MERIVILE.

P.S.—I also inclose a copy of the confidential instructions which the Duke of Newcastle has addressed to the Governor of the North American provinces on this subject.

Inclosure 1 in No. 129.

The Duke of Newcastle to the Lords Commissioners of the Admiralty.

My Lords,

Downing Street, March 28, 1853.

I HAVE to signify to your Lordships the Queen's commands, that you take such steps as may be requisite for affording the same protection to the British fisheries in the Gulf of St. Lawrence, and other parts of the British North American station, including Newfoundland, as was afforded last year by the naval force under the orders of Sir George Seymour.

The instructions issued to the Admiral on that occasion, which were founded upon the letters from this office of the 2nd June and 19th August last, appear to me to be still perfectly appropriate: but in now repeating them care should be taken to show that they are not in any manner intended to interfere with the lawful exercise of whatever rights American citizens, or the subjects of France, may by Treaty be entitled to, but are solely issued with the view of affording to British subjects, and to Her Majesty's colonial dominions, that measure of protective police which is necessary to guard British waters against unlawful intrusion.

Your Lordships will instruct the Admiral to execute your orders with every proper caution and forbearance, in order that no unnecessary cause of offence or excitement may thereby be created.

I am, &c.
(Signed) NEWCASTLE.

Inclosure 2 in No. 129.

The Duke of Newcastle to the Earl of Elgin and Kincardine.

(Confidential.)

My Lord,

Downing Street, March 28, 1853.

I TRANSMIT to your Lordship, for your information, the accompanying copy of a letter which I have this day addressed to the Lords Commissioners of the Admiralty, signifying the commands of the Queen that adequate naval protection be afforded in the ensuing season to the British fisheries on the coasts of British North America and Newfoundland.

Your Lordship will guard against any undue publication of my letter to the Lords of the Admiralty, as it is desirable to avoid the recurrence of the excitement which was occasioned last year by the publication in the colonies of the instructions of Her Majesty's Government on this subject.

I am, &c.
(Signed) NEWCASTLE.

No. 130.

Lord Wodehouse to Mr. Merivale.

Sir,

Foreign Office, March 31, 1853.

I HAVE laid before the Earl of Clarendon your letter of the 24th instant, inclosing a petition to the Queen from the House of Assembly at Newfoundland, praying that that island may be included in any Treaty for establishing free trade between the British dominions and the United States of America; and I am directed by his Lordship to request that you will inform the Duke of Newcastle that, in his opinion, the petition should be answered by stating that the negotiation for a new Commercial Convention between this country and the United States is suspended, in consequence of the change of Government in America; but that the wishes of the Houses of Assembly shall receive the careful attention of Her Majesty's Government.

I am at the same time to suggest that the Duke of Newcastle should take this matter into his consideration when his Grace furnishes Lord Clarendon with the memorandum requested in my letter of the 28th instant, upon the proposals which it may be expedient for Her Majesty's Government to make to the United States when the negotiations shall be reopened.

I am, &c.
(Signed) WODEHOUSE.

No. 131.

The Earl of Clarendon to Mr. Crampton.

(No. 12. Confidential.)

Sir,

Foreign Office, April 1, 1853.

I INCLOSE, for your information, a copy of a letter* from the Colonial Office, inclosing copies of letters to the Admiralty and to the Governors of Her Majesty's North American Colonies, respecting the protection to be afforded to British fisheries.

This measure being one merely of protective police, intended solely to guard from illicit intrusion waters which are undoubtedly and exclusively British, it will not be necessary that you should make any communication on the subject to the Government of the United States; and if any observations or animadversions should be made by that Government upon the subject, you will state that it is manifestly the duty of every Government to protect its own shores from violation, and that no foreign Government has a right to take offence at any measures of protection which have for their object, not interference with the fair trader, but suppression of illicit traffic by whomsoever carried on.

I am, &c.
(Signed) CLARENDON.

No. 132.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, April 2, 1853.

WITH reference to your letter of the 31st ultimo, inclosing copies of letters to the Admiralty and to the Governors of Her Majesty's North American Colonies, respecting the protection to be afforded to British fisheries, I am directed by the Earl of Clarendon to transmit to you, for the information of the Duke of Newcastle, a copy of a despatch† which his Lordship has addressed to Mr. Crampton, Her Majesty's Minister at Washington, upon this subject.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 133.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, April 2, 1853.

THE Duke of Newcastle has communicated to the Earl of Clarendon a copy of the letter which his Grace addressed to the Lords Commissioners of the Admiralty on the 28th ultimo, relative to the protection to be afforded to British fisheries on the coasts of British North America and Newfoundland; and with reference to that letter, I am directed by Lord Clarendon to transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a despatch† which his Lordship has addressed to Mr. Crampton, Her Majesty's Minister at Washington, upon the above-mentioned subject.

I am, &c.
(Signed) H. U. ADDINGTON.

* See No. 129.

† See No. 131.

No. 134.

Mr. Merivale to Lord Wodehouse.—(Received April 12.)

My Lord,

Downing Street, April 11, 1853.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your Lordship's letter of the 28th ultimo, transmitting copies of despatches from Her Majesty's Minister at Washington, on the subject of the proposed Convention for regulating the fisheries and the commercial intercourse between this country and the United States; and expressing the desire of the Earl of Clarendon to obtain the joint opinion of this Department and the Board of Trade, upon the course which it may be desirable for Her Majesty's Government to adopt in this matter.

I am to state to your Lordship in reply, for the information of the Earl of Clarendon, that the Duke of Newcastle considers that no advantage can arise from the joint report required by his Lordship. He understands that a separate report from the Board of Trade is about to be presented to the Earl of Clarendon.

The Duke of Newcastle considers that in the event of negotiations with the United States being reopened, it may be advisable to reconsider the question of excluding the colony of Newfoundland from the operation of the Treaty; but upon all the points of detail connected with the interests of the other colonies, which he urged on the late occasion with Lord John Russell, his Grace would still be disposed to insist, as not only fair to the British provinces, but essential to any prospect of obtaining their acquiescence in the Legislative Acts which would be necessary to carry the Treaty into effect.

I am to add that, so far as the measures now before the House of Representatives of the United States are known to him, it is his Grace's opinion that they are inadmissible on the part of Her Majesty's Government.

I am, &c.
(Signed) HERMAN MERIVALE.

No. 135.

Mr. Merivale to Lord Wodehouse.—(Received April 13.)

My Lord,

Downing Street, April 12, 1853.

WITH reference to your letter of the 24th ultimo, I am directed by the Duke of Newcastle to transmit to you, for the information of the Earl of Clarendon, a copy of the instructions his Grace has addressed to the Lords Commissioners of the Admiralty, respecting the encroachments of American fishermen in the Gulf of Paria, Trinidad; and also a copy of the despatch he has addressed to Lord Harris, on the same subject.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 135.

The Duke of Newcastle to Lord Harris.

(Confidential.)

My Lord,

Downing Street, April 1, 1853.

I HAVE to acknowledge the receipt of your despatch of the 10th February, No. 17, reporting the encroachment of American fishermen in the Gulf of Paria.

I transmit to you herewith a copy of a letter I have addressed to the Lords Commissioners of the Admiralty, signifying the Queen's commands to afford you efficient protection.

With reference to measures taken by the British North American colonies for protecting their own shores by armed boats, Sir George Seymour will be able fully to inform you what those measures are, and the manner in which they should be carried out.

I am, &c.
(Signed) NEWCASTLE.

Inclosure 2 in No. 135.

The Duke of Newcastle to the Lords Commissioners of the Admiralty.

My Lords,

Downing Street, April 1, 1853.

I TRANSMIT to you herewith a copy of a despatch* from the Governor of Trinidad, reporting the encroachment of American fishermen in the Gulf of Paria.

I have to signify to your Lordships the Queen's commands that you instruct Sir George Seymour to afford efficient protection to the British fisheries off Trinidad.

I have at the same time to request that you will instruct Sir George Seymour to place himself in communication with Lord Harris, and to report the result of such communication as to whether steps cannot be taken in Trinidad, similar to those in the British North American colonies, for protecting its own shores by armed boats acting under Sir George Seymour's orders.

I am, &c.
(Signed) NEWCASTLE.

No. 136.

The Earl of Clarendon to Mr. Crampton.

(No. 15.)

Sir,

Foreign Office, August 15, 1853.

I TRANSMIT to you herewith, for your information, a copy of a despatch* from the Governor of Trinidad, relative to the encroachment of American fishermen in the Gulf of Paria, together with copies of the orders† which have thereupon been given to the Governor of Trinidad, and to the Admiral on the West India Station.

I am, &c.
(Signed) CLARENDON.

* Inclosure 1 in No. 121.

† Inclosures 1 and 2 No. 135.

No. 137.

Address from the Chamber of Commerce, Jersey, to the Earl of Clarendon.

To the Right Hon. the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs.

THE representation of the Chamber of Commerce of the Island of Jersey humbly sheweth,

That the merchants of this island have for upwards of a century been extensively engaged in the North American fisheries in Newfoundland, Canada, New Brunswick, and Cape Breton, at all of which they have large establishments for carrying on the trade, which have been erected at a considerable expense:

That the number of vessels employed in the fisheries by the merchants of this island may be estimated at about 100, measuring upwards of 10,000 tons, giving employment to about 2,000 British seamen, and a still greater number of fishermen in the colonies:

That the capital so employed by them may be estimated at a quarter of a million pounds sterling:

That the fisheries are therefore of very great value, not only from the number of vessels and the capital employed in them, but also as a nursery for seamen:

That this trade has for several years past been suffering from various causes, partly from the privilege possessed by Spanish vessels of importing fish into Spain and her colonies at a less duty than that levied on fish imported in British ships, and principally by the bounties given by the French and United States Governments to their respective subjects, and which are so considerable as to enable them not only to compete successfully with, but to undersell, the British merchants in foreign markets:

That the encouragement given to their fisheries by the French Government will be apparent from the following statement of bounties allowed by them: viz.,

50 francs per man for the shore-fisheries in Newfoundland and Iceland.

30 francs per man for the fishery on the banks of Newfoundland.

15 francs per man for the fishery on the Dogger Bank.

200 francs per ton for all dry fish exported to the French colonies.

160 francs per ton for fish exported to the foreign countries bordering the Mediterranean.

120 francs per ton for fish exported to Sardinia and Algeria.

That under all these circumstances, the Chamber of Commerce believe that if any concessions are made by the British Government they will be most prejudicial to the interests of the British fishery and may be productive of its ruin:

That the Chamber has heard with some alarm that on an application from the Governments of France and of the United States for a revision of the existing Treaties regulating the fisheries in America, and asking for concessions to enable them to fish where they are not at present allowed, Her Majesty's Government has so far acceded to their request as to name a Commissioner to take these demands into consideration:

The Chamber would therefore humbly pray that instructions be given to the said Commissioner to make no alteration in the existing Treaties, as otherwise the British merchant will be sacrificed, and the trade will eventually fall into the hands of the French and Americans, who now enjoy most important advantages from the bounties allowed them by their respective Governments.

Jersey, April 16, 1853.

(Signed)

CHARLES LE QUESNE,
President.

No. 138.

*Sir J. Emerson Tennent to Lord Wodehouse.**Office of Committee of Privy Council for Trade,
Whitehall, April 20, 1853.*

My Lord,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your Lordship's letter of the 28th ultimo, transmitting, with reference to Mr. Addington's letters of the 13th and 14th October last, respecting a proposed new commercial convention between Great Britain and the United States, copies of further correspondence that has taken place with the American Government relating to the subject, and requesting that my Lords may favour the Earl of Clarendon with their opinion upon the whole question.

In reply, I am directed to state that their Lordships observe, from the contents of the papers inclosed in your Lordship's letter, that the correspondence in question has more especial reference to the draft of the proposed treaty as originally transmitted in Mr. Crampton's letter of the 19th December last, and returned to him in an amended shape by Lord John Russell in his letter of the 15th January last, for the purpose of being submitted to the Government of the United States.

It was a subject of regret to my Lords that it was necessary to send out instructions to Mr. Crampton on the 15th January without affording them any opportunity of explaining their views in reply to the letters addressed to their predecessors in office, on the 13th and 14th October last, in reference to this important subject. Their Lordships therefore hasten to avail themselves of the occasion which now presents itself for doing so.

It is necessary to premise that in originating these negotiations, Her Majesty's late Government expressed their desire, in accordance with a suggestion originally made by Mr. Lawrence, the late Minister of the United States at this Court, that they should not be confined to the case of the fisheries which first led to their being entered upon, but should be extended to all subjects affecting the commercial relations of the two countries generally. This view met with the concurrence of the Government of the United States, as shewn by Mr. Crampton's letter to Lord Malmesbury of the 12th September last, in which he states that Mr. Fillmore informed him that he entirely concurred in the opinion that it would be highly desirable on every account that all the commercial questions between the two countries, including the fisheries, should now be settled. To this Mr. Fillmore added, in words to which my Lord would call Lord Clarendon's especial attention, that he agreed with Mr. Crampton as to the difficulty of finding an equivalent for the cession of the right of fishing by the colonies, without connecting that question with the general question of reciprocity of trade; and the late President of the United States proceeded to state that the proposed arrangement was inextricably bound up with alterations in the United States Tariff.

My Lords direct me to observe that the right of fishing in waters, the property of the Queen's subjects, is a right of property; and the surrender is therefore to be distinguished from a mere relaxation of Tariff.

It appears that the American Government avowedly entered upon the negotiations with the twofold intention of—1st, Arriving at an arrangement which should be mutually advantageous to the British North American Provinces and to the United States, although, by their own admission, much more so to the latter than to the former; and 2ndly, Of restoring the equilibrium of concession (which would otherwise be disturbed), by means of concessions to be made by the United States in favour of the British Empire.

It is therefore important to consider how far the points originally enumerated by Mr. Crampton, in the memorandum furnished by him to Mr. Fillmore in September last, and inclosed in his letter to Lord

Malmesbury of the 26th of that month, contain all that is necessary for the purpose of insuring the above equality of concession, if embodied in the proposed Treaty. It will also be requisite to examine how far the actual draft itself, in the shape in which it is now brought under the notice of my Lords, meets the exigencies of the case in this respect.

The three questions alluded to in the above-mentioned memorandum of Mr. Crampton, as being those which Her Majesty's Government were desirous of seeing satisfactorily arranged in the Treaty, were the following:—

1. Reciprocal free trade in all natural productions between the British North American Colonies and the United States.

2. The admission of British vessels to the trade between the Eastern States of the United States and California, in return for the concessions made by our Navigation Act of 1849, whereby American vessels are provisionally admitted to the trade between Great Britain and the British Colonies.

3. The admission of British-built vessels (including of course vessels of Colonial build), to American register, when owned by American citizens, the same privilege being already given by the above Act to American-built vessels in this country.

Lord Clarendon will observe that the concession of the two latter points by the United States Government would, in reality, only place the two countries on an equality with respect to them, the equivalent on our part having been given by the Navigation Act of 1849, but subject to the power of withdrawal in case Her Majesty in Council shall be pleased to adopt that course at any future time. Their satisfactory settlement would, therefore, place this country and the United States on that footing of equality which would enable both nations to approach on equal terms the consideration of the remaining questions to be embraced in the Treaty.

As respects the first point alluded to in Mr. Crampton's memorandum, viz., the reciprocity of free trade in all natural productions between our North American Possessions and the United States, Lord Clarendon will be aware that its satisfactory arrangement is deemed of the most urgent importance by those colonies, whose interests are of course more immediately and more pecuniarily involved. At the same time, my Lords feel it necessary to remark that the consideration of this question deeply involves the commercial, and with them the political interests of this, the mother country, also.

The following appear to be the propositions embodied in the memorandum furnished by Mr. Crampton to Mr. Fillmore in September last, so far as relates to the North American Colonies.

(a.) All natural productions to be admitted reciprocally duty free.

(b.) To ensure this, the sea fisheries in the waters of the colonies to be thrown open to the United States.

(c.) All fish, cured or fresh, to be admitted from those colonies into the United States duty free, in whatever vessels imported, such fish paying at present an *ad valorem* duty of 20 per cent.

(d.) The United States to be admitted to the free navigation of the St. Lawrence and certain canals belonging to Canada, the only reserve being a right to suspend the privilege if political considerations rendered it necessary for us so to suspend it.

(e.) Coals to be included in the list of articles to be reciprocally admitted duty free.

It was proposed that Newfoundland should be exempted from the operation of the Treaty.

It will easily be seen that the balance of the above five propositions is very greatly in favour of the United States. Those marked (b) and (d) are exclusively to the benefit of that country, while the remaining ones, which may be supposed to be intended, in return, to benefit our colonies more especially, will in reality be found to merge into one, namely, that

marked (a), which proposition moreover would, if adopted, benefit the United States very nearly as much as the British North American Colonies.

In order to show the correctness of the above assertion, that the advantage would be greatly on the side of America, in the event of the Treaty being based on these propositions, my Lords will now allude to them *seriatim*. They direct me, however, first to observe that as respects the vexed question of the admission of the vessels of the United States to the Colonial fisheries, the correspondence that took place last year between Her Majesty's late Government and that of the United States on the subject, does not appear to have come in any way before the Board of Trade. But Mr. Crampton's letter of the 12th September, to Lord Malmesbury, mentions that, in pursuance of instructions received from home, he had informed Mr. Fillmore "that Her Majesty's Government was ready to enter into negotiations with that of the United States upon the subject of the rights of fishing in British waters, which American citizens desire to obtain."

The matter has, therefore, come under their Lordships' notice, independent of the discussions that took place respecting it last year, and solely upon its merits, as already brought before this department in previous years,—the question of admitting the United States to participate in our Colonial fisheries not being now raised for the first time.

(a.) *Reciprocal Free Admission of all Natural Productions.*

The list of the articles which were included under this head, as shown by the Draft Treaty proposed by Mr. Crampton, does not differ materially from that agreed upon at a meeting of delegates from all the British North American Colonies, except Newfoundland (*viz.*, Canada, New Brunswick, Nova Scotia, and Prince Edward Island), held at Halifax on the 3rd and 4th of September, 1849. The chief alterations consist in various additions proposed by Canada, the most important being that of printed books. Lord Clarendon will observe that both coals and fish are included in the list.

Notwithstanding, however, that more stress is laid by our own colonies on the insertion of this Article in the Treaty than by the United States, and notwithstanding that the latter country views it as a concession to be made by it solely on condition of some other concession of extreme magnitude being made by us in return,—such, for instance, as the free admission of its vessels to our fisheries,—it appears that, in reality, the imports from the United States into the British North American Colonies will be nearly as great as those from the British Colonies into the United States. It is shown by Mr. Hincks, in his memorandum of the 21st of September last, inclosed in Mr. Crampton's despatch of the 19th December, that the imports into the United States from Canada, in 1851, of the articles embraced in the Schedule and subject to duty, amounted to a value of 1,475,184 dollars, while the corresponding imports into Canada from the United States of the same articles in that year bore a value of 1,232,464 dollars, being little less than the above; so that "the allegation that the measure of reciprocity is entirely for the advantage of Canada is wholly without foundation, as it presents advantages to the United States nearly, if not quite, equal to those which it would confer upon Canada."

It may therefore be assumed that, as respects this proposal (a), it is one of real reciprocity, in which the mutual advantages are as nearly balanced as possible, although the imports from our colonies would be slightly the greatest in amount.

(b.) *Admission of American Vessels to the Colonial Fisheries.*

Here the advantage is altogether on the side of the United States, at the same time that the concession of a nominal reciprocity by means of admitting colonial vessels to the American fisheries would in reality make little difference, inasmuch as the latter fisheries are of scarcely any importance, while the value of our colonial fisheries is very great.

(c.) Free Admission of Colonial Fish into the United States.

Although this proposition appears to be intended to favour the British Colonies, yet, as the article fish is included in the Schedule before-mentioned in proposal (a), its introduction in the shape of a separate clause in the Treaty is unnecessary, and has an appearance of making a concession to our colonies which may be the foundation of other claims, and should therefore not be inserted in the Convention as a separate article.

There is, however, one very important advantage possessed at present by the American fishermen, which ought not to be lost sight of in connection with the question of the fisheries, and the withdrawal of which is very essential to our interests, viz., the system of bounties to American vessels engaged in the cod fisheries.

These bounties, which have been in force for a very lengthened period, appear to be payable on the 1st of December every year, in the case of all such vessels as have been employed for four months in the course of the year, the bounties being at the following rate: for vessels of from five to thirty tons, 3\$50 per ton; for vessels of more than thirty tons, 4\$ per ton; it being understood that the maximum sum payable on any vessels shall be 360 dollars (75*l.*).

Whatever may be the true policy of the system of bounties, yet in considering the question as between the two classes of fishermen, my Lords would desire to stipulate that no such impediments should be thrown in the way of Her Majesty's subjects, but that they should be put on the same footing with their rivals in the American market, or, in other words, that the Convention should provide for the abolition of every preference, whether in the shape of bounty or otherwise, on American-caught fish.

(d.) Concession to the United States of the free navigation of the St. Lawrence river, &c.

This concession would be a gratuitous one on our part, and made in conjunction with that contained in proposal (b), in order to induce the United States to consent to the reciprocity and what appears after all to be the nearly absolute equality provided for in proposal (a). The concession, however, is one which our colonists are perfectly willing to make, and even desirous of making for their own sakes, and my Lords, under these circumstances, see no objection to it; suggesting, however, for Lord Clarendon's consideration, whether it should not be met by asking for a corresponding concession by the United States, as proposed by Mr. Hincks, of the free navigation of the canals of that country and of Lake Michigan.

(e.) Coals to be reciprocally admitted duty free.

This proposal was made in the special interests of Nova Scotia, which colony deems the insertion of coal in the list of natural productions to be admitted reciprocally duty free as of extreme importance. Accordingly it appears in the schedule attached to proposal (a), so that it does not seem necessary to put forward this question in a distinct and separate shape, as it has the effect of appearing to be a special concession asked for by us, the disadvantage of which course of proceeding has been already shown with regard to the article of fish, referred to in proposal (c).

The above five propositions, relating more especially to the colonies, submitted by Mr. Crampton, may therefore be summed up as follows:

The British colonial fisheries to be thrown open to the Americans, the navigation of the St. Lawrence to be thrown open to them, and their natural produce to be admitted duty free into our colonies, provided that in return for these three concessions they will consent to admit our colonial natural produce duty free.

The whole of the proposals embraced in Mr. Crampton's memorandum of September last may be stated in a tabular form as follows, where the

corresponding concessions to be reciprocally made by the two countries are placed side by side :

British Concessions.

1. Admission of United States vessels to our colonial fisheries.
2. Admission of United States natural productions duty free into our colonies.
3. Admission of United States vessels to the free navigation of the St. Lawrence, &c.
4. Admission of vessels of American build to British registry (already given by our legislation).
5. Admission of United States vessels to the trade between the United Kingdom and her colonies, and between one colony and another (already given by our legislation).

United States Concessions.

1. Nil.
2. Admission of British colonial natural productions duty free into the United States.
3. Nil.
4. Admission of British and colonial-built vessels to American registry.
5. Admission of British vessels to the trade between the Eastern coast of the United States and California, which corresponds to the concession opposite.

The alterations suggested by my Lords would have the effect of restoring to a certain extent the equilibrium which it is manifest is lost in the above proposals, as they would involve concessions by the United States partially corresponding to those offered by us under the heads (1) and (3), in which cases the United States concessions, according to Mr. Crampton's memorandum, would be Nil.

In the case of (1), their Lordships contemplate the cessation of the bounties enjoyed by American vessels engaged in the fisheries; and in that of (2), the admission of British colonial vessels to the free navigation of the canals, &c., of the United States.

My Lords are of opinion, that if the whole of the concessions proposed either in Mr. Crampton's memorandum, or by their Lordships, were made by the United States, they would, far from exceeding those which this country is prepared to make, still have the balance of concession greatly on our side.

That the United States Government consider that the concessions we are thus willing to make far exceed the corresponding ones contemplated on their side, is manifest from the words of Mr. Fillmore, quoted early in this letter, where a set-off is contemplated in the shape of alterations in the United States Tariff, with which he states the proposed arrangement to be "inextricably bound up." My Lords will presently revert to this question.

Having offered the above observations on the position in which the matter stood at the period of their accession to office, their Lordships will now proceed to convey to Lord Clarendon their opinion as to the present position of the negotiations consequent upon the instructions sent out by Lord John Russell to Mr. Crampton on the 15th January last, and the views entertained by the Government of the United States in reference to the subject, as shown by Mr. Crampton's despatches of the 19th December, and the 5th and 13th February last.

It appears from the first-mentioned despatch of Mr. Crampton, that insuperable constitutional objections were stated by the United States Government to exist to the admission of British shipping to the trade between the Eastern States of the Union and California. It is not now necessary for my Lords to enter upon a discussion respecting the arguments advanced by Mr. Everett on this head, especially as the United States Government has been informed that Her Majesty's Government are prepared to admit the validity of those arguments. But it is obvious that the surrender by us of so very important an item of the equivalent which this country expected to obtain, no less upon the principle of strict reciprocity, than in return for the great concessions respecting the fisheries offered by us to the United States in the proposed Treaty, an item, more-

over, upon which so much stress is laid by the shipping interests of this country, justly entitles Her Majesty's Government to claim a concession of equal magnitude, and equally beneficial to British interests in its place.

With the exception of the above, it appears from Mr. Crampton's despatch of the 19th December, that the Government of the United States seemed at that time disposed substantially to assent to the project of a Convention based upon Mr. Crampton's memorandum, with various modifications having reference chiefly to the list of the articles to be reciprocally admitted duty free into the British North American Colonies and the United States respectively, especially the important ones of coal and skins, the omission of which was sought for by the United States.

My Lords entirely concur in the views expressed by Lord John Russell, in his letter to Mr. Crampton of the 15th January, in reference to those proposed modifications. Considering that the hope of seeing her coal admitted into the markets of the United States duty free, constituted one of the chief reasons why Nova Scotia was willing to concur in the Treaty, and considering also that the articles of skins, furs, &c., undressed, which constitute so important a branch of our colonial trade, are eminently of the class of unmanufactured articles which it was intended to have reciprocally admitted duty free, the retention of those various articles in the Schedule appears to my Lords to be very important.

Their Lordships, at the same time, quite agree in the expediency of the introduction into that Schedule of the additional articles, which are for the first time inserted in the draft as transmitted home by Mr. Crampton.

As respects the case of Newfoundland, it is obvious that that colony should be specially exempted from the operation of the Treaty, unless Her Majesty's Government should learn that its views in reference to the subject have undergone a change.

Proceeding now to the consideration of the terms of the draft Treaty transmitted to Mr. Crampton in Lord John Russell's letter of the 15th January, which draft it now appears that the United States Government will not give its assent to, without the introduction of modifications which would have the effect of completely altering the character of the whole arrangement, my Lords direct me to suggest whether it might not be advisable (in the event of any fresh proposals being made to that Government) to modify in the sense indicated by the preceding observations, those Articles of the draft to which they relate, more especially Articles III and V. The former Article, in its present shape, is virtually embraced in Article IV, while the case of the bounties already alluded to does not appear to be entirely met. As respects the latter Article, my Lords conceive that the Clause admitting United States' vessels to the free navigation of the River St. Lawrence and the canals there specified, might, as previously stated, be advantageously accompanied by a corresponding clause admitting our vessels to the United States canals. In this case the right of suspending that free navigation would be made reciprocal, instead of the suspension by us of the free navigation of the St. Lawrence, &c., being met, as in the present draft, by a suspension of the operation of Article IV, relating to the reciprocal free admission of raw produce, &c.

But even with these modifications the balance of concession by the draft Treaty would, as my Lords apprehend, be considerably more on the side of this country than on that of the United States; the omission of the stipulation relating to California, originally proposed by us, materially modifying what would otherwise have been a much more evenly balanced arrangement.

It remains to consider the position in which the negotiations now stand, consequent upon the views expressed by the United States Government respecting the draft as proposed by Lord John Russell. The purport of those views may be stated to be as follows :

1. It is proposed by that Government to omit the clause providing for the admission to American registry of British and Colonial-built vessels when owned by American citizens.

2. To omit the important article of lumber from the Schedule to Clause 3 of the proposed Treaty, replacing it by a clause making its

admission dependent upon the admission of United States lumber into this country on the same terms as Colonial lumber.

3. To exclude from the same Schedule the important articles of coal, metals, vegetables, poultry, felts, furs, and sails, plants, shrubs, and trees, and printed books, all of the above being articles which the colonies consider it essential to have included in the Schedule.

4. To add to the Schedule the no less important articles of tobacco (unmanufactured), sugar (unrefined), agricultural implements, axes, gypsum, stone, and marble, rice, sheep-felts, and lard.

5. To include Newfoundland in the operation of the Treaty notwithstanding the expressed unwillingness of that colony to be so included.

6. To omit the provision for the suspension under certain circumstances of the free navigation by United States vessels of the St. Lawrence, &c.

7. To omit the reservations proposed in relation to the fishing in the estuaries, as mentioned in Articles I and II of the Draft.

8. A similar omission of the reservations of the rights of fishermen in respect of non-interference with their operations, mentioned in the same Articles,—the three last provisoes having been insisted on by Her Majesty's Government.

The effect of the assent of Her Majesty's Government to such a series of proposals as the above may be very briefly described. It would involve the abandonment of our claims to all the concessions, the securing of which, with scarcely a single exception, this country has always had in view in entering upon the present negotiations. It would admit the United States to a share in the property of our colonies, viz., their fisheries, at the same time that the Imperial interests which we had from the first been given to understand by the Government of the United States were to participate in the advantages of the arrangement would be passed over in absolute silence; on the other hand, the United States would obtain all that it has been their object to obtain, with the addition moreover of most important advantages not originally contemplated even by themselves, and only now for the first time advanced by them.

Whether viewed upon general principles therefore, or in reference to the special interests concerned in these particular negotiations, the proposals of the United States Government, in the shape in which they now present themselves to Her Majesty's Government, are such as my Lords cannot entertain on any grounds of advantage to the commercial interests of the British Empire.

As respects, however, the colonial part of the question, their Lordships understand that the Duke of Newcastle proposes communicating with Lord Clarendon.

My Lords gather, from their observation of the course of public feeling in the British North American Colonies, in reference to the subject of the present negotiations, that a strong disposition prevails in them, especially in Canada, to adopt retaliatory measures towards the United States, should it be found impossible to arrive at a satisfactory and friendly understanding with that country upon the various points at issue. Such a result would be deeply deplored by their Lordships, not only as viewed in itself, but also because they conceive that it would be injurious to those colonies themselves, irrespective of the injury it would inflict upon the United States.

That latter injury would doubtless be the greatest, and it appears to my Lords that no course could be adopted more calculated to bring about such a result than the advancement by that country of claims for the concession of important privileges in the British Colonies, not only not accompanied by offers of corresponding concessions, which may be looked upon as fair and reasonable equivalents for the concessions sought for, but even accompanied by a withdrawal of a great part of the concessions originally offered (inadequate as they appear to my Lords to have been), substituting in their place additional demands, such as those comprised in the fresh list of the important articles of tobacco, sugar, rice, &c., that the United States Government now claim to have admitted duty free into the British Colonies.

It is possible that the new Administration of the United States may be disposed to meet the question in a spirit more accordant with the hopes of Her Majesty's Government ; but if this should prove to be the case, it will be proportionately more important to extend, by every means in our power, the freedom of trade between the two countries in every possible respect. In the hope, therefore, that the American Government will concur in opinion with my Lords, as to the expediency of the basis of the negotiations being enlarged, and the discussion being placed on a more extended footing than it has as yet occupied, the concluding portion of this letter will keep this object in view. Their Lordships bearing in mind, moreover, the opinion originally expressed by the late President of the United States, that it was "highly desirable, on every account, that all the commercial questions between the two countries should now be settled."

The first point to which my Lords would call Lord Clarendon's attention is that of the Treaty arrangements between this country and the United States. Their commercial relations, as far as are settled by Treaty, are defined by two Treaties, viz., the Convention of Commerce of 1815, and the Treaty of 1818 for regulating the fisheries.

It is not now necessary to refer to the latter Convention, respecting the interpretation of which so much discussion took place last year, as the alterations which it may be expedient to make in it form the groundwork of the present negotiations, and have been already fully considered.

The Commercial Treaty of 1815, based as it was upon our then existing system of Navigation Laws, differs very considerably from what it would have been had it been concluded after the repeal of those laws. The following are the main provisions of it :

As respects the trade with the British dominions in Europe, it provides for reciprocal freedom of commerce, and for equality of charges on goods, the growth, produce, or manufacture of either country, when imported into the ports of the other in either British or American vessels. It also provides generally for equality of charges on the ships of the two countries, in British and American ports respectively. The wording being general, the vessels of either country entering the ports of the other, even in the indirect trade, receive national treatment. In many of our Treaties, this equality is expressly confined to the direct trade. At the time when the treaties were made, this caused no practical difference, because foreign vessels were then excluded from the indirect trade with this country ; but when the repeal of our Navigation Laws threw that trade open, the countries whose treaties with us were of the general wording shown above received a privilege which less fortunate countries are debarred from. In the case of the United States, however, a corresponding equality of treatment is enjoyed by our vessels trading with that country.

As respects the trade with the British dominions out of Europe, the Treaty with the United States contains no provisions beyond allowing the vessels of that country to trade between the United States and the principal British settlements in India, on the terms of the vessels of the most favoured European nation.

An express clause is inserted, providing that the intercourse between the United States and our North American Colonies and West Indian Possessions shall remain unaffected by the provisions of the Treaty, each party remaining in complete possession of its rights with respect to such intercourse.

The treaty is now terminable upon notice to that effect being given by either party.

Lord Clarendon will perceive, from the above summary of its stipulations, that this Convention is of a very incomplete nature, as compared with those more recently concluded between this country and foreign states ; and my Lords would therefore suggest the expediency of proposing its entire reconstruction to the Government of the United States, taking as the model of the new arrangements some one of the treaties that we have of late years entered into. Their Lordships apprehend that that Government will be equally desirous with the Government of this country to see our commercial relations, as regulated by treaty, placed in greater

harmony with those relations, as actually established by mutual but independent legislation, than is at present the case.

The readjustment of the Treaty of 1815, in accordance with the above suggestions and the simultaneous adoption of arrangements in respect of the fishery question and the other questions arising out of it (as already discussed in the course of this letter), upon terms both equitable and mutually satisfactory to both parties, appears to my Lords to comprise all that is necessary to constitute the basis of the treaty now under negotiation. The remaining matters to which they will now proceed to advert, are rather questions respecting which it seems to their Lordships desirable that Mr. Crampton should receive such instructions as may enable him to use his discretion as to the best means and the best opportunity of bringing them under the notice of the United States Government with the greatest prospect of success, whether in immediate connection with the present negotiations, or at a subsequent period.

The question of the differential duties at present imposed upon tea and coffee imported into the United States from this country as distinguished from similar importations from the place of growth, is one which has been especially brought under the notice of Her Majesty's Government, and has in fact already formed the subject of a correspondence with the Government of the United States, whose reply to the last communication addressed to them respecting it has not yet been received. My Lords trust that at a time when the whole of the commercial relations between the two countries are being passed under review, this question will be brought to a satisfactory solution. They would direct Lord Clarendon's attention to their letter of the 25th February last, as containing a full explanation of their views with reference to it.

Another subject, which it appears to their Lordships desirable to examine into upon the present occasion, is that alluded to in a letter addressed by Mr. Waldo, an American citizen, to Lord Palmerston, on the 26th September, 1850, and communicated by the Foreign Office to my Lords on the 6th August, 1851, respecting the method in which the Customs' duties are assessed in the United States upon the invoice value of the articles imported.

It is stated in that letter that when the Tariff of 1842 was passed, the pound sterling was fixed at 4 dollars 84 cents, for the purpose of assessing the duties, instead of at 4 dollars 44 cents, as previously, the shilling being similarly fixed at 24·2 cents, instead of 22·2 cents, an increase of 9 per cent. to the disadvantage of the importer. The valuation of the French franc was, however, left unaltered at the old rate of 18½ cents. Such an arrangement appears to constitute a virtual differential duty in favour of France, and as there is no law to prevent other nations from entering their goods in francs, advantage seems to be taken of this by various countries; and besides France herself, and Belgium and Switzerland (which two latter countries use the franc in their ordinary commercial operations), Prussia and Saxony, where that coin cannot be supposed to be in ordinary use in commerce, are stated by Mr. Waldo to enter their goods in francs, when imported into the United States.

As it is manifestly impossible in practice that British goods can be similarly entered in francs in that country, or otherwise than in the ordinary British currency, a duty which formerly amounted to 30 per cent. *ad valorem*, and which nominally remains the same, virtually amounts to 33 per cent. when the importation is made by a British merchant, while it still continues at the former rate of 30 per cent. in the case of the same goods brought from those countries that make use of the franc in valuing their shipments to the United States.

This subject appears to my Lords to be sufficiently important to render it desirable that it should be inquired into, and reported on by Her Majesty's Minister at Washington, for the purpose of ascertaining how far it may be possible to remedy the hardship complained of by Mr. Waldo, if his allegations prove to be well founded.

With regard to the more general question of the Tariff, reference to the subject appears especially appropriate on the present occasion, owing to the views expressed on the subject of the modification of the United

States Tariff by Mr. Fillmore, in the interview between him and Her Majesty's Minister at Washington in September last (as shown in the extract from Mr. Crampton's despatch of the 12th of that month, that has been already quoted), and also in consideration of the probable reopening of the negotiations consequent upon the recent change in the Government of the United States.

My Lords would wish to abstain as much as possible from particularizing items in the United States Tariff, which it might be more especially desirable, in the interests of British commerce, to see reduced. They may observe, however, that representations have at various times been made as to the benefits which would result to the trade of this country from a reduction in the duties levied in the United States on cotton manufactures, iron manufactures, and hardware and cutlery, coals, and linen manufactures.

Their Lordships direct me to inclose a memorandum, which has been prepared under their direction, showing, from the Statistical Returns of Congress, corroborated by the corresponding Returns of trade prepared in this country, the very beneficial consequences which have resulted to the United States from the partial relaxations introduced in their own Tariff in 1846, and the consequent probability of still further benefit being reaped by the vast American Republic from a still further advance in the direction of free trade. It is needless to enlarge upon the prosperity that has been induced in this country by the adoption of similar measures for the reform of our Tariff, and the extension of their application whenever an opportunity of doing so has presented itself to us. Although, however, the free-trade policy that now governs our relations with Foreign States was adopted by us, and with such extraordinary success, for our own sakes, and with a more especial view to our own interests, yet the benefits conferred by it are not confined to ourselves, but are shared in by the different nations with which our commercial intercourse is carried on, and amongst which the United States stand pre-eminently distinguished. Consequently, the promotion and increased development of the practical application of principles whereby such results are brought about, cannot but be an object of interest to Her Majesty's Government, and it will afford my Lords much satisfaction to enter into a dispassionate examination of any proposals having that end in view that may be brought before them.

It appears to my Lords a matter very worthy of consideration, both to Her Majesty's subjects and to the citizens of the United States, how far the great increase of trade which in both countries has followed the reductions simultaneously made in the year 1846, may be attributed, not exclusively to the adoption of a sound policy in each country by its own Government, but also, in great part, to this very circumstance, that the bonds of industry were relaxed in both countries at the same time; and whether a steady continuance in the same more liberal policy by each country may not contribute in the highest degree to their mutual prosperity in future years.

This consideration will derive additional weight when it is remembered that the trade between the United Kingdom and the United States of America now constitutes by far the most important foreign trade carried on by either country. Our exports to that Republic are now more than double our exports to any other State, seven times those to France, twelve times those to Russia, fourteen times those to Belgium, to Portugal, or to Spain, thirty times those to Sweden and Norway together. This enormous trade is, moreover, carried on with the nation of all the nations of the earth that most nearly resembles our own in the character of its people, in their wants and requirements, their tastes and habits, and that is therefore best able to relieve us of our redundant supply of our produce and manufactures, giving us, in return, the raw materials of those manufactures which she produces so extensively.

It appears to my Lords to follow, from considerations such as these, that the greatest advantage to both parties may be looked for from the attainment of a good understanding between them on all questions that bear upon their mutual commercial intercourse; and an occasion like the

present seems to be especially adapted for bringing such questions under consideration, their satisfactory solution being calculated to extend their existing amicable relations still further, by the removal of all unnecessary and vexatious restrictions, and to foster and promote that kindly international feeling, the surest guarantee for which has been shown, by long and unchanging experience, to consist in the strengthening of the bonds of commercial friendship and intercourse.

I have, &c.

(Signed) J. EMERSON TENNENT.

Inclosure in No. 138.

Memorandum on the Trade between the United States and the United Kingdom, as influenced by the Commercial policy pursued by America in her Tariffs of 1842 and 1846 respectively.

IT is not necessary, for the purpose of inquiring into the above subject, to do more than allude very briefly to the policy by which the United States have from time to time been guided in regulating the conditions of their commercial intercourse with other nations, since the period of their obtaining their independence. The experience of the last ten years furnishes in itself all that is necessary for ascertaining how far the, comparatively speaking, Free Trade Tariff of 1846 has been the means of benefiting or injuring those, the advancement of whose interests alone forms the object of the Legislature of any country in its legislation,—namely, the inhabitants of that country, in this case, the Americans.

As respects the history of the earlier days of the Independence, it may suffice to mention that a protective system was generally advocated in the United States at that period, at least in theory. But it was not till 1816 that such a system was actually methodized and made paramount there. A very protective Tariff was enacted in that year, which remained in force till 1832. The Southern States, however, the great producers of the staple articles of national growth, such as cotton, tobacco, and rice, found that that Tariff was, in practice, detrimental to their interests. The manufacturing States of the north, on the other hand, were ardent supporters of it, and the commercial dissensions of the two great divisions of the Union gradually assumed a high political importance which even threatened its dissolution. The serious evils produced by this state of things led to the passing, in 1832, of the Act known generally as the "Compromise Act," which provided for a gradual reduction of the duties on imports, until they reached, in the generality of cases, an average rate of 20 per cent. *ad valorem*, at the end of ten years, or in 1842. When that time arrived, the Northern States had again acquired a preponderating influence, and the protective Tariff of 1842 was the consequence. This Tariff, based on the principle of fixed or specific duties, and not on the system of *ad valorem* duties, remained in force till 1846, and may be looked upon as the culminating point of the modern practical application of the protectionist theory in the United States. On the 1st of December of that year, the present *ad valorem* Tariff, which is of a far more liberal nature than its predecessor (though far from being based absolutely and in every particular on the principles of free trade, which it may be presumed to have in view), came into operation. The average rate of the duties levied under it may be taken as being 30 per cent. *ad valorem*, an amount considerably greater than the average rate that prevailed at the end of the ten years during which the "Compromise Act" remained in force.

Confining the attention, however, to the last ten years in the case both of this country and of the United States, it will be found that that period naturally divides itself, for the purpose of comparison, into two equal periods of five years each, the first extending from 1842 to 1846 inclusive, and the second from 1847 to 1851 inclusive. In the United States the first quinquennial period marks an era of protection, the second, (at any rate comparative) free trade. In this country, on the other hand, the principles of free trade have prevailed throughout the whole of the

decennial period, commencing with the reformed tariff of 1842, and continued in the successive alterations introduced in that tariff and in the repeal of the Navigation Laws in 1849. In both countries, therefore, each quinquennial period has been marked by some striking application of the principle of either free trade or protection, and it cannot but be interesting and instructive to observe the practical effect as shown by the statistical returns of the two countries respectively.

The following tables will serve to exhibit the nature of that practical effect, and the extraordinary development that has taken place in the trade between the United Kingdom and the United States since the period when both countries commenced marching in the same path of commercial freedom, as contrasted with the time when they were moving in opposite directions, when this country was gradually developing the system of free trade, and America retrogressing towards protection :

I. RETURN of the value of British Exports to the United States in each year from 1842 to 1851, and also of the total value of those Exports in each of those years :

Years.	Exports to the United States.	Total Exports.
	£	£
1842	3,528,807	47,381,023
1843	5,013,514	52,279,709
1844	7,938,079	58,584,292
1845	7,142,839	60,111,082
1846	6,830,460	57,786,876
Average	6,090,740	55,228,596
1847	10,974,161	58,842,377
1848	9,564,909	52,849,445
1849	11,971,028	63,596,025
1850	14,891,961	71,367,885
1851	14,362,976	74,448,722
Average	12,353,007	64,220,891

The above table sufficiently demonstrates the success of the free trade policy adopted by us in 1842, in promoting the extension of our export trade, by which trade it is usual to measure the comparatively prosperous or unprosperous state of the country at different times. It will be seen that that trade has increased in almost a regularly progressive ratio, with only an occasional interruption, such as that caused by the commercial depression in 1848. But while this has been the case with our general export trade, which presented an increase of 16 per cent. in the second portion of the ten years, as compared with the first, our exports to the United States have in a similar manner experienced the enormous increase of 103 per cent. on the average of the last five years, when both countries were acting on the principles of free trade, over the average of the first five years, when England alone was moving in that direction, the United States meanwhile enforcing its protective Tariff. In 1842, our exports to the United States comprised only 7 per cent. of our total exports, while in 1851, they amounted to no less than 22 per cent. of those exports.

At the same time it is desirable to observe that even during the five

years of protection in the United States, our exports to that country, under the influence of our own free trade policy, continued rapidly to increase, thus affording a remarkable evidence of the truth of the doctrine that if a country secures to itself such supplies of foreign commodities as it stands in need of, it will, by the very act of so doing, ensure the means of meeting those supplies by corresponding exports on its own part.

II. RETURN of the value of United States Exports to the United Kingdom (exclusive of Foreign Re-exports) in each year from 1841-42 to 1850-51, and also of the total value of those Exports in each of those years (taken from the United States Returns).

Fiscal Years.	Exports to United Kingdom.	Total Exports.
	Dollars.	Dollars.
1841-42	38,254,511	92,969,996
1842-43*	39,720,951	77,793,783
1843-44	47,794,124	99,715,179
1844-45	44,234,279	99,299,776
1845-46	45,501,957	102,141,893
Average	43,101,164	94,384,125
1846-47	86,266,935	150,637,464
1847-48	67,762,741	132,904,121
1848-49	76,628,294	132,666,955
1849-50	68,733,730	136,946,912
1850-51	109,531,612	196,689,718
Average	81,784,662	149,969,034

This return, equally with the one already given, shows the benefit that has accrued to American commerce by the adoption of the less restrictive Tariff of 1846. The results exhibited in the second period of five years correspond with the results as to British commerce in Table I. But while the latter commerce, both generally and with the United States in particular, was steadily developing itself throughout the whole of the first period of five years, under the influence of the free trade principles put in force in the British Tariff of 1842, and despite the hostile Tariff of America, the commerce of the United States, both with this country and with the world at large, remained stationary, if it did not actually retrograde during that period, thus seeming to show that their protective Tariff served principally to inflict injury on those whom it was intended to benefit, while it was powerless to retard the onward progress of those whose competition it was intended to exclude from the American market.

It is important, however, to bear in mind, in comparing the statistics of the trade between this country and the United States, as shown by the British and American Returns respectively, that the value of specie and bullion is always taken into account in the latter Returns, both of imports and of exports, while the Returns prepared in this country do not include the value of those articles in any case. In consequence of the Californian gold discoveries, this item is likely to be a constantly increasing one in the return of American exports. Until recently it was of comparatively trifling amount, but in the fiscal year 1850-51, it amounted (in addition to more than eleven millions of foreign specie and bullion re-exported,) to 18,069,580 dollars, or nearly 4,000,000*l.*, of which sum 11,572,608 dollars, or nearly

* Nine months only, owing to change in the manner of keeping the United States' accounts.

2,500,000*l.* was exported to this country, the great bulk of the remainder being sent to France.

It is also worthy of notice, that the import of bullion and specie into the United States, in the year 1850-51, was very far from being insignificant in amount, as the following figures will show, although, of course, considerably less than their export:—

Bullion.	Dollars.
Gold	196,446
Silver	48,471
Specie.	
Gold	3,372,644
Silver	1,835,942
Copper	89

Total . . . 5,453,592 dollars,

or more than 1,100,000*l.* sterling.

Of the above amount the following were the imports from the United Kingdom:—

Bullion.	Dollars.
Gold	32,751
Specie.	
Gold	996,600
Silver	69,316

Total . . . 1,098,677 dollars,

or nearly a quarter of a million sterling.

The following table will serve to show the proportions in which our export trade to the United States was divided amongst the principal articles of export, in the first and last years of the decennial period now under examination, and to exhibit in detail the extraordinary increase that has taken place in that trade.

III.—RETURN of the value of the principal Articles of British and Irish Produce and Manufactures exported to the United States in each of the years 1842 and 1851.

	Exports in 1842.	Exports in 1851.
	£	£
Apparel, slops, &c.	84,893	667,065
Cotton Manufactures	484,384	1,972,988
Earthenware	168,873	540,251
Hardwares and Cutlery	298,881	1,080,487
Iron and Steel	394,854	2,818,354
Linen Manufactures	463,038	1,531,411
Silk Manufactures	81,243	468,268
Tin Wares	142,094	644,453
Woollen Manufactures	875,647	2,437,061
All other articles.	534,900	2,202,638
Total	3,528,807	14,362,976

It is in the next place important to show the very great extent to which the commerce of the United States has been benefited by the liberal changes made in the British tariff. The reductions therein effected since 1841, as especially applicable to American productions, are very notable. In fact, the duty on tobacco is the only one that has not been reduced—

considerably, and that duty is maintained at its present level simply and solely on fiscal grounds, the receipts under it amounting to no less than between four and five millions sterling per annum. It should also be borne in mind that the growth of tobacco is prohibited in this country, so that that produced in the United States enjoys a virtual monopoly in the British market.

In the case of by far the most important article of export from the United States, namely, cotton, the duty of 2s. 11s. per cwt. that formerly was levied upon it, and which imposed an annual tax of 500,000*l.* and upwards on the American cotton imported into this country, was replaced in 1845 by absolute freedom from duty.

The following table shows the reductions made in the British Tariff since 1841, and also the practical advantages thereby conferred on the trade of the United States, as exhibited by the present extent of the imports of the principal articles of American imports, contrasted with the imports of the same articles in the year 1841, the year immediately preceding the reforms introduced in this country in 1842:

IV.—RETURN of the principal Articles of Import into the United Kingdom from the United States, in each of the years 1841 and 1851, showing the rates of Duty and the Quantities imported.

ARTICLES.	1841.		1851.	
	Imports.	Rates of Duty.	Imports.	Rates of Duty.
Cheese cwt.	15,038	s. d. 10 6	84,074	£ s. d. 0 5 0
<i>Corn, viz.:—</i>				
Wheat .. qrs.	10,553	Protective sliding scale.	202,436	0 1 0
Indian corn .. „	1,469		295,977	0 1 0
Wheatmeal .. cwt.	359,745		2,482,964	0 0 4½
Cotton wool .. lbs.	358,240,964	2s. 11d. per cwt.	596,638,962	Free
Logwood .. tons.	1,115	£ s. d. 0 4 6	5,788	Free
<i>Oil:—</i>				
Train, &c. .. tuns.	5	26 10 0	2,148	Free
Sperm .. „	501	26 10 0	2,438	Free
Rice cwt.	145	British cleared 15s.; other 1s.	28,353	0 1 0
in the husk .. qrs.	40,313		2s. 6d.	29,885	0 1 0
<i>Skins:—</i>				
Deer No.	126,970	2d. each	70,328	Free
Goat „	1	2d. per dozen	59,759	Free
Minck „	109,257	4d. each	160,408	Free
Musquash „	191,944	1s. per 100	1,163,979	Free
Tallow cwt.	1,208	3s. 2d.	39,032	0 1 6
<i>Tobacco:—</i>				
Unmanufactured lbs.	42,132,969	3s. 0d.*	23,800,470	0 3 0*
Manufactured and Snuff .. „ } .	1,438,473	{ Cigars 9s.* Snuff 6s.* }	1,849,881	{ Cigars 9s.* Snuff 6s.* }
Turpentine .. cwt.	361,622	4s. 4d.	434,761	Free, if worth less than 15s.; 2s., if worth more.

* With 5 per cent. additional.

The results indicated by the above table exhibit in such a very striking manner the great boon conferred upon the trade of the United States by the liberal provisions of the reformed tariff of this country, that any comment upon them appears unnecessary, beyond mentioning that they prove that we have, in adopting that tariff, given that equivalent of concession to the United States which would fully justify her in extending, in the spirit of just reciprocity, a corresponding amount of concession to the trade of the United Kingdom.

The subjoined table, compiled from the American returns, will serve as a final illustration of the benefit reaped by the United States from the reform in our tariff. It corresponds to the return last given, inasmuch as it represents the same export trade from the United States to this country; but it differs from it by means of measuring that trade by its value, which cannot be shown by the British returns, no record of the real value of imports being attempted to be taken in this country. It will be seen by it that cotton, wool, and other articles that are admitted entirely free of duty into the United Kingdom constitute an overwhelming proportion of the total trade, while the table that has been already given of British exports to the United States shows that that export trade consists almost entirely of articles that are subject, even under the reformed United States tariff of 1846, to a duty of no less than 30 per cent. *ad valorem*.

V. RETURN of the value of Exports from the United States to the United Kingdom in the year 1850-51, as compared with the year 1841-42 (stated exclusive of Foreign Re-exports).

	1841-42.	1850-51.	Increase.
	Dollars.	Dollars.	Dollars.
<i>The Sea:</i>			
Oil, Sperm	137,833	986,581	848,748
„ Whale, &c.	21,270	262,016	240,746
<i>The Forest:</i>			
Tar, Pitch, Rosin, and Turpentine	575,574	761,408	185,834
Skins and Furs	467,879	752,786	284,907
<i>Agriculture:</i>			
Beef and Tallow	168,597	895,783	727,186
Butter and Cheese	141,982	641,774	499,792
Pork, Bacon, and Lard	237,028	1,587,351	1,350,323
Wheat	183,696	644,722	461,026
Wheat-meal	1,242,787	4,573,009	3,330,222
Indian Corn	75,901	1,334,879	1,258,978
Rice	280,073	308,238	28,165
Cotton	30,102,417	79,720,854	49,618,437
Tobacco	3,212,207	3,458,885	246,678
<i>Manufactures:</i>			
Tobacco, manufactured, and Snuff	24,686	258,723	234,037
Specie	599,491	11,572,608	10,973,117
All other Articles	783,090	1,771,995	988,905
Total	38,254,511	109,531,612	71,277,101

The different tables and returns that have now been given, will, whether examined separately or as parts of a whole, probably suffice to

demonstrate that, while on the one hand the trade of this country has experienced, to an extent which it was impossible to foresee, the benefit of the commercial reforms originally made by ourselves in 1842, and subsequently carried still further; the trade of America has on the other hand experienced a similar benefit from the commercial reforms commenced by her in 1846, and now awaiting their further and natural extension. The adoption of the Tariff of 1846 by that country, combined with the beneficial action of our own Free Trade Tariff, has led to a vastly increased trade between England and America; their mutual imports and exports have augmented in a ratio almost unprecedented; and the commercial prosperity of both countries, aided by the healthy stimulus of competition induced by lowered tariffs, has advanced in no less a ratio.

If, then, these results are so manifest,—if they are confirmed by every statistical table, and by every physical evidence,—it does not appear unreasonable to hope that, now that the time has arrived when America desires calmly to review her commercial relations with this, her older mother country, but now her sister rival in the paths of industry and commerce, she will be not only willing, but, for her own sake, desirous to advance still farther in the direction in which she has been moving.

No. 139.

Sir J. Emerson Tennent to Lord Wodehouse.—(Received April 23.)

*Office of Committee of Privy Council for Trade,
Whitehall, April 22, 1853.*

My Lord,

I AM directed by the Lords of the Committee of Privy Council for Trade, to forward to you, for submission to the Earl of Clarendon, the copy of a memorial from the Chamber of Commerce of Jersey, on the subject of the British North American fisheries.

I have, &c.

(Signed) J. EMERSON TENNENT.

Inclosure in No. 139.

Address from the Chamber of Commerce, Jersey, to the President of the Board of Trade.

To the Right Hon. Edward Cardwell, President of the Board of Trade.

THE representation of the Chamber of Commerce of the Island of Jersey humbly showeth,

That the merchants of this island have for upwards of a century been extensively engaged in the North American fisheries in Newfoundland, Canada, New Brunswick, and Cape Breton, at all of which they have large establishments for carrying on the trade, which have been erected at a considerable expense:

That the number of vessels employed in the fisheries by the merchants of this island may be estimated at about 100, measuring upwards of 10,000 tons, giving employment to about 2,000 British seamen, and a still greater number of fishermen in the colonies:

That the capital so employed by them may be estimated at a quarter of a million pounds sterling:

That the fisheries are therefore of very great value, not only from the number of vessels and the capital employed in them, but also as a nursery for seamen:

That this trade has for several years past been suffering from various causes, partly from the privilege possessed by Spanish vessels of importing fish into Spain and her colonies at a less duty than that levied on fish imported in British ships, and principally by the bounties given by the French and United States Governments to their respective subjects, and

which are so considerable as to enable them not only to compete successfully with, but to undersell, the British merchants in foreign markets:

That the encouragement given to their fisheries by the French Government will be apparent from the following statement of bounties allowed by them; viz.:

- 50 francs per man for the shore-fisheries in Newfoundland and Iceland.
- 30 francs per man for the fishery on the banks of Newfoundland.
- 15 francs per man for the fishery on the Dogger Bank.
- 200 francs per ton for all dry fish exported to the French colonies.
- 160 francs per ton for fish exported to the foreign countries bordering the Mediterranean.
- 120 francs per ton for fish exported to Sardinia and Algeria.

That under all these circumstances the Chamber of Commerce believe that if any concessions are made by the British Government, they will be most prejudicial to the interests of the British fishery, and may be productive of its ruin:

That the Chamber has heard with some alarm that on an application from the Governments of France and of the United States for a revision of the existing Treaties regulating the fisheries in America, and asking for concessions to enable them to fish where they are not at present allowed, Her Majesty's Government has so far acceded to their request as to name a Commissioner to take these demands into consideration.

The Chamber would therefore humbly pray that instructions be given to the said Commissioner to make no alteration in the existing Treaties, as otherwise the British merchant will be sacrificed, and the trade will eventually fall into the hands of the French and Americans, who now enjoy most important advantages from the bounties allowed them by their respective Governments.

Jersey, April 16, 1853.

(Signed)

CHARLES LE QUESNE,
President.

No. 140.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, April 27, 1853.

WITH reference to your letter of the 11th instant, respecting the negotiation of a Commercial and Fishery Convention with the United States, I am directed by the Earl of Clarendon to transmit to you copies of a letter,* and its inclosure, from the Board of Trade, giving a most able and elaborate report upon the course which it is desirable for Her Majesty's Government to adopt in this matter; and I am to request that you will move the Duke of Newcastle to inform Lord Clarendon whether, in so far as the interests of Her Majesty's Colonies are concerned, his Grace has any observations or suggestions to make thereupon; and that you will acquaint his Grace that if he concurs in the view which is taken of the subject by the Board of Trade, and which seems to Lord Clarendon to embody all that need be noticed, his Lordship will instruct Mr. Crampton to consider the course recommended by the Board of Trade as that which he is to adopt in his communications with the American Government.

I am, &c.

(Signed)

H. U. ADDINGTON.

* See No. 138.

No. 141.

Mr. Addington to Sir J. Emerson Tennent.

Sir,

Foreign Office, April 29, 1853.

I HAVE laid before the Earl of Clarendon your letter of the 22nd instant, inclosing a memorial from the Chamber of Commerce at Jersey, praying that Her Majesty's Government will not make any alteration in the existing Treaties with France and the United States relative to the fisheries off Newfoundland and the coasts of British North America; and I am directed by his Lordship to suggest that the Chamber of Commerce should be informed by the Board of Trade, that in any negotiations which may take place with France or the United States, due regard will be paid to the interests of the British Colonies, which are identical with those of Jersey on the Fishery question.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 142.

Mr. Merivale to Mr. Addington.—(Received May 4.)

Sir,

Downing Street, May 3, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, the copy of a despatch from the Lieutenant-Governor of Nova Scotia, reporting the measures to be adopted by the local authorities for the protection of the fisheries during the ensuing season; and I am to state that the Duke of Newcastle proposes, with his Lordship's concurrence, to approve the arrangements for placing the provincial vessels and boats to be employed on this service, under the immediate direction and control of the Admiral on the station.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 142.

Sir G. Le Marchant to the Duke of Newcastle.

*Government House, Halifax, Nova Scotia,
April 14, 1853.*

My Lord Duke,

I HAVE the honour to acknowledge the receipt of your Grace's despatch of the 28th ultimo, marked Confidential, inclosing a letter addressed to the Lords Commissioners of the Admiralty signifying the commands of the Queen that adequate naval protection be afforded in the ensuing season to the British fisheries; and in order to assure your Grace of the great desire entertained by the Provincial Government in no way to interfere with the lawful exercise of whatever right American citizens may by Treaty be entitled to, and to act with such caution and forbearance that no unnecessary cause of offence or excitement may be created during the approaching season, I beg leave to transmit to your Grace a copy of my letter of the 13th instant, to the Vice-Admiral commanding on this station, together with a copy of a minute made at a meeting of my Executive Council, held for the purpose of considering the best and most judicious course to be pursued in expending the grant of 3,000*l.* voted by the Legislature for the protection of the fisheries.

By this minute your Grace will perceive that the Executive propose to expend the vote of 3,000*l.* in hiring vessels and boats to be officered and manned from the ships of the squadron instead of, as has heretofore been the case, by masters and crews engaged by the Provincial authorities, should the same meet with the Admiral's approval,

This will place the force under the immediate direction and control of the Admiral, who will thereby be enabled to act in accordance with his instructions from the Home Government, without having to cooperate with an auxiliary force fitted out by the province and acting independent of his orders. I trust that this course will be satisfactory both to the Admiral and to Her Majesty's Government.

I have, &c.
(Signed) S. G. LE MARCHANT.

Inclosure 2 in No. 142.

Minute.

(Extract.)

AT a Council held at Government House, the 12th day of April, A.D. 1853 :

PRESENT :

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

The attention of the Lieutenant-Governor was called to the grant of 3,000*l.* for the protection of the fisheries, passed during the last session. His Excellency is advised to communicate with his Excellency Vice-Admiral Sir George Seymour as to the mode in which that sum can be most judiciously expended for the advantage of the public service; and should the Vice-Admiral be prepared to man and control such provincial vessels and boats as may be hired for the season, the Lieutenant-Governor is advised to place them at his disposal.

Inclosure 3 in No. 142.

Sir G. Le Marchant to Vice-Admiral Sir G. Seymour.

*Government House, Halifax, Nova Scotia,
April 13, 1853.*

Sir,

I HAVE the honour to transmit to your Excellency a copy of a minute made at a meeting of my Executive Council on the 12th instant, held for the purpose of considering the best and most judicious course to be pursued in expending the grant of 3,000*l.* voted by the Legislature for the protection of the fisheries during the present season; and I beg to invite the recommendation of my Council to the consideration of your Excellency, that the provincial vessels and boats hired for the season should be manned from the ships of your squadron, and thus placed under the immediate control of your Excellency; and I shall be happy to learn that the same meets with your approval, and that your Excellency may be prepared to carry out the views expressed in the accompanying minute

I have, &c.
(Signed) S. G. LE MARCHANT.

No. 143.

Mr. Merivale to Mr. Addington.—(Received May 7.)

Sir,

Downing Street, May 6, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the information of the Earl of Clarendon, the copy of a despatch from the Lieutenant-Governor of New Brunswick, inclosing an address to the

Queen from the Legislative Council and House of Assembly of that province on the subject of the fisheries, and the negotiations now pending with the American Government.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 143.

Sir Edmund Head to the Duke of Newcastle.

*Government House, Fredericton, N. B.,
April 9, 1853.*

My Lord Duke,

I HAVE the honour to request that the inclosed address, from the Legislative Council and Assembly of New Brunswick to Her Most Gracious Majesty, may be laid at the foot of the Throne.

I have, &c.
(Signed) EDMUND HEAD.

Inclosure 2 in No. 143.

Address from the Legislative Council and Assembly of New Brunswick to Her Majesty.

To the Queen's Most Excellent Majesty.

The humble address of your Majesty's Legislative Council and House of Assembly of the Province of New Brunswick.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the Legislative Council and Assembly of New Brunswick, beg leave to approach your Majesty with sentiments of profound respect and with unabated attachment to your Majesty's person and Government.

The prompt and efficient protection afforded by your Majesty's Naval Forces to the fisheries of British North America, which secured its coasts from foreign aggression during the past year, and enabled British subjects to enjoy unmolested their rights and privileges, has inspired the inhabitants of New Brunswick with increased confidence in the determination of your Majesty's Government to maintain to the fullest extent their claim to this invaluable source of industry and wealth; and we again entreat that your Majesty will be pleased to continue such protection, being impressed with the belief that it will prove much more advantageous and satisfactory than the acceptance of any equivalent yet offered by the American Government for a participation in these fisheries; a full and unmolested enjoyment of which is of the utmost importance, forms an incalculable source of wealth, and is of inestimable value to the people of New Brunswick.

Maritime nations at all times, and in every quarter of the globe, have set up and maintained certain exclusive privileges within three marine miles of their shores; and by universal custom, and the law of nations, the claim has been defined by lines, not within bays but from the entrance of such bays, as designated by a line drawn from headland to headland forming such bays; which law has been fully recognized by the most eminent American as well as other jurists: and by the Articles of the Convention of 1818, the United States thereby renounced for ever the liberty of fishing within three marine miles of the coasts, bays, creeks, or harbours of certain portions of the British North American Colonies; this Treaty stipulation is clearly expressed, and is incapable of misconstruction.

The proposition of the American Government to concede to us the privilege of fishing on their coasts, as an equivalent for a participation in the coast fisheries of those colonies, is delusive, and so utterly disproportion-

tioned in the benefits intended to be conferred on the respective parties, that it ought not in justice to your Majesty's colonial subjects to be entertained; with the best fisheries in the world upon our own shores our fishermen would seldom seek the waters of the United States for fish. This specious offer can only deceive the uninformed, and is well known, both by the Americans and colonists, to be comparatively valueless to the latter, while the privileges sought to be obtained by the people of the United States are acknowledged to be of momentous concern to them, forming a nursery for seamen and a source from which they derive maritime importance.

When the welfare of the empire demanded extensive changes in the regulations of trade, and alterations in her relations with foreign nations, the particular interests of the colonies were not permitted to disturb the general arrangement by the continuance of a protective policy. The fisheries are the gift of a beneficent Providence to the countries they surround, and necessarily form no part of any complicated policy. The fisheries on the shores of New Brunswick, it is humbly submitted, belong to the people, and to allow them to be participated in by a Foreign Power without their consent, would be a sacrifice of their rights and interests; place the colonists in a humiliating position too painful to contemplate; and be inconsistent with the national honour.

We respectfully desire to express our opinion that the fisheries in the rivers, harbours, and estuaries, should be reserved exclusively for the people of this province, and that no foreigners should be permitted to participate therein upon any terms or conditions whatever.

We most urgently press upon your Majesty's consideration the anomalous position in which the North-American colonies are placed by the present commercial relations with the United States. While your Majesty's Government, with unexampled liberality, has opened the ports of the colonies to that Republic, by which American ships are permitted to enter therein on the same terms as British ships, and take on board cargoes either for the United Kingdom or any other colony, colonial as well as other British vessels are precluded from carrying cargoes from one State of the Union to another; and this restriction is extended even to the State of California. American ships and steamers are built and equipped in the United States, sold in the British and colonial markets, evade the high import duties on the various articles used in their construction, receive British registers, and have all the advantages connected with these privileges; while British and colonial ships possess no such privileges and advantages in the United States. American manufactures are admitted into the province at the same rates of duties as are charged on British merchandise, and while such manufactures are admitted into this province at a duty of $8\frac{1}{2}$ per cent., *ad valorem*, the products of New Brunswick are subject upon importation into the United States to duties from 20 to 30 per cent. They enjoy the privilege of sending the staple commodities of wheat, flour, and other bread stuffs to the British market, free of duty, competing with your Majesty's colonial subjects upon equal terms, in our own markets, while they impose a duty of 20 per cent. on similar colonial productions imported into the United States. The present state of the respective tariffs is one which creates vexatious and harassing impediments to the general commerce of the country, and, added to the exclusion of colonial-built ships from registry in American ports, is the cause of well-grounded complaint by your Majesty's colonies; and the unequal pressure serves only to implant feelings of disappointment and retaliation.

We regret to observe that these important and gratuitous concessions which have conferred upon the citizens of the neighbouring Republic commercial advantages not possessed by your faithful colonial subjects, have not been met by the Government of the United States in the same enlightened and liberal spirit with which they were granted, and that had they been withheld by your Majesty's Government, we believe to obtain them the American people would willingly have ceded to the colonies an equal participation in similar privileges to those they have thus obtained without an equivalent.

We have reason to apprehend from recent official papers laid before Congress, as well as by the Message of the late President of the United States to that body, that the American Government will endeavour to negotiate separate Treaties on the subject of the fisheries and reciprocal trade. This course we are decidedly of opinion, if acceded to by your Majesty's Government, would be extremely adverse to the interests of British North America. We humbly contend that only one Convention embracing all the objects now under discussion between the two Governments, relative to the fisheries and the freedom of commerce should be negotiated; such Convention to contain a provision reserving to your Majesty's Government the full right of withdrawing any concession of the fisheries that it might be deemed expedient to make, upon giving due notice of such intention, whenever it may be thought proper so to do.

Being fully sensible of the vast importance of establishing the commercial intercourse between these colonies and the United States upon an enlightened and liberal basis, and entertaining a cordial desire to promote a friendly feeling with that country, we beg to express our readiness to afford every facility in accomplishing this great international object as far as a due regard to the rights and interests of your Majesty's faithful subjects, the people of New Brunswick, will justify.

Influenced by these principles, we would respectfully suggest, that whenever the Government of the United States are prepared to concede reciprocal trade to your Majesty's Colonial Possessions in North America in the following articles, viz.:—grain and bread stuffs of all kinds; vegetables; fruits; seeds; hay; straw; hemp; flax; trees; plants; rice; cotton; unmanufactured tobacco; hops; animals of all kinds; salted, fresh, smoked, and preserved meats; butter; cheese; lard; tallow; eggs; hides; horns; wool; undressed skins, and furs of all kinds; ores and minerals of all kinds; metals of all kinds in pigs and blooms; steel; copper; grindstones and stone of all kinds; marble in its crude or polished state; slate-earths; coal; lime; bricks; ochres; asphaltum; asphalt rock; maltha petroleum; naphtha; mastic; gypsum, ground and unground; rock salt; woods; logs; timber; lumber of all kinds, whether in the rough, hewn, sawn, or split; staves; firewood; the bark and roots of trees; ashes; fish of all kinds, whether fresh, salted, dried, smoked, or preserved; fish-oil; train, seal, and spermaceti oil; head-matter and blubber; fins and skins, and all other products of fish, or other creatures living in the waters, being the growth, production, or manufacture of your Majesty's North American Colonies and the United States respectively, when imported direct from the country producing the same: And also upon consideration that the American Government admit colonial-built ships to registry in American ports in the same manner and with the like privileges that American vessels are admitted to registry in any port of the British Empire: And further that they permit the vessels of New Brunswick to trade and carry cargoes between the different States of the Union, as American ships are now permitted to trade between colony and colony, and between the United Kingdom and the Colonies;—We would be willing to admit the American fishermen to a free participation with British subjects in the inshore and bay fisheries on the coasts of New Brunswick, with permission to land upon the coasts for the purpose of drying their nets and curing their fish, not interfering with the rights of private property or British fishermen; provided that the fishermen of New Brunswick are permitted to enjoy a free participation with American citizens in the inshore fisheries and the fisheries within the bays on the coasts of the United States, subject to the like conditions, limitations, and regulations, as should be imposed upon American fishermen in the waters of New Brunswick.

Should the American Government evince a disposition to open their coasting-trade, and to extend the principle of reciprocity to colonial ships within their boundaries, we would cheerfully meet such advances with a corresponding concession.

In common with many of the most enlightened American statesmen, we believe that a free exchange of the natural productions of the United States and these colonies, including those of the field and forest, the mines

and fisheries, would be mutually advantageous to both countries, and would rapidly enlarge their commercial relations, and add greatly to their prosperity ; we therefore feel a lively interest in the result of the negotiations now pending between your Majesty's Government and that of the United States.

The liberal commercial policy adopted by your Majesty, and introduced into these colonies, as well as other parts of the empire, under which the productions referred to are admitted into our markets either free or at a very light duty, leaves little to offer under our existing tariffs as an equivalent for the admission of our productions on corresponding terms with the States of the Union. Should these negotiations prove unsuccessful, and the Government of the United States persist in refusing to extend to these colonies advantages similar to those which the American people have obtained from Great Britain, we would earnestly urge on your Majesty the necessity of withdrawing the restrictions imposed upon the Colonial Legislatures, and leaving them to exercise their own discretion with regard to differential duties. We believe that this would be followed by such an adjustment of the tariffs of the British North American colonies, as, while it might restrict our trade with the United States, would extend in a corresponding degree our commercial relations and transactions with each other on terms mutually advantageous to the respective colonies. Such a course of legislation, securing as it would to the colonists a preference in their respective markets, would lead to a much more extensive exchange of the agricultural productions of Canada, for the produce of the mines and fisheries of the Lower Colonies ; it would impart a stimulus to those various branches of industry, and by enlarging their commercial intercourse, draw the colonists more closely together, while it would place the people of the United States in a position to form a more accurate estimate of the value of our colonial trade, and to judge whether it is for their own interest to have the intercourse between the two countries clogged with those commercial restrictions which still continue to form part of their policy.

In conclusion, we feel it our duty calmly to express our opinion that, in former negotiations between the United States and the mother-country, when colonial interests were at stake, the Americans have obtained the advantage ; but we confidently trust in your Majesty's desire to consult the wishes and feelings of your dutiful subjects the people of New Brunswick, and feel assured that their interests, so deeply involved in the pending negotiations, will not be sacrificed.

(Signed)

WILLIAM BLACK,
President of Legislative Council.
D. HORMYTUE,
Speaker of the Assembly.

No. 144.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, May 7, 1853.

I HAVE laid before the Earl of Clarendon your letter of the 3rd instant, and I am directed by his Lordship to state to you that he concurs in opinion with the Duke of Newcastle that the course proposed to be adopted by the Governor of Nova Scotia, in regard to placing the colonial vessels to be employed in protecting the fisheries under the orders of Vice-Admiral Sir George Seymour, should be approved ; and Lord Clarendon presumes that the Duke of Newcastle will make a communication accordingly to the Admiralty as well as to the Colonial Government.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 145.

Mr. Elliot to Mr. Addington.—(Received May 13.)

Sir,

Downing Street, May 12, 1853.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 27th ultimo, transmitting a report prepared by direction of the Lords of the Committee of Privy Council for Trade on the subject of the negotiation of a Commercial and Fishery Convention between this country and the United States.

I am to state in reply, for the information of the Earl of Clarendon that his Grace is of opinion that all the concessions considered requisite by the Board of Trade should be insisted upon, whilst on the other hand the possible inclusion of Newfoundland in the Treaty may be held out to the United States, but that further communication with the colony is requisite before that point can be finally decided.

I am, &c.

(Signed) T. FREDK. ELLIOT.

No. 146.

Mr. Addington to Sir J. Emerson Tennent.

Sir,

Foreign Office, May 13, 1853.

I AM directed by the Earl of Clarendon to transmit to you a copy of an address* from the Legislative Council and House of Assembly of New Brunswick, relative to the negotiation of a Fishery and Commercial Convention with the United States, and praying that if the United States will not make certain concessions, the Colonial Legislature may be allowed full liberty to impose such restrictions upon the commercial intercourse between New Brunswick and the United States as the colony may deem most expedient for its own interests; and I am to request that you will move the Lords of the Committee of Privy Council for Trade to favour Lord Clarendon with any observations upon this paper, and to inform his Lordship whether they see any reason therefrom to alter any part of their letter of the 20th ultimo.

I am, &c.

(Signed) H. U. ADDINGTON.

P.S.—I am also to request that the inclosed document may be returned to this office.

No. 147.

The Earl of Clarendon to Mr. Crampton.

(No. 30.)

Sir,

Foreign Office, May 20, 1853.

I TRANSMIT to you herewith copy of a letter† which has been recently received at this office from the Board of Trade, in reply to communications addressed in October last to that department from this office, in which communications the opinion of the Board of Trade was requested with regard to the questions involved in the Fisheries and Commercial Convention then in process of negotiation at Washington, between the British and United States Governments.

I transmit also to you a copy of a letter‡ addressed to this office from the Department of the Colonies, in which you will perceive that the Secretary of State for the Colonies entirely concurs in the views set forth

* See Inclosure 2 in No. 143.

† See No. 138.

‡ See No. 145.

in the communication from the Board of Trade on the subject of the Fisheries and Commercial Convention.

I have to desire that in any communications which may take place between yourself and the Government of the United States on the subjects to which these letters relate, you will shape your language strictly in conformity with the views therein set forth.

I am, &c.
(Signed) CLARENDON.

No. 148.

Mr. Elliot to Mr. Addington.—(Received May 26.)

Sir,

Downing Street, May 24, 1853.

I AM directed by the Duke of Newcastle to transmit to you for the information of the Earl of Clarendon an extract from a speech addressed by the Lieutenant-Governor to the Legislative Council and Assembly of Prince Edward Island containing observations on a report which he had recently received from Washington on the subject of the fisheries.

I have, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure in No. 148.

Extract from the Speech of Lieutenant-Governor Sir A. Bannerman, at the Prorogation of the Legislature, Charlottetown, Prince Edward Island, April 16, 1853.

A FEW days ago I received from Washington a voluminous report on the fisheries. In a note appended to that report, page 462, it is stated :

1st. This year every vessel which visits the harbours of Prince Edward Island is obliged to pay another tax, which is called anchorage dues. As almost all of our vessels visit the island, this new duty about doubles the tax on them.

2nd. It is said that the duty paid by our vessels is for the support of their lighthouses. But where are their lighthouses? There is no light on the whole northern coast of Prince Edward Island, which is most visited by our fishermenn, &c. Our fishing vessels alone pay light duty sufficient to have the coast well lighted.

3rd. The officers who collect those duties admit that they are unjust ; but still they say their Government must impose them. And how are they collected? The officers at the island offer to take anything when the captain hesitates about the paying in specie; they will take molasses, pork, or even oil-clothes. This is a nice way to smuggle in the goods.

As two thousand copies of this report have been ordered to be printed for the use of Congress, that body might justly consider that the subjects of a friendly Power were not very courteously treated in Prince Edward Island if such statements were allowed to pass unnoticed and unexplained.

Now it is admitted that "almost all the American fishing vessels visit the island." This admission is an important one: for it proves the value which is attached to such a fishing station in the Gulf of St. Lawrence. But they not only "visit the island," but they fish within half-a-mile of its shores, and during the season they frequent and occupy our harbours in fifties and a hundred at a time. And if they are charged anchorage duties for such accommodation, the Act which imposes a tax on American vessels levies the same tax on Provincial fishing vessels, and all British ships. and the ships of other nations. The duties collected are expressly appropriated by law for the purposes of navigation, in erecting beacons and lights, and laying down buoys, and however often ships may enter our ports anchorage dues are only exacted from each of them once within the year.

It is also stated "there is no light on the northern coast of Prince Edward Island." With regret I admit the fact. But I am happy to think that several are now in the progress of construction: and I trust the colony will follow the example of the Lighthouse Board recently established in the United States, who wisely refer the sites to be chosen for lights to experienced hydrographers.

Lastly. If any anchorage dues have been collected in this colony in the singular way alluded to in the statement, it is unknown to me and the gentlemen associated with me in the Executive, who will order a strict investigation to be made on the subject.

No. 149.

Mr. Crampton to the Earl of Clarendon.—(Received May 29.)

(No. 109.)

My Lord,

Washington, May 16, 1853.

I HAVE the honour to transmit to your Lordship herewith, in duplicate, an official copy of a message from the President of the United States, transmitting to the Senate copies of the remaining correspondence relative to the fisheries on the coasts of the British North American provinces not heretofore made public, and called for by a resolution of the Senate of the 17th of January last.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 149.

Message from the President of the United States, dated February 18, 1853, transmitting a Report from the Secretary of State in relation to the Fisheries on the Coasts of the British North American Colonies.

[See Congressional Papers, Ex. Doc. No. 3, Special Session.]

No. 150.

Mr. Merivale to Mr. Addington.—(Received June 4.)

Sir,

Downing Street, June 2, 1853.

WITH reference to my letters of March 21 and April 12 last, respecting the encroachment of American fishermen in the Gulf of Paria, Trinidad, I am directed by the Secretary of State to transmit to you for the information of the Earl of Clarendon, copy of a despatch from Lord Harris, reporting the departure of the American vessels on the arrival of Her Majesty's ship "Calypso" in the Gulf.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 150.

Lord Harris to the Duke of Newcastle.

My Lord Duke,

Trinidad, April 25, 1853.

WITH reference to my despatch No. 17 dated February 10, 1853, and inclosing a complaint from persons interested in the whale fishery here, relating to the interference with their operations by two American vessels, I have the honour to inform you that shortly afterwards, in consequence

of information received from me through Sir William Colebrooke, Her Majesty's ship "Calypso," Captain Forbes, arrived in the Gulf of Paria.

The American vessels on this thought it prudent to retire, and have not since been heard of.

I have, &c.
(Signed) HARRIS.

No. 151.

The Secretary to the Admiralty to Mr. Addington.—(Received June 9.)

Sir,

Admiralty, June 7, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Earl of Clarendon, the inclosed extract of a letter from Vice-Admiral Sir George F. Seymour, dated 26th ultimo, with reference to the protection of the fisheries in the Bay of Fundy.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure in No. 151.

Vice-Admiral Sir G. Seymour to the Secretary of the Admiralty.

(Extract.)

May 26, 1853.

THERE are rumours of a disposition to use the same means in that quarter to prevent seizures which were tried some years since near Eastport, and were then successful, to release the vessels seized.

No. 152.

Mr. Crampton to the Earl of Clarendon.—(Received June 13.)

(Private.)

(Extract.)

Washington, May 30, 1853.

A GENTLEMAN from Newfoundland, Mr. Shea, has been here, deputed by that colony to express their wish to be included in the reciprocity and fishery arrangement. I told him that my present instructions were not to include Newfoundland; but that there would be ample time for the Newfoundland Legislature to make known their views to Her Majesty's Government, and for them to instruct me accordingly. I am not aware whether there were any other reasons for the exclusion of Newfoundland than the wishes of the colony itself, but their House of Assembly have now passed an unanimous Resolution in favour of participating in the arrangement with the United States; and their doing so would remove a serious objection on the part of this Government to opening its markets to the fish of the other colonies, excluding Newfoundland, namely, that in that case the fish, oil, &c., from Newfoundland would be sent to those colonies and imported into the United States without its being possible to distinguish its origin; and that Newfoundland would thus, practically, obtain the freedom of the American market without having granted the equivalent conceded by the other British colonies.

Mr. Green, our Consul at Greytown, called upon me yesterday, on his way to England. He says, things have been arranged between the municipal authorities there and the Transit Company for the present; but he fears that the instructions lately sent to Captain Hollins, differing, as they do, from those given by Mr. Webster to the United States Naval Forces, and under which they were acting in concert with ours, may lead to

difficulty. I have already pointed out this to Mr. Marcy, who was not aware of Mr. Webster's instructions, but who is now in possession of them. I will press upon him the necessity of modifying his instructions to Captain Hollins accordingly.

P.S.—I see that a deputation of the Peace Conference in England have presented to you a memorial and a report of the Committee of Foreign Relations of the United States Senate, in regard to the insertion of an arbitration article in all future Treaties between the United States and other Powers. The deputation, however, were incorrect in saying, that "the Senate and Executive of the United States had signified their entire willingness to adopt such a stipulation." The Senate never adopted, or even discussed the "Resolution" recommended by the Committee: nor do I think it at all probable they will ever do so. Mr. Everett, at the time the Commercial Reciprocity Treaty was in negotiation, said, that he would have no objection to the insertion of an Article of the sort, if the Senate were to advise the President to that effect. I scarcely think the present Administration would encourage the idea. I inclose a copy of the report which, as it led to no discussion, I was not aware had been actually made, though I heard from Mr. Sumner, Senator from Massachusetts, that the subject was in agitation.

No. 153.

Mr. Merivale to Mr. Addington.—(Received June 17.)

Sir,

Downing Street, June 15, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the consideration of the Earl of Clarendon, an Act* recently passed by the Legislature of New Brunswick "relative to the coast fisheries, and for the prevention of illicit trade;" and I am to state, that his Grace would wish to receive the opinion of Lord Clarendon upon the provisions of the Act before submitting it for Her Majesty's decision.

I am, &c.

(Signed) HERMAN MERIVALE.

No. 154.

Mr. Merivale to Mr. Addington.—(Received June 20.)

Sir,

Downing Street, June 18, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the information of the Earl of Clarendon, copies of three letters from Vice-Admiral Sir G. Seymour to the Secretary of the Admiralty, relative to the protection of the fisheries on the coast of Nova Scotia.

I am, &c.

(Signed) HERMAN MERIVALE.

* Not printed.

Inclosure 1 in No. 154.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," at Halifax, May 26, 1853.

I HAVE the honour to acquaint you that on my arrival at Halifax I placed myself in communication with the Lieutenant-Governor Sir Gaspard Le Marchant, and concurring with his Excellency for the reasons given in my letter No. 83, that advantage would be derived to the public service from the hired Provincial vessels being placed under my control and manned from the "Cumberland," and as your letter of the 5th instant, No. 98, leaves it to me to take such steps as I think best on the subject, I have agreed to officer and man from the "Cumberland" two vessels, selecting them from those which have been tendered to the colony.

I continue to think it advisable that the colony should not be called upon to pay the wages of the officers and men during the period of their service within the present season, for the reasons given in my above letter, and also, that should any emergency arise to oblige me to recall them to the "Cumberland" there would be less difficulty in doing so than if their payment had been thrown upon the colony.

As I propose to hire also two schooners for the general service of the fisheries of the Gulf of St. Lawrence and coast of Labrador besides the "Netley," there will be five tenders manned from the "Cumberland" requiring 140 men.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 154.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

(Extract.)

May 26, 1853.

THE arrival of the "Argus" and "Basilisk" for the protection of the North American fisheries has caused great satisfaction in this province, and I am taking measures to obtain small vessels to employ as tenders to carry out their Lordships instructions for the same object. The "Devastation" is at present on the coast of Newfoundland. I dispatched the "Netley" tender to the Bay of Fundy on the 19th instant, under the command of Lieutenant John Newport, of the "Cumberland," to protect the fisheries. I should recommend that a small brig should be sent out for that duty, and on her arrival the "Netley" will resume her occupation as a buoy-boat at Halifax.

A large vessel of war is required this year in the Bay, as there are rumours of a disposition to use the same means in that quarter to prevent seizures which were tried some years since near Eastport, and were there successful, to release the vessels seized.

I have received no information of any consequence since my arrival, but have reason to remark that the greater profit derived last year from the fisheries, and an increase in the value of agricultural produce, has had a very beneficial effect in this province.

Inclosure 3 in No. 154.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

(Extract.)

May 5, 1853.

I SUBMIT to their Lordships that it may be more desirable not to make any charge further than for the hire, fitting, and repairs and pilotage of the vessels, which would leave the control more clearly in my hands.

I also think that the colony should be able to reserve a part of the

sum voted, if the Government desire to place boats or guards on any part of their coasts where encroachments are most likely, to act under the direction of a magistrate, or to protect the revenues.

Inclosure 4 in No. 154.

Estimate of the Expense of a Tender and her Crew for Five Months.

	£	s.	d.	s.	d.	
Pay of 1 lieutenant	75	0	0	at 10	0	a-day.
„ 2 midshipmen	26	5	0	„ 1	9	„
„ 2 petty officers	25	0	0	„ 1	8	„
„ 20 able seamen	200	0	0	„ 1	4	„
„ 1 corporal, R.M.	8	2	6	„ 1	1	„
„ 4 privates	27	10	0	„ 0	11	„
	<hr/>					
	361	17	6			
Provisions for the above 30 officers and men, at 1s. a-day	225	0	0			
Proposed to be paid by the Colony.						
Hire of tender for five months, at 80 <i>l.</i> a-month (may possibly be 100 <i>l.</i>)	400	0	0			
Pilot, at 7 <i>s.</i> a-day, and provisions, 1 <i>s.</i>	60	0	0			
	<hr/>					
	£1,046	17	6			

N.B.—The estimate for the tender is what the “Arrow” cost last year. The “Telegraph” was at the rate of 33*l.* per month.

(Signed) GEO. F. SEYMOUR,

Vice-Admiral and Commander-in-chief.

“Cumberland,” Bermuda, May 5, 1853.

Inclosure 5 in No. 154.

Minute.

AT a Council held at the Government House, Halifax, on the 12th of April, 1853.

PRESENT:

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

The attention of the Lieutenant-Governor having been called to the grant of 3,000*l.* for the protection of the fisheries, passed during the last session, his Excellency is advised to communicate with his Excellency Vice-Admiral Sir George Seymour as to the mode in which that sum can be most judiciously expended for the advantage of the public service; and should the Vice-Admiral be prepared to man and control such provincial vessels and boats as may be hired for the season, the Lieutenant-Governor is advised to place them at his disposal.

No. 155.

*Mr. Booth to Mr. Addington.—(Received June 20.)**Office of Committee of Privy Council for Trade,
Whitehall, June 18, 1853.*

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 13th ultimo, transmitting for their Lordships' consideration copy of an Address from the Legislative Council and House of Assembly of New Brunswick, relative to the negotiation of a Fishery and Commercial Convention with the United States, and requesting that the Earl of Clarendon may be informed whether my Lords see any reason therefrom to modify any of the views on the subject of the proposed Treaty that were expressed in their letter of the 20th April last.

The Address in question appears to contain a full statement of the feelings entertained by the Legislature of the important colony of New Brunswick on the subject of the Treaty in question, in which its own interests are so nearly involved; and consequently any representations received from it cannot but be deemed deserving of the most careful consideration on the part of Her Majesty's Government, should it be found that the opinions expressed in those representations differ in any way from the views held by the Government of this country.

The subject of the Address may be considered to consist of two parts: the first relating to the provisions which the Legislature of New Brunswick is of opinion ought to be introduced into the Treaty, for the purpose of insuring a due protection of our colonial interests; and the second having reference to the course which it may be desirable to adopt in case the Government of the United States should not consent to the conclusion of such a Treaty on terms mutually fair and advantageous.

As respects the former of the above points, it is a subject of much satisfaction to my Lords to find that the contents of the Address are not such as to render it necessary for them, in the interests of the British North American colonies which Her Majesty's Government have so much at heart, to modify in any respect the observations and recommendations embraced in their letter to the Foreign Office of the 20th April. Each question of importance touched upon in the Address was discussed in that letter, and their Lordships do not observe in the case of any of those questions such a difference of opinion as to call for remark, beyond mentioning that they are unable to concur entirely in the argument that, because United States vessels are admitted to the trade between one British colony and another, British colonial vessels have a right to claim admission to the trade between all the different States of the American Union, which is essentially a coasting trade, similar to the trade between one county of England and another, which is strictly reserved to national vessels. The exception is the trade between California and the States on the east coast of America, which my Lords have on previous occasions shown to correspond in its character to a trade to which United States vessels are admitted, viz., that between this country and her colonies, and in return for which privilege we urged our equitable claims to be admitted to the Californian trade in question.

With regard, however, to the second subject brought forward in the Address, viz., the policy to be pursued in the event of the failure of the present endeavour to adjust satisfactorily the commercial relations between this country and her colonies on the one hand, and the United States on the other, it is requisite to examine more closely the prayer of the memorial of the Legislature of New Brunswick, on account of the importance of the proposal itself, no less than of the principle involved in it.

This proposal is, in the words of the memorial, one for the withdrawal by Her Majesty of the restrictions imposed upon the colonial Legislatures, "leaving them to exercise their own discretion with regard to differential duties." Applying this to the present case, the object sought for by New Brunswick is that of being suffered to impose retaliatory duties upon

articles imported from the United States, in the event of that country refusing to readjust her tariff in a liberal sense, or to make the concessions which New Brunswick conceives herself justly entitled to expect at her hands, in return for the free trade character of her own tariff.

The Address expresses the belief of the Legislature of New Brunswick that the restriction of the trade between the United States and the British North American colonies, which would be entailed by such a course of proceeding, would extend in a corresponding degree the commercial relations and transactions of the respective colonies with each other, on terms mutually advantageous; that it would secure to the colonists a preference in their respective markets, leading to a much more extensive exchange of the agricultural productions of Canada, for the produce of the mines and fisheries of the lower colonies; and that it would impart a stimulus to those various branches of industry, drawing the colonists more closely together.

Lord Clarendon will perceive that two most important principles are involved in the prayer of the Address. The first is that contained in the above argument, which, in fact, is very little different from the commercial doctrine formerly entertained in England, but now entirely abandoned, both in theory and in practice, by the mother country, and to a very considerable extent at least in her various colonial dependencies. While, however, the principle above adverted to is one which must be decided upon commercial and economical grounds alone, the second principle raised in the Address is one of grave political importance, for it points to the surrender by the Crown of the right of exercising its veto in the case of those legislative measures which Her Majesty's Government might otherwise feel it their duty to disallow, whether on the ground of their being injurious to the interests of the empire, or for any other reason.

It is not necessary for my Lords to enter upon this question further than to call Lord Clarendon's especial attention to it, it being one that scarcely falls within their province. It will be sufficient for them, on the present occasion, to consider whether the arguments advanced in the Address are of such a nature as, in this particular instance, to warrant them in recommending a departure from the principle which, for many years, has guided each successive Government in this country in reference to Colonial Customs Acts, viz., that of withholding assent from any such Acts as provide for the imposition of differential duties on goods imported from any particular country or countries.

The subject is not now, for the first time, raised by the Legislature of New Brunswick, as memorials of a similar nature have been addressed by it to Her Majesty on several occasions, to the prayers of which an unfavourable answer has been uniformly returned.

It may be well briefly to explain the reasons why it appeared inexpedient to the Government of this country that the various Colonial Legislatures should be suffered to impose differential duties upon the goods imported into them from foreign countries.

The policy which has been extended and acted upon in this country since 1842, was the result of the conviction of the truth of economical principles, which, if true at all, are of general and not of merely local application. It therefore became the duty of the British Governments that have in succession been entrusted with the government of this country and its dependencies to insure, in the interest of the whole empire, the development and universal application of that policy as far as lay in their power. In the case of the colonies this could only be done by means of disallowing any legislation in them which was obviously inconsistent with it, and in no instance has this necessary intervention of the Home Government been so frequently called for as in that of the colony which, on the present occasion, has memorialized Her Majesty to be allowed to effect a partial reversal of its existing policy of free trade.

Independently of the desire which must be felt in this country to see the benefits which freedom of trade is calculated to confer, diffused as widely as possible and extended throughout the whole of the British dominions, the necessity of securing uniformity in the commercial legis-

lation of our different colonies, and avoiding the practical inconveniences resulting from conflicting legislation in matters of trade, would evidently be an argument of great weight in inducing the Home Government to adopt the above-mentioned course, from the year 1843 down to the present time.

The enforcement of this principle was strongly objected to by the New Brunswick Legislature as respects its application to that colony, but without success; and a proposition of an identical nature with the one now under consideration, claiming the power of imposing differential duties on importations from the United States, which was transmitted home in September 1850, was met with a decided refusal, based upon reasons similar to those that have just been adduced.

Seeing, therefore, the course which has uniformly been adopted in this country in reference to the subject, and bearing in mind the ill effects that might be expected to ensue in case foreign countries should be suffered to entertain the belief that Her Majesty's Government so far doubted the beneficial results of a free trade policy as to be willing to sanction, on the present occasion, a manifest departure from it in a case in which a discretionary power is constitutionally reserved to Her Majesty, my Lords would not feel themselves warranted, in the interests either of the empire at large or of the colony of New Brunswick itself, in recommending that Her Majesty should be advised to take the present opportunity (at a time, moreover, when a Commercial Treaty with the United States is actually in course of negotiation) of commencing a reversal, partially though it might be, of that commercial system of legislation which the experience of every day convinces them to be calculated to promote the best interests of the empire.

I have, &c.
(Signed) JAMES BOOTH.

P.S.—The inclosure in your letter is herewith returned as requested by you.

No. 156.

The Earl of Clarendon to Mr. Crampton.

(No. 45.)

Sir,

Foreign Office, June 20, 1853.

I INCLOSE for your information an extract of a letter* from Vice-Admiral Sir George Seymour to the Secretary to the Admiralty, respecting American measures for preventing seizures of fishing-vessels in the Bay of Fundy.

I am, &c.
(Signed) CLARENDON.

No. 157.

Mr. Crampton to the Earl of Clarendon.—(Received June 26.)

(No. 124.)

My Lord,

Washington, June 13, 1853.

ON the receipt of your Lordship's despatch No. 30, inclosing the copies of a letter from the Board of Trade, and of a letter from the Colonial Office to your Lordship's Department, in regard to the Fisheries and Commercial Convention now in negotiation with the Government of the United States, I lost no time in having a conversation with the United States Secretary of State on this subject.

* See Inclosure in No. 151.

I deemed it essential at once to point out to Mr. Marcy certain points in regard to which the letter of the Board of Trade by which I am now to be guided, differs from the draft Treaty transmitted to me by Lord John Russell with his Lordship's despatch No. 5 of the 15th of January last, as well as to impress upon him the expediency of extending the basis of the negotiation with a view to a reconstruction of the Commercial Treaty of 1815, and in general to such further application of those liberal principles of commercial intercourse which have already been found so conducive to the increase of trade between the two countries.

At Mr. Marcy's request I furnished him with a memorandum, a copy of which I have the honour to inclose herewith, stating concisely the views of Her Majesty's Government on these points; and I have thought it well to append thereto a copy, *in extenso*, of the memorandum which was inclosed in Sir Emerson Tennent's letter to Lord Wodehouse, and in which the great advantages which have already accrued to the commerce of Great Britain and the United States from the simultaneous relaxation by both countries of the bonds of industry, are so clearly set forth. These, Mr. Marcy said, would be taken into immediate consideration by the President.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 157.

Memorandum.

THE draft Treaty transmitted to Mr. Crampton by Lord John Russell in January 1853, was not assented to by the Government of the United States, without the introduction of modifications which, it appeared to the British Government, would have the effect of completely altering the character of the whole arrangement, and which, whether viewed upon general principles or in reference to the special interests concerned, did not appear to them to be such as they could entertain on any grounds of advantage to the commercial interests of the British Empire.

It is possible, however, that the present Administration of the United States may be disposed to meet the question in a spirit more accordant with the hopes of the British Government; and if this should prove to be the case, it will be proportionately more important to extend by every means the freedom of trade between the two countries in every possible respect. In the hope, therefore, that the American Government will concur in the opinion of the British Government as to the expediency of the basis of the negotiations being enlarged, and the discussions being placed on a more extended footing than it has yet occupied, the British Government would propose, in addition to the arrangement of the Fisheries Question, and the other questions arising out of it, a more general readjustment of the commercial arrangements existing between the two countries.

And first, with regard to the draft Treaty above alluded to, the British Government would propose certain modifications, more especially in regard to the Articles III and IV. The former Article, which stipulates for the free admission of the article fish, the product of certain British colonies or of the United States respectively, into the markets of each, is virtually embraced in Article IV, where that commodity is one of those enumerated in the Schedule of articles which, being the product of the said colonies, or of the United States, are to be admitted into each country free of duty. It appears, therefore, unnecessary that this provision should be inserted in the Convention as a separate Article.

There is, however, one very important advantage possessed at present by American fishermen, the withdrawal of which the British Government deems very essential, viz., the system of bounties to American vessels engaged in the cod-fisheries; and as this does not appear to be entirely met, the British Government would propose an additional provision to that effect.

With regard to the latter Article V, by which the citizens and vessels of the United States would be admitted to the full and free navigation of the River St. Lawrence and of the Welland and Rideau canals, as this concession, as it now stands, is a gratuitous one on the part of the British Government, they would ask for a corresponding concession by the United States Government of the free navigation of certain canals of that country and of Lake Michigan.

Even with these modifications, the balance of concessions by the draft Treaty would, it is apprehended, be considerably more on the side of Great Britain than on that of the United States; the omission of the stipulation relating to California, originally proposed by Great Britain, materially modifying what would otherwise have been a much more evenly-balanced arrangement.

As regards the more general commercial relations between Great Britain and the United States, so far as they are settled by Treaty, they are defined by two Treaties, viz., the Convention of Commerce of 1815, and the Treaty of 1818 for regulating the Fisheries.

It is not now necessary to refer to the latter Convention, as the alterations which it may be expedient to make in it form the groundwork of the present negotiations, and have been already fully considered. The Treaty of 1815, however, based as it was upon the then existing British system of navigation laws, differs very considerably from what it would have been had it been concluded after the repeal of those laws: the following are the main provisions of it.

As respects the trade with the British dominions in Europe, it provides for the reciprocal freedom of commerce, and for equality of charges of goods, the growth, produce, and manufacture of either country, when imported into the ports of the other, in either British or American vessels. It also provides for equality of charges on the ships of the two countries in British and American ports respectively. The wording being general, the vessels of either country entering the ports of the other, even in the indirect trade, receive national treatment. In many of the Treaties between Great Britain and other Powers, this equality is expressly confined to the direct trade. At the time when the Treaties were made, this caused no practical difference, because foreign vessels were then excluded from the indirect trade with Great Britain; but when the repeal of the British navigation laws threw that trade open, the countries whose Treaties with Great Britain were of the general wording shown above received a privilege which less fortunate countries are debarred from. In the case of the United States, however, a corresponding equality of treatment is enjoyed by British vessels trading with that country.

As respects the trade with the British dominions out of Europe, the Treaty with the United States contains no provisions beyond allowing the vessels of that country to trade between the United States and the principal British settlements in India, on terms of the vessels of the most favoured European nation.

An express clause is inserted, providing that the intercourse between the United States and the British North American Colonies and West Indian Possessions shall remain unaffected by the provisions of the Treaty, each party remaining in complete possession of its rights with respect to such intercourse.

The Treaty is now terminable upon notice to that effect being given by either party.

It will be perceived from the above summary of its stipulations, that this Convention is of a very incomplete nature, as compared with those more recently concluded between Great Britain and other foreign States. The expediency of its entire reconstruction is therefore proposed, taking as the model of the new arrangements some one of the Treaties which have of late years been entered into by Great Britain. It is apprehended that the Government of the United States will be equally desirous with the Government of Great Britain to see their commercial relations, as regulated by Treaty, placed in greater harmony with those relations as actually established by mutual but independent legislation, than is actually the case.

The readjustment, therefore, of the Treaty of 1815, in accordance with the above suggestions, and the simultaneous adoption of arrangements in respect to the Fisheries question, and the other questions arising out of it, upon terms both equitable and mutually satisfactory to both parties, appears to comprise all that is necessary to constitute the basis of the Treaty which it is now contemplated to negotiate.

With regard to the more general question of the Tariff, reference to the subject appears especially appropriate on the present occasion.

The British Government would wish to abstain as much as possible from particularizing items which it might be more especially desirable, in the interests of British commerce, to see reduced. It may be observed, however, that representations have at various times been made as to the benefits which would result to the trade of both countries from a reduction of the duties levied in the United States on cotton manufactures, iron manufactures, and hardware and cutlery, coals, and linen manufactures.

A memorandum is herewith inclosed, which has been prepared under the direction of the British Board of Trade, showing, from the statistical returns of Congress, corroborated by corresponding returns prepared in Great Britain, the very beneficial consequences which have resulted to the United States from the partial relaxations introduced in their own Tariff of 1846, and the consequent probability of still further benefit being reaped by the vast American Republic by a still further advance in the direction of free trade. It is needless to enlarge upon the prosperity which has been induced in Great Britain by the adoption of similar measures for the reform of the British Tariff, and the extension of their application whenever an opportunity of doing so has presented itself. Although, however, the free trade policy that now governs the relations of Great Britain with other States was adopted by her, and with such extraordinary success, for her own sake, and with a more especial view to her own interests, yet the benefits conferred by it are not confined to her, but are shared by the different nations with which her commercial intercourse is carried on, and amongst which the United States stand preeminently distinguished. Consequently the promotion and increased developments of the practical application of principles whereby such results are brought about, cannot but be an object of interest to both Governments.

It appears to be an object very worthy of consideration to both countries how far the great increase of trade which in both has followed the reductions simultaneously made in 1846, may be attributed not exclusively to the adoption of a sound policy in each country by its own Government, but also in great part to this very circumstance that the bonds of industry were relaxed in both countries at the same time, and whether a steady continuance in the same liberal policy by each country may not contribute in the highest degree to their mutual prosperity in future years.

This consideration will derive additional weight when it is remembered that the trade between the United Kingdom and the United States of America now constitutes by far the most important trade carried on by either country. The exports of the United Kingdom to the United States are now more than double their exports to any other State, seven times those to France, twelve times those to Russia, fourteen times those to Belgium, to Portugal, or to Spain, thirty times those to Sweden and Norway together.

This enormous trade is moreover carried on between the two nations of the earth which the most nearly resemble each other in the character of their people, in their wants and requirements, their tastes and habits, and which are therefore best able to relieve each other of their redundant supply of produce.

It appears from considerations such as these that the greatest advantage to both parties may be looked for from the attainment of a good understanding between them on all questions that bear upon their commercial intercourse; and an occasion like the present seems to be especially adapted for bringing such questions under consideration; their satisfactory solution being calculated to extend their existing amicable relations still further by the removal of all unnecessary and vexatious

restrictions, and to foster and promote that kindly international feeling, the surest guarantee for which has been shown by long and unchanging experience to consist in the strengthening of the bonds of commercial friendship and intercourse.

No. 158.

Sir Anthony Perrier to the Earl of Clarendon.—(Received June 20.)

(Separate.)

My Lord,

London, June 18, 1853.

AT a moment when the Newfoundland merchants are making great exertions to obtain free trade with the United States of America in exchange for a surrender of a right of fishery on their shores to American citizens, I consider it a duty to submit to your Lordship's consideration the sentiments of Vice-Admiral the Earl of Dundonald upon this subject, communicated to the Lords of the Admiralty, whilst his Lordship was Commander-in-chief on that station, in a despatch of which a copy is annexed to the papers of the Newfoundland Fishery Commission. This despatch relates principally to the necessity for conciliating the Colonial population, which being more a matter of consideration for the Colonial Department than connected with the negotiations for the fisheries, I should not trespass on your Lordship's valuable time by giving *in extenso* were it not to show that notwithstanding his earnest desire for conciliation Lord Dundonald is decidedly adverse to any cession of fishery rights in exchange for free trade with the United States.

This opinion (expressed in the last paragraph of the said despatch) results from the Vice-Admiral's professional experience and mature consideration, and will, I doubt not, be considered by your Lordship as of great value and importance in the present conjuncture.

I have, &c.

(Signed) ANTHY. PERRIER.

Inclosure in No. 158.

Vice-Admiral the Earl of Dundonald to the Secretary to the Admiralty.

*"Wellesley," at Sea, Lat. 19° 28' N., Long. 56° 27' W.,
January 17, 1851.*

Sir,

FEELING that I had not communicated to the Lords Commissioners of the Admiralty, in my letter No. 7 of this date on the state of the fisheries, all that I desired to express, I venture to solicit their Lordships' attention to the high national interests involved in the contentment and consequent attachment of the inhabitants of Her Majesty's important maritime colonies of Nova Scotia and Newfoundland, which, by their geographical position, numerous and excellent ports, inexhaustible fields of coal, abundance of iron and other minerals, afford means to control aggression on the part of the United States, even were the Canadas and New Brunswick in their possession.

2. These advantages, however, depend on the promoting contentment and loyalty throughout these provinces, and insuring the rejection of the insidiously proffered inducements to annexation. I do not hesitate to affirm that the maritime resources of Nova Scotia alone, when developed by the indomitable energy of the restless and enterprising people of the United States, would more than double the naval power of the Republic.

3. It may with justice be required by their Lordships that I should offer to their notice some means for attaching the people of these colonies to the mother country. As the most prominent measure, I beg to point out the necessity of discouraging a promiscuous influx of idle, impoverished, and disaffected Irish, to augment that class now predominant; and that attention should be paid by the Government at home to direct

the immigrations of a superior class to constitute a respectable yeomanry. This might be effected by a free passage to such persons in our unemployed ships of war; to which advantage might be added a recommendation to free grants of land by the Colonial Government. Some facilities should also be afforded for the admission of the relatives of the principal colonists into the service of the State, from which, throughout the provinces, there is an universal complaint that they are wholly excluded. I could enumerate many grievances of which they complain, and neglect under which they assert they suffer. Could their Lordships remedy these evils, I might be justified by detailing them. Unfortunately, their amount and importance are magnified and kept perpetually before the people by disappointed and disaffected demagogues, whose exaggerations or misrepresentations are injuriously left unexposed by the authorities, whose public measures (even if judicious) are not judged by that fund of good sense and enlightenment which pervade the people of England.

4. Under the difficulties that present themselves to agriculture and to manufactures, by the absence of a market to stimulate industry, comparisons are invidiously drawn between the circumstances of the colonists and of the population in the United States, and the said contrast is placed to the account of the Colonial Government, powerless for good unless assisted by the Government at home, who themselves are accused of concessions enabling the Americans to introduce their produce and manufactures, and consequently to undersell and ruin our own people in the few branches of industry which formerly existed, whilst the United States Government protect their citizens by duties amounting to prohibition, on the introduction of colonial products, perhaps with a view to excite irritation, or to obtain the surrender of the fisheries.

5. I beg their Lordships, however, to be on their guard against acquiescing in any further concession of fishing rights, although not only New Brunswick, but Nova Scotia and even Newfoundland, should desire to surrender, as a further premium for free trade, that which, under the circumstances set forth in my letter, is at present of little or no value to them, but of primary importance to the parent State.

I am, &c.
(Signed) DUNDONALD.

No. 159.

Mr. Addington to the Law Officers of the Crown.

Gentlemen,

Foreign Office, June 18, 1853.

I AM directed by the Earl of Clarendon to transmit to you a letter* from the Colonial Office forwarding a copy of an Act passed by the Legislature of New Brunswick relative to the coast fisheries and illicit trade, and I am to request that you will report to his Lordship your opinion whether there are any reasons for refusing Her Majesty's approbation to that Act.

I am &c.
(Signed) H. U. ADDINGTON.

No. 160.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, June 25, 1853.

WITH reference to the correspondence which has recently passed between this department and the Colonial Office upon the subject of the Newfoundland fishery, I am directed by the Earl of Clarendon to transmit to you, for the information of the Duke of Newcastle, a copy of a despatch† from Sir Anthony Perrier inclosing a copy of a letter addressed on the

* See No. 153.

† See No. 158.

17th January, 1851, by Vice-Admiral Lord Dundonald to the Secretary to the Admiralty upon the subject of the inexpediency of conceding to the United States, British fishery rights on the coast of Newfoundland and Nova Scotia.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 161.

Mr. Addington to Mr. Merivale.

Sir, *Foreign Office, June 27, 1853.*

WITH reference to my letter of the 27th of April last, inclosing a copy of a letter from the Board of Trade reporting upon the course which it is desirable for Her Majesty's Government to adopt in the matter of the proposed negotiation of a Commercial and Fishery Convention with the United States, I inclose herewith for the information of the Duke of Newcastle a copy of a further report* which Lord Clarendon has received from the Board of Trade with reference to the address from the Council and House of Assembly of New Brunswick, of which a copy was inclosed in your letter of the 6th ultimo.

I am, &c.
(Signed) H. U. ADDINGTON

No. 162.

The Earl of Clarendon to Mr. Crampton.

(No. 48.)

Sir, *Foreign Office, June 30, 1853.*

I ENTIRELY approve of the manner in which you executed the instructions, given to you by my despatch No. 30, relative to the basis on which Her Majesty's Government would be prepared to enter into negotiations with the United States for extending the commercial relations between the two countries, and of your having given to Mr. Marcy a memorandum of which a copy is inclosed in your despatch No. 124.

I am, &c.
(Signed) CLARENDON.

No. 163.

Mr. Addington to Sir Emerson Tennent.

Sir, *Foreign Office, July 2, 1853.*

WITH reference to your letter of the 20th of April last, relative to the Fishery and Commercial Convention now in progress of negotiation between Her Majesty's Government and the Government of the United States, I am directed by the Earl of Clarendon to transmit to you, for the information of the Lords of the Committee of Privy Council for Trade, a copy of a despatch† from Her Majesty's Minister at Washington, inclosing a memorandum which he has forwarded to the American Government on the subject in question.

I am, &c.
(Signed) H. U. ADDINGTON.

* See No. 155.

† See No. 157.

No. 164.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, July 5, 1853.

WITH reference to the correspondence between this Department and the Colonial Office relative to the Fishery and Commercial Convention now in progress of negotiation between this Government and the Government of the United States, I am directed by the Earl of Clarendon to transmit to you, for the information of the Duke of Newcastle, a copy of a despatch* from Her Majesty's Minister at Washington, inclosing a memorandum which he has forwarded to the American Government on the subject in question.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 165.

Mr. Crampton to the Earl of Clarendon.—(Received July 18.)

(No. 133.)

My Lord,

Washington, July 3, 1853.

MR. MARCY having sent for me yesterday informed me that it is the intention of the United States Government to send shortly a naval force to the fishing-grounds adjoining the British North American Colonies. The amount of this force is not yet determined, nor has the officer under whose command it is to be placed been named. Mr. Marcy remarked, however, that care would be taken to select a commander on whose moderation and discretion entire reliance could be placed. The measure of sending a force to the fisheries was one, Mr. Marcy said, which seemed called for by public feeling on the subject, and was adopted by the United States Government in no hostile spirit to Great Britain, but the reverse. It was the sincere desire of the President, that no misunderstanding or collision should take place between either the naval forces of the two countries, or their respective citizens and subjects; and it was thought that the presence of a discreet officer at the fisheries, upon whose reports the United States Government could rely, and who, it was not doubted, would put himself into friendly communication with the Commander of the British Naval Force, was calculated to conduce materially to this object; for without the presence of such an officer, the United States Government would, in case of the occurrence of any difficulty, have nothing to rely upon but the *ex parte* reports of private individuals. It was with reference to the instructions to be given to this officer, Mr. Marcy added, that he had sought the present interview with me. Sincerely desirous as he was, and honestly determined now to settle by negotiation the whole question in regard to the fisheries and the trade of the North American Colonies, and entertaining a confident belief that these objects could be effected by the negotiation upon which we were entering, he felt the more anxious that no untoward event during the present fishing season should occur to intercept or prejudice the friendly discussion of the matter. While there were some points in the Convention of 1818, however, in regard to which the two Governments perfectly agreed, there were others in regard to which they entertained conflicting views. Both Governments were agreed that that Treaty secured to British subjects the exclusive right of fishing within three miles of the shores therein designated. But with regard to the meaning of the word "bays" in the Treaty, and the spaces inclosed by lines drawn from headland to headland, the Government of the United States held a different opinion from that entertained by that of Great Britain. It was not his object now to enter upon a discussion of this difference of opinion; still less so, to ask the

* No. 157.

British Government to abandon its construction of the clause of the Treaty in question, and to adopt the construction of the Government of the United States. The Government of the United States, on the other hand, felt a difficulty in now receding from the position which had been taken up by it upon this matter on all former occasions. He hoped, and believed, that all necessity for discussion of this question of construction would be removed by the conclusion of an arrangement which would render it unnecessary; but if such an arrangement should unfortunately be found impossible (and this was a point which must now be determined within a few months) he would then be ready to enter upon the consideration of the question of construction in the most friendly spirit. It would, however, now relieve him from much anxiety if I could, without in any way committing my Government to an abandonment of the principle in regard to bays for which they contended, give him an assurance, confidentially, that that principle would not be practically enforced during the ensuing fishing season. He by no means intended, he said, to make such an assurance the basis of an announcement to American fishermen that they might fish within the disputed spaces, that is, within bays, but at a greater distance than three miles from their shores, nor would the fact of such an assurance be alluded to in the instructions given to the Commander of the American force; but if such an assurance could be given, it would relieve the United States Government from the necessity of making any reference whatever to the differences of opinion between the two Governments, whether to the public or to their own officers; and as these would be instructed not only not to protect American fishermen in encroaching within the three-mile limit, but to discourage and discountenance their doing so by every means in their power, the season would, he thought, pass over without the possibility of any collision, and, at all events, without the occurrence of any case in which difference of opinion would occur between the officers in command of the respective naval forces, or between the Governments themselves, as to the application of the provisions of the Treaty.

I replied to Mr. Marcy, that although I felt equally anxious with himself that no occurrence of a nature to involve the two Governments in discussions of an unfriendly character should arise in regard to the fisheries, I nevertheless did not feel authorized to give him so positive an assurance as he seemed to require. Of the exact words of the instructions to Admiral Sir George Seymour in regard to this point, I was not, I remarked, aware; but I could not but presume that these were in accordance with the interpretation given to the Treaty by Her Majesty's Government, which appeared to me to be clear and indisputable. Of this, however, I could assure him, and I thought I could in this respect refer him to the events of last year at the fisheries, that those instructions were conceived in a spirit of the utmost moderation, and would be carried into execution with temper and discretion. I would go further, I remarked, and express my hope and expectation that no cases of the kind Mr. Marcy had alluded to would actually occur. This hope and expectation was founded first upon the fact, that on previous occasions where an example was absolutely necessary to deter encroachment upon our undoubted rights, Sir George Seymour had invariably selected cases in which the violation of the Treaty was flagrant and indisputable; and, secondly, upon the circumstance that practically it was the mackerel fishing close to the shore and not the fishing in the open bays, which, from its greater value, offered the greatest temptation to encroachment on the one hand, and called for a strict enforcement of measures of protection on the other. There might, however, I remarked, be cases in which the intention of encroachment would be rendered so evident by the presence of vessels in certain bays, although just outside the line of three miles from the shores of these bays, apparently ready to profit by the temporary absence of the protecting force to make a further encroachment, that the British commander might not feel himself at liberty to pass them over.

I concluded by thanking Mr. Marcy for the frankness of his communication as well as for the friendly tone in which it was conveyed, and by stating that I would immediately put myself into direct communication

with Admiral Sir George Seymour, as well as with Her Majesty's Government, on the subject of our conversation, assuring him that no pains would be spared either by that officer or by myself so to frame our proceedings as to meet the exigencies of the case in the manner best adapted to obviate the occurrences of subjects of discussion between the two Governments which the instructions of Her Majesty's Government would admit of.

A prudent management of this matter has appeared to me to be of so much importance that I have determined to avail myself of the circumstance of the present Cunard mail steamer ("Niagara") touching at Halifax, to repair there in person for the purpose of conferring confidentially with Sir George Seymour, and conveying to him in a clearer manner than I could hope to do by writing, my impression as to the present position of this delicate question. My absence will not be prolonged beyond a few days, and in thus leaving my post without your Lordship's sanction, I trust that the considerations which have weighed with me, in determining upon this step as one conducive to the public service, will be found sufficient to secure to me your Lordship's approval.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 166.

Mr. Crampton to the Earl of Clarendon.—(Received July 18.)

(No. 134.)

My Lord,

Washington, July 3, 1853.

WITH reference to my despatch No. 133, of this date, informing your Lordship of my intention to proceed to Halifax for the purpose of conferring with Vice-Admiral Sir George Seymour on matters connected with the Fisheries Question, I have the honour to inclose to your Lordship a copy of the note which I have addressed to the Secretary of State of the United States, informing him that during my temporary absence, Mr. Griffith, Secretary to Her Majesty's Legation here, remains in charge of this Mission.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 166.

Mr. Crampton to Mr. Marcy.

Sir,

Washington, July 3, 1853.

AS I had the honour to inform you verbally, this morning, it is my intention to leave this capital this evening, on a visit of a few days' duration to the neighbouring British North American colonies.

During my temporary absence, Mr. Griffith, Secretary to Her Britannic Majesty's Legation, will remain in charge of this Mission; and I have to request you to be so good as to communicate with him on all matters which you may deem it necessary to convey to the knowledge of Her Majesty's Mission.

I avail, &c.
(Signed) JOHN F. CRAMPTON.

No. 167.

Mr. Crampton to the Earl of Clarendon.—(Received July 18.)

(No. 135.)

My Lord,

Washington, July 3, 1853.

I HAVE the honour to inclose the copy of a letter which has been addressed to me by Her Majesty's Consul at New York, containing the copy of a telegraphic despatch which had reached him from Vice-Admiral Sir George Seymour, to the effect that reports had reached Sir George Seymour from Her Majesty's Consul at Boston, that American fishing vessels at Salem and other ports are arriving for the purpose of resisting by force the measures adopted by Her Majesty's Government for the protection of the British fisheries.

I am not aware that Her Majesty's Consul at Boston had any other grounds for his report than the statements made in a Boston newspaper, the "Transcript," of the 22nd of June, a copy of which I had the honour to transmit to your Lordship with my private letter of the 27th ultimo.

I thought it right, however, to call Mr. Marcy's attention to the matter. He did not seem to attach much credit to the statements contained in the "Transcript," and remarked that the article in question seemed written with a view to urge the United States Government to obtain by negotiation the right of participation in the British fisheries for citizens of the United States. He said, however, that an opportunity offered itself to him, of which he would immediately avail himself, of sending to the ports in question a confidential agent of the Government, who would report to him upon the subject; and should it appear that any measures of the kind alluded to in the "Transcript" were in contemplation on the part of American fishermen, every possible means would be taken by the Government of the United States to discountenance and defeat them.

Mr. Marcy concluded by promising that he would at once send on to me at Halifax the result of his investigation.

I have, &c.

(Signed) JOHN F. CRAMPTON.

P.S.—I have the honour to inclose a copy of the newspaper article referred to.

J. F. C.

Inclosure I in No. 167.

Mr. Barclay to Mr. Crampton.

My dear Sir,

New York, July 2, 1853.

THIS morning I have received a message in cypher, by the electric telegraph, from Sir G. Seymour, of which the following is a translation.

"Halifax," July 2, 1853.

"Apprise the British Minister that the Consul at Boston reports fishing vessels at Salem and other ports are arming against small British cruizers sent to protect our fisheries. If true this must cause more rigid measures than last year, and requires the Minister's notice. See 'Boston Transcript' June 22nd."

I have informed Sir George, in cypher, by the telegraph, that his message has been received by me and communicated to you by this day's mail.

Your late despatch for the Admiral was instantly forwarded.

I have, &c.

(Signed) ANTHONY BARCLAY.

Inclosure 2 in No. 167.

Extract from the "Boston Transcript" of June 22, 1853.

THE FISHERIES.—DANGERS OF COLLISION.—The New England fishermen are now leaving for the coasts of British North America in large squadrons. In a majority of instances, it is said, the crews have positive orders not to infringe upon the provisions of the Treaty, and to incur no risk of having the vessel taken by the British. The vessels are worth 4,500 dollars each on an average, and most of the owners cannot afford to lose their property. Hence their caution in giving orders, and their great desire to avoid all difficulty. But the following extracts from an article in the "Boston Transcript," apparently written by some one who seems to speak "by the card," are indicative of a determination on the part of the fishermen to protect themselves, as best as they may, from the guns of the British cruizers :

* * * "There are men, on the other hand, who own the vessels they command, and can lose them without being ruined by the loss. These men start on the cruise with arms, and a determination not to be crowded and insulted, as they were last year. They will be cautious how they enter within the shore lines, and will keep good look-out in regard to their violation of any Treaty stipulation.

"We personally know some of these parties, and we also know that last year some of the men suppressed the rising emotions of indignation which swelled within them as they saw their American papers torn and trampled upon by the petty and contemptible officials from the "Devastation" and other English vessels. They now go prepared to meet a similar exigency. Last year it was thought that the seized vessels would fare better in the Admiralty courts if the American fleet did not retaliate the many abuses they suffered. This year that feeling will not exist. The proceedings in some of those courts were of a character to aggravate the evil, and our countrymen will evince a courage and determination which will attest that they mean to secure 'indemnity for the past.'

"The English fleet will be stronger this year than it was last season. Of course our fishing vessels will keep clear of the 'Argus,' the 'Basilisk,' the 'Devastation,' the 'Vestal,' and the 'Cumberland.' But the 'Netley,' the 'Rose,' and vessels of that class will find some new nautical movements; and prize crews will find that they are powerless before the hundreds of hardy New Englanders, who will aid in retaking the seized vessels.

"We have no fear that a war will grow out of this dispute, neither have we any desire to screen those parties who in former seasons have violated the Treaty or committed depredations upon the shore of the provinces.

"After the illegal seizure of several American vessels on the high seas by British cruisers, and after three or four severe conflicts on the fishing grounds, it is quite probable our Government will turn its attention to this important matter. It is well understood in the fishing districts that should the gross insults of last year be repeated without being immediately attended to by the general Government, the indignity will be revenged on our coasts in a way to show that the fisheries will continue to be 'nurseries of seamen and the right arm of the navy.'"

No. 168.

The Secretary to the Admiralty to Mr. Addington.—(Received July 19.)

Sir,

Admiralty, July 18, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Clarendon, an extract of a letter from Vice-Admiral Sir George Seymour, dated the 4th

of July, No. 118, relative to the inducements offered at New York to the crew of Her Majesty's ship "Leander" to desert.

The "Leander" sailed on the 2nd of July from Halifax to Quebec, to join the Earl of Ellesmere.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure in No. 168.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

(Extract.)

July 4, 1853.

CAPTAIN KING had no further intercourse with the United States authorities, when at New York, than an exchange of visits with Commodore Boorman, the senior naval officer at Brooklyn. At the city every inducement was offered to the "Leander's" crew to desert; and an assemblage of persons was ready to receive and screen any men who would leave her boats. I am sorry to find that above thirty left the ship during the fortnight she remained.

Should Lord Ellesmere return to the United States, I shall recommend some arrangement by which any continued stay of the ship in their ports may be avoided.

No. 169.

The Earl of Clarendon to Mr. Crampton.

(No. 60.)

Sir,

Foreign Office, July 22, 1853.

I APPROVE of your having left Mr. Griffith in charge of Her Majesty's Mission at Washington, as reported in your despatch No. 134.

I am, &c.
(Signed) CLARENDON.

No. 170.

The Earl of Clarendon to Mr. Crampton.

(No. 61.)

Sir,

Foreign Office, July 22, 1853.

I APPROVE of your proceedings, as reported in your despatch No. 135, in speaking to Mr. Marcy on the subject of a rumour that American fishing-vessels would proceed armed to the fishing-grounds; and I inclose to you herewith, for your information, a copy of a report which has been made to Her Majesty's Government upon this subject by Vice-Admiral Sir G. Seymour.

I am, &c.
(Signed) CLARENDON.

No. 171.

The Earl of Clarendon to Mr. Crampton.

(No. 64.)

Sir,

Foreign Office, July 22, 1853.

I HAVE received your despatch No. 133 of the 3rd instant, reporting your conversation with Mr. Marcy upon the subject of the naval force about to be sent by the United States Government to the fishing-grounds

off the British North American coasts; and I have to acquaint you that Her Majesty's Government entirely approve of the language which you held to Mr. Marcy upon that occasion, and of your intention to proceed to Halifax to confer personally thereon with Vice-Admiral Sir George Seymour.

You will express to Mr. Marcy the great satisfaction of Her Majesty's Government at learning the frank and friendly tone of his communication to you; and you will assure him that he may rely upon being met in a corresponding spirit, as Her Majesty's Government are convinced that by this mode of proceeding the difficulties attendant upon the questions now pending between Great Britain and the United States will be diminished, while it must at the same time tend to promote cordiality and good understanding between the two countries.

With regard to the question put to you by Mr. Marcy, whether, pending a final settlement of a Trade and Fishery Treaty, Great Britain would waive their interpretation of the term "bay," I have to state to you that Her Majesty's Government intend to exercise with every practicable forbearance the rights which are secured to them by Treaty; but so firm is their conviction that their reading of the terms "coast, bays, creeks, or harbours," used in the Convention of 1818 is correct, and moreover consistent with the usage of the United States themselves, that Her Majesty's Government cannot consent, even for a temporary object, to waive that right.

I am, &c.
(Signed) CLARENDON.

No. 172.

Mr. Griffith to the Earl of Clarendon.—(Received July 25.)

(No. 4.)

My Lord,

Washington, July 11, 1853.

I HAVE the honour to inform your Lordship that the United States squadron alluded to in Mr. Crampton's despatch No. 133 of the 3rd instant, and now on its way to the fisheries on the coasts of the British North American Colonies, consists, as far as I have been able to ascertain, of the two first class steam-frigates "Princeton" and "Fulton," and the sloop of war "Decatur." The two former ships left Norfolk on the 6th instant, and have orders to touch at Portsmouth, New Hampshire, in order to embark Commodore Shubrick, who is to have the command of the squadron in question.

Commodore Shubrick is, I understand, a person of conciliatory disposition, on whose moderation and discretion great reliance can be placed; and his appointment to this command is generally considered as evidence of the desire of the Administration of this country that no misunderstanding or collision should take place between either the naval forces of the two countries or their respective subjects and citizens.

I have, &c.
(Signed) PHILIP GRIFFITH.

P.S.—I am this moment informed that Commodore Shubrick will not be ready to leave this Capital to join the squadron at Portsmouth before the 21st instant at the earliest.

P. G.

No. 173.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, July 26, 1853.

I AM directed by the Earl of Clarendon to transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a despatch* from Her Majesty's Chargé d'Affaires at Washington, stating that the United States squadron under Commodore Shubrick was preparing to leave the United States for the fisheries on the coast of the British North American colonies.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 174.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, July 27, 1853.

I AM directed by the Earl of Clarendon to transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a despatch† from Her Majesty's Minister at Washington, reporting a conversation with the United States Secretary of State on the subject of the fishing grounds on the coasts of the British North American colonies.

I also transmit to you a copy of Lord Clarendon's reply‡ to Mr. Crampton, together with a copy of Mr. Crampton's despatch§ upon the subject of the arming of American fishing vessels, to which your letter of the 18th instant refers.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 175.

Mr. Griffith to the Earl of Clarendon.—(Received July 30.)

(Private.)

My Lord,

Washington, July 11, 1853.

I TAKE the liberty to address your Lordship privately, in order to communicate to your Lordship a private and confidential instruction which has been addressed by the Secretary of State of the United States to the collectors of customs at the different ports in the United States, whence the American fishing vessels, for the most part, proceed to the fisheries on the coasts of the British North American colonies: the object of this instruction is to engage the collectors to point out to the fishermen the risk they run by encroaching upon the grounds forbidden to them, and from having recourse to resistance by force of arms to Her Majesty's ships of war cruising for the protection of the fisheries.

Mr. Marcy, at my urgent request, had promised me a copy of this document, but I am afraid I shall not receive it in time to forward it officially to your Lordship, and he requested me, most particularly, to guard against its being published or getting into print, and that it should be considered strictly as a private and confidential communication.

I have, however, procured a copy of it from another quarter, and I have the honour to inclose it: the person, however, from whom I obtained

* No. 172.

† No. 165.

‡ No. 171.

§ No. 167.

it, earnestly requests that it may be considered as a secret and confidential communication, exclusively for your Lordship's information.

I have, &c.
(Signed) PHILIP GRIFFITH.

P.S.—I have forwarded a copy of the inclosure in this to Mr. Crampton. I am informed that Commodore Shubrick will not leave this capital for ten days or more.

P. G.

Inclosure in No. 175.

Circular addressed to the Directors of Ports, United States.

(Private and Confidential.)

Sir, *Department of State, Washington, July 9, 1853.*

THE President has learned with much surprise the excitement which exists among our fellow citizens who are interested in the fisheries of British North America, and that they are apprehensive of molestation during the approaching fishing season. It is also stated in the public prints, that some of the American fishing vessels have already sailed, or are about to do so, armed and prepared to sustain their real or supposed rights by the employment of actual force. The President feels a deep interest in this important branch of national industry, and he is now anxiously engaged in negotiations respecting the conflicting interests of Great Britain and the United States, which may be seriously impeded, as well as greatly complicated, by any actual collision between the subjects of Great Britain and the citizens of this country. The President, relying confidently on your intelligence and activity, is persuaded that you will use all the means in your power to diffuse a good understanding amongst those engaged in the fishery interest. You will warn them of the consequences of committing any unfriendly act during the progress of the pending negotiations, as any such act may postpone indefinitely the settlement of this vexatious question; and the result would be likely, in any event, to prove hazardous to themselves. Any armed resistance on the part of the fishing vessels, either singly or combined, would be an act of private hostility which can never receive any countenance from this Government.

You will omit nothing that your knowledge of the circumstances may suggest, and which our good faith towards a Power with which we are, and desire to remain, at peace demands, to prevent any rash or illegal movements intended or calculated to violate our obligations towards a friendly foreign Power, and our colonial neighbours.

I have been directed by the President to invite your prompt and personal attention to this matter, and to assure you that he places entire confidence in your active and judicious exertions to soothe the present irritation of popular feeling, excited in some instances, it is said, by unfounded reports of alleged violation of our national rights. Every good citizen should be solicitous to prevent any occurrence which may further excite that feeling. No violation of the colonial local law should be attempted, and their civil authorities and other officers should have due respect paid to them within their jurisdiction.

In case of insult to the American flag or of injury to our fishermen, you will request them to transmit the particulars, properly substantiated, to the Department of State instead of attempting to settle the difficulties themselves.

A naval force under the command of Commodore W. B. Shubrick, has been ordered to the fishing grounds to protect the American fishermen in their just rights.

Our hardy and useful seamen may rest assured while engaged in their lawful avocations all over the world, that no outrage or indignity

which they may suffer will be permitted to go unnoticed, but that they will be protected to the utmost of its power by the Government of their country.

I am, &c.
(Signed) W. L. MARCY.

No. 176.

Mr. Griffith to the Earl of Clarendon.—(Received July 31.)

(No. 7.)

My Lord,

Washington, July 17, 1853.

I HAVE the honour to inform your Lordship that Commodore Shubrick left this capital sooner than was expected, and that he proceeded on the 15th instant to Portsmouth, New Hampshire, in order to assume the command of the United States squadron, which is under orders to proceed to the fisheries on the coasts of the British North American colonies.

I have, &c.
(Signed) PHILIP GRIFFITH.

No. 177.

The Secretary to the Admiralty to Mr. Addington.—(Received August 2.)

Sir,

Admiralty, August 1, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Clarendon, a copy of a letter dated the 21st of July, No. 134, from Vice-Admiral Sir George Seymour, relating to the United States Government having sent a strong force to the fishing-grounds in the Gulf of St. Lawrence.

My Lords see no reason to depart from the instructions given to Sir George Seymour, unless Lord Clarendon disapproves; but their Lordships think that it will be desirable to communicate with Sir George Seymour by the mail of Friday, the 5th instant.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure in No. 177.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, July 21, 1853.

I HAVE to acquaint you, for the information of the Lords Commissioners of the Admiralty, that Mr. Crampton, Her Majesty's Minister to the United States, arrived at Halifax on the night of the 7th instant, for the purpose of conferring with me on a notice he had received on the 2nd from Mr. Marcy, the Secretary of State at Washington, of the intention of the United States Government to send a force to the fisheries, and their desire that the possibility of any collision in the present season should be avoided, by his receiving an assurance that no American vessel would be actually seized for fishing in the open bays; with regard to which the American Government placed a different construction on the terms of the Convention from that adopted by Great Britain. Mr. Crampton felt unable to give this assurance, but deemed it advisable at once to communicate with me on the subject.

2. The vessels employed under my orders in the Gulf have already instructions to exercise the utmost moderation; to prefer warning to seizure; and are told, as last year, to drive away, not to actually seize,

beyond three miles from the shore, excepting the last resort, in case of determined and contumacious encroachment in what are clearly bays of our provinces.

3. The American Government does not conceal that it has been induced to send a force to the British waters, by the clamour in the Eastern States. The measure has been preceded by an avowal on the part of many of the United States fishermen, that they are armed, and will defend themselves by force against our smaller cruizers; while no concession appears to have been contemplated on the part of the United States Government in exchange for that they profess to deem reasonable on ours, beyond expressing a disposition to avoid dwelling on disputed points in the orders they intended to give their commanders.

4. It is to be observed that the United States Government has deemed force necessary to protect their rights, when no complaint of the mode in which the Convention was enforced last year has, to my knowledge, been made, and no seizure or circumstance had taken place during the present season which justified the probability of a collision, except one may be brought on by their own people, or in consequence of an endeavour to resume the fisheries in the Bay of Chaleur, from which they were excluded last year; and the resumption would tend to the great disadvantage of the British fisheries around that bay.

5. Commodore Perry, in 1852, although not officially authorized to establish what were fishing-grounds open to his countrymen, did not attempt to urge that Chaleur was of that description, and did not himself enter the bay.

6. I am not authorized by my instructions to pursue a different course from that of last year; and I consider the moment when the United States are sending a force beyond any that can be necessary for their proposed object, ill-suited for concessions. Mr. Crampton did not dissent from this view of Mr. Marcy's proposal; and a message was therefore sent by electric telegraphic on the 9th to his Secretary of Legation at Washington, that "I could not give the assurance requested; that a single United States ship of war on our own coasts could ascertain facts; and that more would be menace, and likely to produce mischief."

7. Messages by telegraph are necessarily short, and do not admit of much explanation; and I understand this message has given dissatisfaction at Washington. Mr. Crampton, on his return to the United States, for which he left Halifax in the "Medea" on the 14th, will be able to enter into such explanations as may satisfy the United States Government that I retain the same readiness to prevent collisions between the countries as I have always evinced, and to again repeat that the orders under which Her Majesty's ships act are of the most moderate character; and Mr. Crampton has my permission to describe them more particularly, if he finds it desirable to do so.

8. At the same time there can be no doubt that the circumstances are of a grave nature, and that the presence of a foreign squadron to protect fishing-vessels, among which a disposition to offer forcible resistance to our small cruizers exists, involves contingences which demand the earliest attention of Her Majesty's Government.

9. The "Princeton," "Fulton," and "Rescue," steamers, under the orders of Commodore Shubrick, were some days since on the point of leaving Portsmouth, in New Hampshire, for the fishing-grounds, and the "Decatur" corvette left Boston for the same destination on the 15th instant.

10. I have therefore deemed it necessary to make an addition to the vessels in the Gulf of St. Lawrence, which only consisted, at the time the American Government ordered this demonstration of force, of the "Basilisk" steam-sloop and two tenders; and as the "Leander" was at Quebec during Lord Ellesmere's absence at New York, I ordered Captain King down the river to Chaleur by electric telegraph on the 14th instant, and the "Devastation" will sail from Picton to join Captain King on the 23rd.

11. I am very desirous to withdraw the "Leander" from this service, to replace her at Lord Ellesmere's disposal. I have not hitherto deemed it

expedient to move the "Cumberland," as the measure would indicate my thinking force indispensable; and 160 men are absent in tenders.

12. In considering the reply I should address to Mr. Marcy's proposal, I have had the advantage of unreserved communications with Mr. Crampton, who in no degree differed from the view I entertained, that any agreement to it required the concurrence of Her Majesty's Government; and as Mr. Crampton communicated his conversation with Mr. Marcy of the 2nd instant, to Her Majesty's Secretary of State for Foreign Affairs, by the mail which left Halifax on the 9th instant, I am in hopes that I may receive, early in August, any directions for my conduct which Her Majesty's Government may deem necessary; and in the interim I shall continue to use my best endeavours to prevent the affairs assuming additional difficulty.

I have, &c.
(Signed) G. F. SEYMOUR.

P.S. 9, A. M.—Since writing the above, I have received a telegraphic despatch from Mr. Crampton at Washington, to the effect that both the President and Mr. Marcy disclaim all idea of menace, and that Commodore Shubrick is especially enjoined to come to see me before going to the fishing-ground, which I hope may lessen the difficulties I anticipated from United States ships of war proceeding to the Gulf of St. Lawrence. The message is dated this day.

G. F. S.

No. 178.

The Law Officers of the Crown to the Earl of Clarendon.—(Received August 3.)

My Lord,

Doctors' Commons, August 3, 1853.

WE are honoured with your Lordship's commands signified in Mr. Addington's letter of the 18th of June, stating that he was directed to transmit to us a letter from the Colonial Office forwarding a copy of an Act passed by the Legislation of New Brunswick relative to the coast fisheries and illicit trade, and to request that we would report to your Lordship our opinion whether there are any reasons for refusing Her Majesty's approbation to that Act.

In obedience to your Lordship's commands, we have taken this Act into consideration, and have the honour to report—That we see no reason for refusing Her Majesty's approbation to that Act.

We have, &c.
(Signed) J. D. HARDING.
A. E. COCKBURN.
RICHARD BETHELL.

No. 179.

Mr. Crampton to the Earl of Clarendon.—(Received August 7.)

(No. 136.)

My Lord,

Washington, July 25, 1853.

WITH reference to my despatch No. 133 of the 3rd instant, stating my intention of proceeding to Halifax for the purpose of conferring with Vice-Admiral Sir George Seymour, I have the honour to inform your Lordship that I returned from that place to Washington on the 19th instant.

I did not fail during my stay at Halifax to put the Commander-in-chief in possession of all the information in my possession in regard to the views and intentions of the United States Government in sending a naval force to the fisheries, and I stated to him without reserve my own

impressions as to the course which the Commodore of the American force would be most likely to pursue whilst at the fisheries.

I found Sir George Seymour, while firmly determined to protect Her Majesty's subjects in their just rights, animated by a most conciliatory spirit, and fully impressed with the importance of avoiding all collision or discussion of disputed points with the officers and with the citizens of the United States.

His Excellency was so good as to communicate to me the instructions which he had given to the officers under his command entrusted with the protection of the fisheries, and these appeared to me drawn up with as much moderation as is consistent with the proper assertion of British rights.

The Vice-Admiral felt himself unable to give the assurance desired by Mr. Marcy, that under no circumstance the seizure of an American vessel should occur in a British bay at a greater distance than three miles from the shore; but at the same time his instructions are such as render the occurrence of any such seizure very unlikely.

On my return to Washington I waited upon Mr. Marcy and the President. My communication of the result of my conference with Sir George Seymour was received in a conciliatory manner. Mr. Marcy assured me, that although the United States Government could not consistently abandon their opinion as to the construction of the Convention of 1818 as regarded open bays, they had not sent a squadron to the fisheries to try conclusions on disputed points, but as the best means of preventing such disputes from arising. He entirely disclaimed any intention of menace by sending a naval force into British waters, and remarked that the force about to proceed there was quite too inconsiderable to warrant such an apprehension. He added that Commodore Shubrick, an officer whose prudence and discretion could be entirely relied upon, had been selected, more especially because he was personally well acquainted with Sir George Seymour, and that that Commodore was now instructed to proceed in the first instance to the head-quarters of the Vice-Admiral for the purpose of putting himself into friendly communication with him. The stay at the fisheries of the vessels under Commodore Shubrick's command, would, he added, be short, and his visit to them was to be regarded as a cruise of part of the West Indian squadron, not unnatural at any time in waters where American interests were, under the Treaty of 1818 itself, involved, rather than the detachment of a force for any special purpose connected with the present question regarding the fisheries.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 180.

Mr. Merivale to Mr. Addington.—(Received August 8.)

Sir,

Downing Street, August 6, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the information of the Earl of Clarendon, extracts from a despatch which has recently been received from the Governor of Newfoundland reporting the appointment of delegates from the House of Assembly to confer with Her Majesty's Government on the subject of free trade with the United States of America and responsible government.

I am to annex the copy of a letter addressed to the Speaker of the House of Assembly of Newfoundland by Mr. Shea, a member of that House, reporting his proceedings at Washington, whither he was despatched by the House of Assembly to advocate reciprocal free trade between Newfoundland and the United States.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 180.

Sir Ker B. Hamilton to the Duke of Newcastle.

(Extracts.)

June 28, 1853.

1. I HAVE the honour to transmit herewith an Address to your Grace from the House of Assembly, announcing the appointment by that body of three of its members, Messrs. Little, Parsons, and Emerson, to be delegates to Her Majesty's Government upon the subjects of responsible government and free trade with the United States of America.

* * * * *

7. On the 21st of April, 1852, after a debate of two or three days and by a large majority, a series of resolutions passed the House, expressive of their desire for free trade with the United States, on the basis of the Americans being admitted to a participation in our fisheries, as an equivalent for the removal of their bounties and prohibitory duties on Newfoundland produce; the produce of either country being admitted into the other, either free of duty, or at a rate not exceeding six per cent. *ad valorem*. The same resolutions were, after much debate, unanimously affirmed by the House in the past Session.

8. The opinion of the people generally is, I believe, in favour of this change; the low prices of our fish in foreign markets for the last year or two, having shown the almost imperative necessity of opening new markets for our produce, in order to afford remunerative employment even to our present population. Its opponents are to be found principally amongst the mercantile class, some of whom naturally fear that competition in their trade and fisheries which would, as they suppose, be consequent upon the settling of Americans in the outports of the island. Amongst even the merchants, however, opinion is divided upon the subject; and, in order therefore that their views may be distinctly known, and, if necessary, submitted by memorial to Her Majesty's Government, I called the attention of the President of the Chamber of Commerce to the action now being taken in this matter by the Assembly; and I received in reply the inclosed communication, comprising the substance of certain resolutions passed at a meeting of the Commercial Society; not, however, without opposition from a respectable minority, who moved an amendment in accordance with the resolutions of the Assembly.

9. After the best consideration I could give this question, and after availing myself of such information with respect to it as I could obtain, I am inclined to think that the advantages of free trade on the above basis are overrated on the one side, while its evils are exaggerated on the other. The advocates of free trade contend, that the stimulus which would be given to our trade and fisheries by the opening of the American markets to our fish and oil would be very great, and much more than commensurate with any evil that could possibly arise by the concession of the proposed equivalent. Those opposed to it allege that, by permitting the Americans to settle on our coasts and share our fisheries, the revenue would be seriously diminished by the illicit trade which would immediately spring up; and the competition with which our fishermen would have to contend, would be so much increased that they would ultimately be compelled to abandon the cod-fishery altogether.

10. It seems to me, however, very questionable whether all the advantages which are anticipated from opening the American markets would in reality arise. We send fish to America at present for exportation thence only: the duty on fish imported thither for consumption and the bounty on American-caught fish, being together too high to enable us to sell fish in the American home market on equal terms with the Americans. The removal of these bounties and duties would probably enable us to sell our fish without loss from American competition; but it would expose us to competition from the French, who would, unless a high duty were placed on their soft-cured and cheaper fish, import so largely and sell so low as to drive us out of the market altogether. The export market would, probably, remain with us at present; our hard-cured fish being that

which is best adapted for the warm climates to which the Americans send it.

11. On the other hand, it is equally questionable whether opening our harbours to the Americans would injure us either in our revenue or in our fisheries. The Americans have at present the right of fishing on the west coast of Newfoundland, and on the south shore as far east as the Ramean Islands; yet they make but little use of this privilege, preferring, apparently, the more productive, although more distant fisheries of the banks and the Labrador. If they do not at present frequent our southern and western shores, it is not likely that they would come to fish on our eastern coast; where the population is so much more numerous; where the proportion of fishermen to fish is so much greater; and where the cost of establishments for curing fish, from the higher value of land there, is also so much greater. It is moreover the opinion of many persons of great experience and intelligence, that we can catch and cure fish so much more cheaply than the Americans on our shores, that, other things being equal, we could afford to undersell them in their own markets. As regards the revenue, although, if the Americans were to settle in or frequent our bays and harbours, illicit trade would doubtless spring up between them and the inhabitants, yet the advantages we should derive from the necessary employment of our people by the Americans, from the hire of fishing rooms, &c., would greatly counterbalance this latter evil, in a fiscal point of view at least.

12. The mercantile community of St. John's are in some degree opposed to free trade, from the fear lest the settlement of strangers in the outports should, as it probably would to some extent, divert trade from St. John's; but, assuming this fear to be well grounded, it cannot be contended that the prosperity of the capital is of more importance than that of all the rest of the island.

13. For these reasons I am of opinion, upon the whole, that no well-founded objection can be urged to Her Majesty's Government entertaining and acting upon the desire expressed by the Assembly for the establishment of free trade on the basis agreed upon; and it does not seem to me seriously to militate against this conclusion, that the general feeling in Nova Scotia and New Brunswick seems to be opposed to any further concession of their fishery rights.

The different character of our respective fisheries, may, I think, well account for this difference of opinion between us.

14. The mackerel fishery in the bays of these provinces and in the Gulf of St. Lawrence, is that branch of industry in which they principally fear American competition. Mackerel are pickled on board ship, as soon as they are taken; the extension of their fishing grounds, therefore, is all the Americans require, to be enabled to extend, in an equal degree, their mackerel fishery. Cod fish, although sometimes salted on board ship, are cured on shore by a tedious and sometimes uncertain process, dependent very much upon the state of the weather. In the cod fishery, therefore, if the Americans were to cover the banks with their vessels, unless they had facilities for curing on shore, their fleets would be useless; it is in these facilities that we do, and I think always would, excel them, even after the proposed concession to them of further rights of fishery.

15. We have at present no mackerel fisheries; the mackerel having altogether deserted our shores for many years past.

P.S.—Since writing the above, I have been requested to transmit the accompanying Address to your Grace on the subject of free trade with the United States, adopted at a public meeting of the inhabitants of this town.

Inclosure 2 in No. 180.

*The President of the Chamber of Commerce, Newfoundland, to
Mr. Crowdy.*

*Chamber of Commerce, St. John's, Newfoundland,
June 25, 1853.*

Sir,

I HAVE had the honour to receive, and have laid before the Commercial Society, your letter of the 21st instant, stating that his Excellency the Governor "will be glad to be enabled to convey to his Grace the Duke of Newcastle, the views and wishes of the Society on the subject of the establishment of reciprocal free trade between this colony and the United States of America."

And I am directed to acquaint you, for the information of his Excellency, that the Society having fully considered the matter, are of opinion, with reference to free trade with the United States, that as imports from that country are now admitted upon the same terms as from Great Britain and elsewhere, at a duty of about 5 per cent. (collected solely for the purpose of revenue), whilst the produce of our fisheries are subject to a duty of 20 per cent. on admission into the United States, it is desirable that in any Commercial Treaty entered into between the Government of the United States and Great Britain the interests of this colony should be so far protected that goods imported from each country should be received at the same rate of duty.

That the views of the American Government should be obtained from our Minister at Washington, in order that the Society may more fully understand what they propose in reference to this colony, that the same may be more fully considered, before any definite arrangement be entered into.

That the prosperity of Newfoundland depending on her fisheries, it would be impolitic and unwise to admit any foreign Power to a participation therein, farther than has already unfortunately been done.

I have, &c.

(Signed) PETER Mc BRIDE,
President.

Inclosure 3 in No. 180.

Address to the Duke of Newcastle.

To his Grace the Duke of Newcastle, Her Majesty's Principal Secretary of State for the Colonies.

May it please your Grace,

AT a public meeting of the inhabitants of this town, held on the 27th instant, to consider the question of reciprocal free trade between the United States and this colony, the following resolution was unanimously passed and ordered to be transmitted to your Grace.

Resolved,—That it is the opinion of this meeting, that it would conduce to the welfare and prosperity of this colony to have free and unrestricted commercial relations with the United States of America on the principles unanimously affirmed by the House of Assembly, and that it would be seriously detrimental to the interests of Newfoundland if any arrangement be carried out between the British North American Colonies and the States, in which this island is not included.

By order and on behalf of the meeting,

(Signed)

AMBROSE SHEA, *Chairman.*

GEO. JAS. HOGSETT, *Secretary.*

St. John's, Newfoundland, June 28, 1853.

Inclosure 4 in No. 180.

*Extract from the Journals of the House of Assembly, Newfoundland,
Wednesday, June 15, 1853.*

MR. SHEA, as delegate appointed by the House of Assembly to proceed to Washington to advocate reciprocal free trade between this colony and the United States, presented the following letter addressed to the Hon. the Speaker, which he read in his place, and then handed in at the clerk's table, where it was again read, and is as follows :

“ Sir,

“ I have the honour to acquaint you, for the information of the Honourable the House of Assembly, that in conformity with the resolution of the House, passed on the 30th April, appointing me a delegate to proceed to Washington, to promote the views of the Assembly with reference to the question of free trade between the United States and this colony, I left St. John's upon the 5th ultimo, and lost no time after my arrival in the United States, in placing myself in communication with those authorities from whom I could receive necessary information, and whose position enabled them to promote the views contemplated by my appointment.

“ I found, from the first, that the opinion obtained that the people of Newfoundland had been adverse to an association with the other provinces in the arrangement for reciprocal free trade with the United States, and that to the position this colony had thus assumed was in some material degree attributable the want of success which has hitherto attended the proposals upon this subject. A sufficient refutation of this opinion was found in the Resolutions of the Assembly, passed in 1852, and reaffirmed in the present session by a unanimous vote ; and having had with me copies of those documents I caused them to be published in some of the leading journals of New York, in order that the real and legitimately expressed opinions of the people of this colony might be made known on a subject so deeply affecting their vital and substantial interests.

“ Her Majesty's Government appear to have favoured this false impression regarding the desires of the people of Newfoundland, for I was reliably informed that Mr. Crampton, the British Minister at Washington, was not authorized to assent to any proposal on this subject in which this colony should form a part. When we consider the Address passed the House in its last session, praying that Newfoundland should be included in any scheme for reciprocal trade which Her Majesty's Government should negotiate, and the reply to that Address laid before the House on the 23rd day of February last, it becomes difficult to understand the motives which led Her Majesty's Government to communicate a reply which certainly embodies no antagonism to our views, while the instructions to Mr. Crampton would appear to be of a totally adverse character.

“ It is not necessary to dwell on the injurious position that would be assigned to the colony by the effectuation of a scheme that would leave her excluded. I am happy in feeling assured that no such conjuncture need now be apprehended. I explained to Mr. Marcy, the Secretary of State, the importance to the United States of commercial relations with a colony like this that draws all her supplies from abroad. I referred as well to the intimate connexion this island is so soon to enjoy with the great Republic by means of the electric telegraph now in progress, and received from him, as well as from the President, the expression of opinion that Newfoundland must form a part of any arrangement that may be effected. Mr. Crampton, I doubt not, is now aware that the American Government will not again entertain any partial proposal that was before submitted, and will of course advise Her Majesty's Government of this state of facts.

“ As far as my observation and inquiries extended, I am enabled to state that a very general desire exists in America for the settlement of the

question, and the opinion prevails in the best informed circles that this result will be accomplished in the next session of Congress.

"I am desirous to avail myself of the earliest moment to lay before the House these few general observations, the short time that intervenes between my arrival and the closing of the Legislature being I trust a sufficient reason for the delay of a fuller report, which I shall have the honour of submitting on a future occasion.

"I cannot, however, conclude this letter without adverting to the marked courtesy extended to me by Mr. Crampton during my stay at Washington, as well as to the valuable aid I derived from Mr. Andrews, the author of the celebrated Reports on Colonial Trade and Statistics.

"I have, &c.

(Signed) "A. SHEA.

"To the Hon. the Speaker of the House of Assembly."

Ordered.—That the said letter be laid upon the table.

No. 181.

Mr. Crampton to the Earl of Clarendon.—(Received August)

(Private.)

My dear Lord Clarendon,

Washington, July 22, 1853.

I RETURNED here on the evening of the 19th, and the next day had interviews with Mr. Marcy and the President. The principal subject of our conversations was the fisheries, and in the inclosed letter which I immediately wrote to Sir George Seymour, you will find the substance of what was said. Whatever irritation may have been felt has been got over, and there is an evident desire on the part of Mr. Marcy, and more especially on that of the President, that the present fishing season should pass off quietly. At the same time there is as evident a fear of being attacked for not being as zealous in the protection of American rights as their predecessors in office. They would of course have been glad that peace should be secured by the entire concession by us of our position, allowing them to stand forth as the successful assertors of the whole of their claim. I think, therefore, that the communication to them of the view of the case taken by Sir George Seymour has had the good effect of showing them that forbearance must be mutual, and that if they really wish things to pass off smoothly, their instructions to the American Commodore must be couched in the same spirit of moderation as ours to the British Admiral. The misfortune is, that the former have to be made with reference to their production hereafter before Congress and the public rather than as practical directions for the guidance of the officer to whom they are addressed.

Mr. Marcy and the President entered upon other subjects, and upon all used the most friendly language. I will refer to them when I write by our own packet of Wednesday next.

Thinking that you would like to hear as soon as possible on the subject of the Fishery question, I take the opportunity of sending this letter off at once by an American steamer which leaves New York to-morrow.

I may mention, however, that after a good deal of grumbling, Mr. Buchanan has at length determined to go to England without his request to make one affair out of the commercial and political questions being complied with.

The President, contrary to his first intention, went to New York for the Exhibition, and told me that he was principally induced to do so by the hope of meeting Lord Ellesmere. Lord Ellesmere was unfortunately too ill to see him. Mr. Pierce, however, called on Lady Ellesmere, and said a number of civil things to me regarding her, summing up by saying it had perhaps never been his good fortune to converse with a lady who

combined with entire simplicity of manner so much elegance, and above all such excellent judgment and good sense.

In general his language was extremely frank and friendly in relation to all the questions between the two countries and their future prospects.

Believe me, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 181.

Mr. Crampton to Vice-Admiral Sir G. Seymour.

(Private.)

Dear Sir George,

Washington, July 21, 1853.

I RECEIVED your telegraphic message to Barclay of the 19th instant, just as I was leaving New York, and although it was sorely mangled in the transmission, I was able to make out its general sense. Mr. Griffith also received your message to him. It was too late to prevent him from communicating our written message to Mr. Marcy; however, on the whole, I do not regret that he has done so, and I think you will agree with me when I have recounted to you the conversations I had yesterday with Mr. Marcy and the President, on whom I called for the purpose of paying my respects to him on my return to Washington, but who took the opportunity of entering fully upon the Fishery Question. I had apprehended from the information which had been given to Mr. Griffith by Mr. Andrews (of whom I spoke to you at Halifax) that a good deal of irritation had been produced by our message, and that some further measures of a hostile appearance were contemplated. This irritation was probably felt at the first receipt of our message, but it has evidently now been got over, and nothing could be more conciliatory and friendly than the tone of the remarks both by Mr. Marcy and the President, and more especially of the latter. Mr. Marcy seemed to lay himself out to explain away any circumstances in the late proceeding of the United States Government which would wear the aspect of a menace, and to disclaim in the most positive manner any intention of making it appear that a concession had been obtained from us by a display of force. Any attempt of the sort, he said, he was perfectly aware would have an effect directly the contrary to that intended upon the British Government, or upon a British naval officer. The force which the United States were now sending to the fisheries was, he thought, so utterly incompetent for such a purpose as entirely to discountenance such an idea, and he said he hoped I would present the matter to you in this point of view. Mr. Marcy then said he would explain to me with perfect frankness the motives by which the United States Government had been actuated in their present proceeding, and these, he said, he hoped would serve to convince both you and me that they were actuated by anything but a hostile feeling, a wish to have an appearance of intimidating, or a desire to try conclusions on controverted points.

“Until the day before I sent for you,” said Mr. Marcy, “we had really no intention of sending a single vessel to the fisheries; and it was only in consequence of considerations which were pressed upon us, that the measure was adopted by the Cabinet, as one really the best adapted to prevent the occurrence of any hostile collision at the fisheries during the present season. A number of ‘savage articles,’ of which you may have seen some, appeared in the papers, attacking the Government for neglecting a very important interest, and withholding from it the least show of countenance and protection in the very rights which we ourselves had asserted they were entitled to; besides which, we received distinct intimations from persons of the highest respectability connected with the fisheries, that a disposition existed among many of the less scrupulous of the fishermen to make this absence of any of the public force of their own Government, an excuse to proceed to the fisheries armed, and to take the assertion of their rights, real or imaginary, into

their own hands. Now this appeared to us to present a danger of collision much greater than any which could arise from the presence of a small force of our own, entirely too inconsiderable to involve a menace, under a prudent commander, specially instructed to communicate with the British commander and to discountenance any infraction of the Convention or any recourse to violence. I agree with Sir George Seymour," he said, "that the sending of a large foreign force into British waters would wear a hostile appearance, and he would probably feel himself obliged to dispose of that under his own orders in a way which would give an angry aspect to the relative positions of the two Governments; but there are circumstances which I wish you would present to him (Sir G. Seymour) which, I think, will prevent him from viewing Commodore Shubrick's cruize in this light. In the first place, Shubrick's force, as I have before remarked, would be utterly inadequate if a collision was apprehended or contemplated, and you know enough of this country to judge how this Government would fare in public opinion if they exposed him to the chance of it under such circumstances. In the next place, although it is quite true that the waters on the shores of the Gulf of St. Lawrence are British, it must be admitted that the Treaty of 1818 itself gives us certain rights there—in fact, the right of fishing is secured to us on certain parts of those shores; this gives our citizens an interest there, and we cannot therefore concede that the presence of one or two of our cruisers to look after it, should be looked upon as a hostile demonstration. We certainly do not wish it to bear that appearance; and Sir George Seymour may also be assured that there is no intention of testing the only controverted point in the Treaty—I mean that regarding the open bays; on the contrary, we have every desire to avoid having to discuss this question, hoping, as we do, to arrange it by negotiation during the present summer.

"With respect to Shubrick's force," he said, "we do not consider it as one specially raised to take up its station at the fisheries, but as part of the West Indian squadron ordered to cruize in those waters and to return. It is to consist, as far as I am informed, of the 'Princeton,' the 'Fulton,' and one small sloop. The 'Fulton' is certainly not a very formidable vessel, and with regard to the 'Princeton,' I think I may say to you, confidentially, that although she is gone to Portsmouth it is very probable she will proceed no further. The fact is she was under orders, after visiting the fisheries, to return in order to take Mr. Walker (our new Minister) out to China, and she appears to be in so bad a condition that if they ever make her fit for service again it will not be till she is wanted for the latter purpose."

I have not now time to do more than tell you that the President spoke in the same sense, but was even more emphatic in the expression of his wish to keep peace at the fisheries.

To sum up, I think it clear that the object of the United States Government in sending a squadron is pretty much what we agreed in judging it to be, and that the degree of firmness evinced in your message has had a beneficial effect in showing this Government that the desire on both sides to avoid difficulty being supposed equal, it cannot fairly be expected that all the forbearance and concession should be on our side, and all the popular credit, from a display of national spirit and promptness to resist "imagined wrong," on theirs.

I must now conclude so as to give this letter a chance of going by the present post, and will therefore beg you to excuse the haste in which I have written, and to believe me, &c.

(Signed)

JOHN F. CRAMPTON.

P.S.—I send you an article about the "Princeton," which may interest you.

J. F. C.

To the Editors.

IN an article in this day's paper I find it stated* that the present boilers of the United States steamer "Princeton" are failures. This statement is altogether premature, and unwarranted by the facts, which are simply as follows: The present boilers are tubular, arranged like all locomotive and many marine boilers, with the usual proportions of grate and heating surface; the tubes are $3\frac{1}{2}$ inches outside diameter, and 9 feet long. On the trial trip made in Chesapeake Bay, a few weeks since, these boilers furnished plenty of steam and gave the vessel a high speed. On the recent trip to Portsmouth, New Hampshire, one boiler was disabled and thrown out of use by the blistering of the tops of the furnaces, and the trip was made with greatly reduced power, the two remaining boilers only being used. As soon as the disabled boiler can be repaired and another trial made, I have no doubt the result will prove fully satisfactory.

July 20.

B. F. ISHERWOOD.

FAILURE OF UNITED STATES STEAM-SHIPS.—The United States Government appears to be very unfortunate with its steam-ships. The "Princeton," now at Portsmouth (N. H.), is said to be an utter failure. On her late passage from Norfolk she was beaten forty-eight hours by the "Fulton." The "San Jacinto," lying at Philadelphia, is also in a disabled and almost worthless condition. A survey has been made upon her engines, and the report sent to Washington is of such a nature that a new pair will have to be constructed. The machinery in her is represented as being so faulty in plan and deficient in power that the "San Jacinto" can never be effectively used. The machinery was built by Messrs. Merrick and Son, of Philadelphia, after plans prepared for the department by one of the engineers attached to the navy, who, on her late cruise, it is said, became so disheartened at her failure that he deserted his post, leaving his assistant to bring her home. It is remarkable that, while with engines and vessels built through private enterprise there is no such word as "fail," poor Uncle Sam should pay double price for abortions of steam-ships such as the "San Jacinto" and Princeton."—*Baltimore Sun.*

A communication, which appears in another column, from a naval engineer, accounts sufficiently, perhaps, for the slowness of the "Princeton" on her passage to Portsmouth; still, from the multiplicity of facts which are reported in the papers, and the general concurrence of opinion respecting the defectiveness and great inferiority of the machinery of our war steamers, there must be great fault somewhere; and we have a strong impression, founded on general principles, not from any professional knowledge, that the fault is in the system prescribed by law, and therefore lies at the door of Congress. That body some time ago committed the error of requiring that the fabrication of steam machinery for our public ships should be let to the lowest bidder; whether competent and reliable or otherwise, the contracting bureau has no authority to inquire, and is left no discretion to exercise. This system is practised by no sensible man in his private affairs, and is followed by no wise Government. Experience has long proven, and every new experiment only confirms the fact, that it is not only the dearest plan, but is always attended by dangers and losses to the Government service of a higher importance than mere money. But Congress rarely listens to so safe a counsellor as experience, even its own; it therefore adopted the lowest-bidder plan, long since exploded everywhere else, and the consequence has been one disaster and disgrace to our steam marine after another, until it has become the laughing-stock of the public, even of those whom the system was probably adopted to conciliate. This, too, while the Government possessed, and still possesses, in its own dockyards, the most complete machinery, the most skilful mechanics, and all the means and appliances to boot, for constructing engines equal to any

* In the communication of "Justice."

in the world, But for the sake of a momentary popularity, we presume, this system, plausible but hollow, has been adopted by Congress, at the risk of every steam-ship sent to sea, the hazard of the lives of their crews, and almost certain detriment to the public service.

No. 182.

Mr. Elliot to Mr. Addington.—(Received August 10.)

Sir,

Downing Street, August 9, 1853.

I AM directed by the Duke of Newcastle to transmit to you the copy of a despatch and of its inclosure from the Lieutenant-Governor of Prince Edward Island, and to request that you will move the Earl of Clarendon to favour his Grace with his Lordship's opinion as to the instructions which should be sent for the guidance of the Lieutenant-Governor in dealing with armed American fishermen entering the harbours of the colony, or coming armed within the fishing limits from which they are excluded by Treaty.

I am, &c.
(Signed) T. FREDK. ELLIOT.

Inclosure 1 in No. 182.

Sir A. Bannerman to Vice-Admiral Sir G. Seymour.

*Government House, Prince Edward's Island,
July 18, 1853.*

Sir,

I HAVE the honour to acknowledge the receipt of your despatch marked Confidential of the 4th instant, and also that of the 12th. As you informed me that Mr. Crampton was to be at Halifax, I delayed writing to you, until I heard whether that gentleman threw any light on the subject alluded to by you of "certain American fishermen arming themselves, with the deliberate intention of repelling by force the small vessels or boats employed by directions of Her Majesty's Government in enforcing the Convention of 1818."

I observe that the result of your conference with Mr. Crampton has been that "you do not think it advisable to discontinue the indulgencies regarding coming into our harbours, which were sanctioned by Sir J. Pakington's letter of the 19th August, 1852."

I have always been most anxious to allow every indulgence to the subjects of a friendly Power that could be safely granted. I apprehend, however, that Sir John Pakington never dreamt that the American fishermen were to repay our indulgencies by coming armed among us. All I can say is, that if any of them come into Charlotte Town Harbour (while I am here) armed, they shall not leave it again until I hear from Her Majesty's Government. In September 1852, 250 American schooners were congregated together in one of our harbours, and from 1500 to 2000 of their crews landed: were your squadron off the coast this would happen again. This is a state of affairs which ought not to exist, and if it does is sure to end seriously; for the withdrawal of the small military detachment from the island will leave its Lieutenant-Governor powerless.

You state, I see, that "the United States Government has been lately made acquainted that there is no intention of carrying the measures which may be necessary for the protection of the fisheries, beyond what were found sufficient last year." Why therefore does not the British Minister at Washington urge on the United States Government to send one or more of their cruizers, as police, to keep the peace among their own countrymen? Such is the case with the French and Dutch on the coasts of England and Scotland.

Your tender the "Rose" left this on Sunday morning the 10th instant, and I have not heard of her since Lieutenant De Horsey applied to me for

a six-pounder; the iron one I intended for him I found to be unserviceable, but having a small field battery of brass six-pounders, I ordered the artilleryman in charge to dismount one of them, and deliver it to Lieutenant De Horsey, as after reading yours of the 4th, I should have been sorry if he had gone to sea without a companion to his other gun; I hope he will have no occasion to use either, and he will return our gun at the termination of his cruize.

I have heard nothing of how the negotiations about the Fishery Question are going on, and I dare say Her Majesty's Government will have as much trouble with the colonists, about what they term inherent rights, as with the United States Government.

I have, &c.
(Signed) A. BANNERMAN,
Lieutenant-Governor.

Inclosure 2 in No. 182.

Sir A. Bannerman to the Duke of Newcastle.

*Government House, Prince Edward's Island,
July 18, 1853.*

My Lord Duke,

I HAVE the honour to inclose copy of a letter* of mine addressed to Sir G. Seymour, in answer to two from the Admiral on the subject of information which had reached him, which I am glad he has had the opportunity of communicating to Mr. Crampton. I am aware that the American fishermen entertain very hostile feelings towards the Colonial protecting vessels, but as they are now commanded by officers of the navy, and manned from Her Majesty's ships, I entertain no fear of any collision; at the same time if any of them enter this harbour armed, at a time when we are at profound peace with the United States, I think the Imperial and Colonial statutes would fully justify me in detaining them.

I have, &c.
(Signed) A. BANNERMAN,
Lieutenant-Governor.

No. 183.

The Earl of Clarendon to Mr. Crampton.

(No. 71.)

Sir,

Foreign Office, August 12, 1853.

I HAVE received your despatch No. 136 of the 25th ultimo, upon the subject of your journey to Halifax, for the purpose of conferring with Vice-Admiral Seymour, respecting the protection to be afforded to the British fisheries during the present season; and I have to state to you that Her Majesty's Government entirely approve your proceedings on the occasion in question.

With respect to the language held to you by Mr. Marcy, during an interview which you had with him subsequently to your conference with Vice-Admiral Seymour, I have to state to you that Her Majesty's Government are of opinion that the language held to you by the United States Secretary of State is highly satisfactory, and you will express to Mr. Marcy the earnest desire of Her Majesty's Government that Commodore Shubrick's mission may promote the pacific intentions with which he is sent; and they do not doubt that the two Commanders, while faithfully discharging their duties, will exhibit towards each other the same frank and friendly spirit which now happily subsists between their respective Governments.

I am, &c.
(Signed) CLARENDON.

* Not inclosed.

No. 184.

Lord Wodehouse to the Queen's Advocate.

Sir,

Foreign Office, August 15, 1853.

I AM directed by the Earl of Clarendon to transmit to you a letter,* and its inclosures, from the Colonial Office, relative to an intention on the part of American fishermen to proceed armed to the fishing-ground off the British North American Provinces; and I am to request that you will report to Lord Clarendon your opinion upon the instructions which should be given to the Lieutenant-Governor of Prince Edward's Island, as to the manner in which he should deal with such vessels if they come within the limits from which they are by Treaty excluded.

I am, &c.
(Signed) WODEHOUSE.

No. 185.

The Earl of Clarendon to Mr. Crampton.

(No. 73.)

Sir,

Foreign Office, August 16, 1853.

I HAVE received your despatch No. 136, of the 25th ultimo, reporting the substance of your communication at Halifax with Vice-Admiral Sir George Seymour, upon the subject of the protection to be afforded to the British fisheries during the present season; and I have to inform you that Her Majesty's Government entirely approve your proceedings in this matter.

With reference to the language held by the United States Secretary of State in the course of the interview which you had with him subsequently to your conference with Vice-Admiral Seymour, I have to state to you that Her Majesty's Government are of opinion that Mr. Marcy's language is highly satisfactory; and you will express to Mr. Marcy the earnest desire of Her Majesty's Government that Commodore Shubrick's mission will promote the pacific intentions with which he is sent, and they do not doubt that the two Commanders, while faithfully discharging their duties, will exhibit towards each other the same frank and friendly spirit which now happily subsists between their respective Governments.

I am, &c.
(Signed) CLARENDON.

No. 186.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, August 17, 1853.

I HAVE laid before the Earl of Clarendon your letter of the 1st instant, stating, with reference to the dispatch of an American naval force to the fishing-grounds in the Gulf of St. Lawrence, that the Lords Commissioners of the Admiralty see no reason to depart from the instructions given to Sir George Seymour for the protection of the British fisheries; and I am to request that you will express to the Lords Commissioners of the Admiralty, Lord Clarendon's regret at the accidental delay which has taken place in answering the above-mentioned letter, and that you will at the same time state to their Lordships that Lord Clarendon is of opinion, that no change was required in the instructions given to Sir George Seymour.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 187.

Mr. Crampton to the Earl of Clarendon.—(Received August 22.)

(No. 141.)

My Lord,

Washington, August 8, 1853.

MR. MARCY having proposed to me to accompany him to Berkeley Springs, a retired watering-place in Virginia, for the purpose of conferring with him upon the commercial questions between the United States and Her Majesty's Government, I proceeded to that place on the 30th ultimo, and returned to Washington on the 6th instant.

During my stay I have had several conversations with Mr. Marcy upon the subjects in question, into the details of which, being free from the continued interruptions to which he was subject while at Washington, Mr. Marcy was enabled to enter more fully than at any former period.

He has promised to reduce to writing, within a few days, a counter-proposition to the proposals made by Her Majesty's Government, as the basis of a Treaty, which he hopes will be satisfactory to Her Majesty's Government.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 188.

The Queen's Advocate to the Earl of Clarendon.—(Received August 23.)

My Lord,

Doctors' Commons, August 22, 1853.

I AM honoured with your Lordship's commands signified in Lord Wodehouse's letter of the 15th instant, stating that he was directed to transmit to me a letter* and its inclosures from the Colonial Office, relative to an intention on the part of American fishermen to proceed armed to the fishing-grounds off the British North American Provinces; and to request that I would report to your Lordship my opinion upon the instructions which should be given to the Lieutenant-Governor of Prince Edward Island, as to the manner in which he should deal with such vessels if they come within the limits from which they are by Treaty excluded.

In obedience to your Lordship's commands, I have taken this subject into consideration, and have the honour to report that the Lieutenant-Governor may be instructed that armed American fishing-vessels guilty of any infraction of the Fishery Regulations or Colonial Statutes, should be dealt with in a legal manner, under the advice of the colonial law-officers, but with the utmost strictness and severity, and should be refused all accommodation or permission not within "the letter of the law."

Neither the Fishery Convention nor (probably) any of the Colonial Statutes have contemplated or provided for such an occurrence; and it may be necessary or expedient to pass a colonial statute to meet the exigency of the case, after consulting the senior naval officer on the spot. Until this be done, I can only suggest that the colonial and naval authorities should concert measures which, without serious risk of bloodshed, may (by exposing such armed vessels to the utmost inconvenience) induce them to abandon the practice of carrying arms.

I need scarcely point out the expediency of prompt and serious representations being addressed to the United States Government on this subject.

I have, &c.
(Signed) J. D. HARDING.

* No. 182.

No. 189.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, August 25, 1853.

I LAID before the Earl of Clarendon your letter of the 9th instant, requesting his Lordship's opinion upon the nature of the instructions to be given to the Lieutenant-Governor of Prince Edward Island, with reference to the rumoured intention of American fishing-boats to go armed to the fishing-grounds off the British North American colonies; and his Lordship having consulted thereupon with the Queen's Advocate, has directed me to transmit to you a copy of that officer's report,* and to state to you, for the information of the Duke of Newcastle, that he agrees with the Queen's Advocate that the Lieutenant-Governor should be instructed to deal with such vessels, when transgressing the fishery regulations, according to law; but the circumstance of their being armed seems to Lord Clarendon to render it imperative upon the Lieutenant-Governor to apply the law rigorously to them.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 190.

The Secretary to the Admiralty to Lord Wodehouse.—(Received September 1.)

My Lord,

Admiralty, August 30, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Clarendon, a copy of a letter from Vice-Admiral Sir G. F. Seymour, dated the 17th instant, reporting his interview with Commodore Shubrick, of the United States Navy, at Halifax, and my Lords would wish to be informed of the opinion of the Queen's Advocate and Law Officers whether, under the 9th Vict., cap. 93, sec. 73, a Vice-Admiralty Court in one province can take cognizance of a seizure made on the coast of another, for a breach of the Treaty with regard to Fisheries.

I am, &c.
(Signed) J. H. HAY,
Pro Sec.

Inclosure in No. 190.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," at Halifax, August 17, 1853.

I HAVE to acquaint you, for the information of the Lords Commissioners of the Admiralty, that the communications which were made to me by Commodore Shubrick, after his arrival at Halifax on the 5th instant, were indicative of every disposition on his part to carry on the duty entrusted to him in a conciliatory spirit.

The Commodore acquainted me that he was instructed to advise his countrymen to act in accordance with the stipulations of the Convention of 1818, and that the commanders of the vessels under his orders were directed, if any difficulties occurred, to report the facts to the United States Government or himself, and not to take any proceedings of consequence without further authority.

I referred Commodore Shubrick to a statement Mr. Crampton had made to Mr. Marcy, as my views; and added that from the disposition he evinced to prevent collisions on the Fishery question, I could assure him that the commanders of Her Majesty's ships were already enjoined to execute their duties with every possible moderation, and to prefer warning to seizure, except in cases

of wilful and deliberate encroachment; that no seizures had then been made, but I could not answer (although I hoped) that none would be necessary.

As Commodore Shubrick did not enter into what orders he had received on the Bay question, I read to him the principal part of a communication I had received from Mr. Crampton, dated the 21st ultimo, on the explanations he had received from the President of the United States and Mr. Marcy, as to their motives for sending a force to the fishery grounds; and called his attention to the latter having desired Mr. Crampton to assure me that there was no intention of contesting, during the present season, the only controverted point in the Treaty respecting the open bays. I gave this as my reason for thinking no collision was likely, which he appeared to desire to state to his Government as my opinion.

I also adverted to the possibility of collision arising from some of the fishing vessels being armed, which he assured me of his solicitude to prevent.

Commodore Shubrick did not expressly declare that he was ordered not to contest our view of the Bay question, but concurred generally in his instructions being in consonance with Mr. Marcy's language to Mr. Crampton; he also, later, expressed his concurrence with my views on the Admiralty Courts being the only proper tribunals to decide whether any seizures were justifiable, but I observed that he stated this rather as his personal opinion than that of his Government.

At the close of our first interview, Commodore Shubrick sent off the "Fulton" to Portsmouth, New Hampshire, with a despatch, and said he should wait her return; but ten days having elapsed without the "Fulton" making her appearance, he sailed last night, acquainting me that he should visit the fishery grounds, and that he expected the corvette "Cyane" would join him also; the "Decatur" he informs me he had sent to Labrador, from whence she would return by St. John's, Newfoundland.

The Commodore will find the "Basilisk" and "Devastation," with two tenders, on the fishing-grounds, under the orders of Commander Egerton. It is my intention to send the "Calypso" to the same quarter as soon as some tedious courts-martial shall have been concluded, which have been assembled to try the officers of the "India," under arrest, and her commander, who is now under trial.

I did not think it necessary to seek any renewed discussion during the subsequent time the Commodore remained at Halifax, as the matter appeared to me to rest on as good a footing as is compatible with anything resembling a naval force being sent on our own coasts. During his stay the American schooner "Starlight" was carried into Prince Edward's Island by the "Devastation," for a flagrant breach of Treaty near Grand River on the coast of Canada, of which I informed him. A difficulty has arisen whether, under the 9th Vict., cap. 93, sect. 73, a Vice-Admiralty Court in one province can take cognizance of a seizure made on the coast of another; if not, this will increase the difficulty of dealing legally with cases of encroachment on the east coast of New Brunswick, as it would entail the necessity of sending vessels seized there round Nova Scotia to St. John's, in the Bay of Fundy, which would be very inconvenient, as also the necessity of sending the "Starlight," and others seized on the coast of Canada, to Quebec for adjudication.

The demeanour of Commodore Shubrick and his officers gave great satisfaction here; they were invited from all departments, and received them afterwards on board the "Princeton," with every attention. I had personally much satisfaction in renewing the acquaintance with Commodore Shubrick which I had made some years since in the Pacific, when he was for a time commanding the American squadron.

I have, &c.
(Signed) G. F. SEYMOUR.

No. 191.

Mr. Addington to the Law Officers of the Crown.

Gentlemen,

Foreign Office, September 6, 1853.

I AM directed by the Earl of Clarendon to transmit to you a letter* from the Admiralty, inclosing a copy of a despatch from Vice-Admiral Seymour, reporting the substance of his communications with Commodore Shubrick, of the United States' navy, on his arrival at Halifax, upon the subject of the North American Fisheries question; and I am to request that you will take the inclosed despatch into your consideration and report to Lord Clarendon your opinion whether, under the Act 9 Vict., cap. 93, sec. 73, a Vice-Admiralty Court in one province can take cognizance of a seizure made on the coast of another province for a breach of the Convention of 1818 between Great Britain and the United States.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 192.

Mr. Merivale to Mr. Addington.—(Received September 16.)

Sir,

Downing Street, September 16, 1853.

I AM directed by the Duke of Newcastle to transmit to you, for the information of the Earl of Clarendon, the copy of a despatch from the Lieutenant-Governor of Prince Edward Island, reporting the seizure of the United States' schooner "Starlight" for an infraction of the Fishery Regulations, and the subsequent release of that vessel.

I am to request that, in laying this despatch before Lord Clarendon, you will move his Lordship to favour the Duke of Newcastle with his opinion, as to the course which ought properly to have been taken by the local authorities in the instance of this seizure.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 192.

Sir A. Bannerman to the Duke of Newcastle.

*Government House, Prince Edward Island,
August 16, 1853.*

My Lord Duke,

IN my despatch of the 11th October, 1852, No. 59, I forwarded to Sir John Pakington, in consequence of his confidential despatch of the 11th September, "A return of American vessels detained and prosecuted in the Vice-Admiralty Court here for a violation of the Convention of 1818." One of the cases noted in that return was not then adjudicated—the schooner "Caroline Knight;" she was subsequently condemned and sold, along with the other two, and a fourth was released before trial by Admiral Sir George Seymour as an act of clemency on his visit here, and on the master signing a declaration of a breach of the Convention, pleading poverty, and expressing sorrow for what he had been guilty of.

2. These vessels were detained by Her Majesty's ships the tender "Telegraph," Lieutenant Chetwynd, and the "Devastation" steam-sloop, Commander Campbell. They were not tried under the Island Colonial Statute, but were prosecuted, adjudicated on, and condemned under the Imperial Act 59 Geo. III, cap. 38, and no defence was made for either of them. They were seized within three miles of the shore on parts of the coast varying from 60 to 90 miles distant from the Admiralty Court at Charlotte Town.

3. I have now the honour to acquaint your Grace that Her Majesty's sloop

* No. 190.

“Devastation,” brought in here the United States schooner “Starlight,” a very fine vessel with upwards of 250 barrels of mackerel, on the 12th instant. This schooner was seized within two miles of the shore at Grande Vallie, Lower Canada, to the westward of Gaspé, and much nearer Charlotte Town than Quebec. There being no Admiralty Court at Grande Vallie, where the seizure arose, Captain Campbell considered that it was optional for him to send the schooner here for adjudication, and not to Quebec, which was much more distant and inconvenient, as he was then very near (as I understood him) the limits of his cruise to the westward. Captain Campbell considered he was justified in sending the schooner here in terms of the “Act to regulate the Trade of British Possessions abroad,” 8 & 9 Vict., cap. 93; the 73rd section of which provides for “jurisdiction for prosecution of seizures and penalties;” while the 59th Geo. III, cap. 38, section 2, provides that vessels found fishing, &c., shall be seized, sued for, prosecuted and condemned, &c., under any Act or Acts of the Parliament of Great Britain relating to the laws of trade and navigation, &c.

4. On applying to the legal authorities here, Captain Campbell found that they started doubts whether the Admiralty Court here had jurisdiction to try the case of the schooner “Starlight;” and as the risk of sending her to Quebec, upwards of 500 miles, might have been attended with serious consequences, he released the vessel on the same grounds as the Admiral acted on last year.

5. I am of opinion that the Admiralty Court has the jurisdiction in terms of the 73rd section of the Act alluded to, and that the vessels seized last year and brought in to Charlotte Town might have been carried to Nova Scotia, the nearest colony at the option of the seizer, and condemned at Halifax; for if this vessel had been seized at the entrance of the Bay of Chaleur, New Brunswick, and been sent to St. John’s for adjudication, she must have passed the two Admiralty Courts of this island and Halifax, and traversed several hundred miles in a difficult navigation.

6. As this case may be of some importance hereafter, if followed as a precedent, I trust your Grace will see fit to refer this despatch to the Law Officers of the Crown in England, and favour me with their opinions for the future guidance of the Vice-Admiralty Court here.

I have, &c.

(Signed) A. BANNERMAN,
Lieut.-Governor and Vice-Admiral.

No. 193.

Mr. Addington to the Law Officers of the Crown.

Gentlemen,

Foreign Office, September 17, 1853.

WITH reference to my letter of the 6th instant respecting the jurisdiction of Vice-Admiralty Courts in one British colony over acts committed in the waters of another British colony, I am directed by the Earl of Clarendon to transmit to you a letter* from the Colonial Office, inclosing a report from the Lieutenant-Governor of Prince Edward Island, containing observations on that subject as bearing upon the capture of an American schooner the “Starlight;” and I am to request that you will take these, together with the former papers, into your consideration, and report to Lord Clarendon your opinion thereupon.

I am, &c.

(Signed) H. U. ADDINGTON.

* No. 192.

No. 194.

Mr. Crampton to the Earl of Clarendon.—(Received September 18.)

(No. 151.)

My Lord,

Washington, September 5, 1853.

I HAD the honour of stating to your Lordship in my despatch No. 141 of the 8th ultimo, that Mr. Marcy had promised to reduce to writing a counter-proposition to the proposals made by Her Majesty's Government, as the basis of a Treaty to regulate the commercial questions pending between Great Britain and the United States; and I have now the honour to inclose the copy of a note which he has addressed to me, accompanied by the draft of a Treaty for that purpose.

Mr. Marcy enters so fully into the considerations which have weighed with him in adhering, in many essential particulars, to the position taken by his predecessors in office, as well as in proposing some fresh stipulations, that it will be unnecessary for me now to do more than advert to them in a summary manner, and to point out succinctly to your Lordship in what respects the proposals of Mr. Marcy's present draft differ from those of Her Majesty's Government embodied in the draft of Treaty forwarded to me by Lord John Russell, with his Lordship's despatch No. 5 of the 15th of January last, and in the memorandum drawn up by me in conformity with Sir J. Emerson Tennent's letter to Lord Wodehouse of the 20th of April last, and communicated to Mr. Marcy in June last.

It is proper, however, that I should in the first place state to your Lordship that Mr. Marcy, in declining some of the proposals of Her Majesty's Government, has repeatedly remarked that he did so, not generally from any objection which he himself entertained to them, or from the want of a due appreciation of the great mutual advantages likely to result from a still freer commercial intercourse between the two countries, but, on the contrary, from a sincere wish to succeed in carrying into practical effect a measure which would conduce to that object. "Were such a measure," said Mr. Marcy, "framed without reference to the existing state of public opinion and the feelings, or even prejudices, if you will, of the multifarious and sometimes conflicting interests of the different sections of the Union, its production would be worse than useless. Such a measure, it is true, might be in accordance with my own individual views, with those of the President, and of most, if not of all my colleagues; but it would certainly be defeated, and its defeat would add strength to the Protectionist party, and tend to delay the very object we sought to attain. That party is certainly not in a majority in Congress; it is nevertheless still powerful enough to obstruct any measure tending to free trade, against which it might be enabled to bring to bear the additional weight of any local interest, or interests, which might be thought erroneously or not, to be injuriously affected by it." He was confirmed in his opinion, he added, as to the expediency of not attempting to achieve too much, from the conviction which he entertained, that public opinion in the United States in favour of free trade was gaining ground, and would continue to do so, if not checked by some untoward circumstance. Consequently any shortcomings of the present measure, which he nevertheless thought was a great step towards free commercial intercourse with Great Britain, would, in all human probability, be ere long remedied by future legislation or by additional Treaty arrangements. It was this consideration which led him to think it expedient to entertain at the present time the proposal I had conveyed to him (in the memorandum above mentioned) for an enlargement of the basis of the negotiation, including a revision of the Treaty of 1815. It was the intention of the Administration to proceed, as long as they could gain the support of the country, in the direction of free trade; but, were it attempted to introduce into Congress measures of so extensive a nature in the form of a Treaty

with a foreign Power, it would call up prematurely, and in a way very disadvantageous to the Administration, a discussion of the whole question of the revision of the tariff; and he would leave it to me, he said, who had been present in 1846 at part of the debates which then took place on the tariff question, to judge where that discussion would lead us.

With regard to the sixth Article of Mr. Marcy's draft, I may at once state to your Lordship, that I pointed out to him, and that he admitted the objection to which it was liable, as there worded, viz. : that it left the duration of the Treaty dependent upon the passage of an Act of Congress on the one hand, or of an Act of the Provincial Legislature on the other; Mr. Marcy accordingly authorized to say that he had no objection to the Article for the same purpose as worded in the draft of Treaty proposed by Lord John Russell; with the exception, however, of the term of ten years thereby affixed as the duration of the Treaty, for which he would propose to substitute a term of seven years.

I have inserted in red ink in the margin of Mr. Marcy's draft the Article concerning the duration of the Treaty, as worded in Lord John Russell's draft, in order that your Lordship may be able more readily to compare them.

I will now proceed to indicate the points in regard to which Mr. Marcy's draft differs from the proposals of Her Majesty's Government.

1stly. In Mr. Marcy's draft, in the first Article, by which permission is accorded reciprocally to British and American fishermen to take fish on certain shores and bays, &c., therein designated, an exception is made in regard to shell fish.

2ndly. Newfoundland is inserted as one of the British colonies to which the provisions of the first Article apply.

3rdly. In the first Article, containing the provision by which the permission to cure and dry fish is granted to American fishermen on certain coasts of the British colonies, in place of the words, "the operations of British fishermen," Mr. Marcy has substituted the words "peaceable use of any parts of the said coasts in their occupancy for the same purpose."

4thly. In the second Article of Mr. Marcy's draft, giving to British fishermen the right of fishing on the coasts of the United States, an exception is made in regard to the coast of Florida.

5thly. The third Article of Mr. Marcy's draft is new, and proposes to extend the mutual right of fishing to the coasts of the United States, and of British territories on the west or Pacific coast of North America.

6thly. Mr. Marcy's draft omits any engagement for the discontinuance of the bounties accorded to American fishermen.

7thly. In the fourth Article, containing the Schedule of productions of the United States and the North American Colonies, to be admitted mutually free of duty, the articles coals, printed books, and metals, are omitted in Mr. Marcy's draft; and the articles rice, pitch, tar, turpentine, lard, stone, and marble are added.

8thly. Mr. Marcy's draft contains no article granting the privilege of American registry to British and colonial built vessels.

9thly. A new Article is proposed in Mr. Marcy's draft granting to American citizens the free navigation of the St. John's River, and the abrogation of all export duty on American lumber floated down that river, if exported to the United States.

Your Lordship will perceive, from a perusal of Mr. Marcy's note, and from the above comparison of his draft of Treaty with the proposals of Her Majesty's Government, that the Government of the United States is not disposed to yield in regard to the three principal points upon which I was directed to insist; viz., the admission of British vessels to American registry, the abrogation of the duty on colonial coal, and the discontinuance of the bounty to American fishermen. As a set-off to the continued insistence of the United States Government on these points, without adverting for the present to several concessions, now urged upon Her Majesty's Government for the first time, Mr. Marcy does not seem prepared to offer any other equivalent than the withdrawal of the objection taken by Mr. Fillmore to the admission of the articles "furs, tails, &c." in the Schedule to the fourth Article, and the withdrawal of the proposal of

Mr. Everett to insert therein the articles sugar and unmanufactured tobacco.

It is not necessary for me to point out the inadequacy of these concessions, and I could not help remarking to Mr. Marcy, that however sincere was the desire of Her Majesty's Government to enter into a liberal commercial arrangement with the United States, and however fully they appreciated the difficulties against which the American Government had to contend in devising a measure likely to unite the suffrages of the varied interests of the Union, there were points of the proposed arrangement to which it did not appear to me that Her Majesty's Government could agree, consistently with a due regard to the interests and wishes of several of the colonies affected by the arrangement.

Mr. Marcy's proposal, however, is accompanied by considerations, which I think it my duty to make known to your Lordship, and I did not hesitate in complying with his request that his project should be submitted to Her Majesty's Government.

The interval which will elapse before the meeting of Congress, in December next, and consequently before any Treaty could be concluded and ratified, will afford sufficient time to Her Majesty's Government for a full consideration of the question, and for transmitting to me any further instructions with which your Lordship may be pleased to honour me on the subject.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 194.

Mr. Marcy to Mr. Crampton.

Sir,

Washington, September 1, 1853.

I DEEM it proper that a few explanatory remarks should accompany the *projet* of the Treaty which is herewith submitted to you. I shall be the more brief in presenting my views on the several subjects brought into notice, because they have been heretofore considered and discussed in our conferences.

In the draft now submitted, you will observe that the third Article is a new one. This is inserted for the purpose of giving to the fishermen of the United States the reciprocal right to fish, &c., on the north-west coast of the British possessions in North America.

By the second Article of the *projet* heretofore submitted by the British Government to the United States, and also by the same Article of that submitted to you, and by you referred to your Government, the right in common with the citizens of the United States is given to British subjects to take fish on the "sea coasts, &c.," of the United States without restriction. The right by that Article is given to British fishermen to take fish, &c., not only on the Atlantic coasts, but also on the coasts of California and Oregon; on all our Pacific coasts and that of the adjacent islands. I presumed that it was merely an inadvertence that the north-west, as well as the north-east coasts of the British possessions on this continent were not opened reciprocally to our fishermen in common with those of Her Britannic Majesty. As the United States have proposed to open to British subjects their Pacific coasts, it will be no more than fair and equal to grant to the citizens of the United States a reciprocal right on the Pacific coast of Her Majesty's possessions in that quarter. I do not therefore anticipate any serious objection to the proposed new Article, as it only supplies what I think was only an accidental omission.

It is not on account of the value of the fisheries, but from other considerations, that I have proposed to except the coast of Florida from the operation of the second Article. Owing to the proximity of the Florida coast to some of the Bahama Islands, inhabited by free blacks, it is apprehended that if liberty were granted to British fishermen to come upon that coast and land on shore, these blacks and other islanders would avail them-

selves of the opportunity thus afforded to interfere with the slave population of that State. Upon this ground, and perhaps to some extent upon another (an apprehended interference with the rights of wreckers), it is believed that without such an amendment the opposition to the ratification of the Treaty in the Senate would be strong, and might be successful in defeating it. I have but little doubt myself that the right to fish in shore on the Florida coast, and to land for the purpose of drying and curing fish on that shore, would be perverted occasionally to the purpose of facilitating the escape of slaves. To a large portion of the United States, it would be regarded as an objectionable feature. It is, therefore, in my opinion, not only proper in itself, but important to the success of our negotiation, that the exception which I have proposed should be acceded to. I am also assured that the right to British subjects to fish on the Florida coast is merely nominal, and that they would very seldom or never resort to it for that object, and if they should do so, they would find very little encouragement in such a pursuit.

To guard against a misconstruction, perhaps scarcely to be apprehended, in that clause of the Articles wherein the reciprocal right of fishing is given, I have added, as you will perceive, after the words fish of every kind, "except shell-fish." It may be, that without such an exception, more comprehension might be attempted to be ascribed to the terms "fish of every kind" than is intended. Abundant authority can be found for saying that "oysters, &c.," are a kind of fish. Should it be apprehended that our oyster beds along the coast of the United States are to be opened to British fishermen—an effect not intended by either party—it would excite strong opposition to the Treaty in many parts of the United States. There might be objection, also, on the same ground in the British provinces, if it were apprehended that citizens of the United States could take oysters, &c., on their coasts. The words I have introduced prevent all misapprehension which might otherwise arise on the subject.

The exception of my predecessor to the expression in the first Article of the British draft, which prohibited the fishermen of the United States in curing their fish on shore, &c., "from interfering with the operations of the British fishermen," seems to me to be well taken. It is a comprehensive and indefinite phrase, and may be interpreted to mean a greater restriction on our fishermen than either party now intends. The modification of that clause which I propose will, I think, effectually secure the object desired, and I hope be readily accepted as a substitute. It is proposed to modify in like manner the corresponding clause in the second Article. As the "estuaries and rivers" which are to be excluded from the operation of the first and second Articles are to be specially mentioned, I trust no serious embarrassment will arise on this subject.

In both *projets* before submitted, Newfoundland was omitted from the enumeration of the British possessions to which it was intended to apply the stipulations of the Treaty. In the draft now presented to you, that island is included, and I hope no serious objection will be made to this change; for really I can see no good reason for its exclusion, but many cogent ones for including it. The insertion of this island has involved the propriety of several other alterations too obvious to need explanation.

The third Article of the draft of Treaty furnished by Her Majesty's Government after examining the one submitted by you to Mr. Everett, I have, as will observe, wholly omitted in the accompanying *projet*. I will briefly state the reasons for this omission.

The next succeeding Article (that containing the free list of products) proposes to admit, among many other things, "British Colonial fish of all kinds" into the United States free of duty. The omitted Article amply provides for the same thing. It is in this respect superfluous; but it has an object beyond this in view; for it requires the abandonment by the United States of their policy of granting bounties to their fishermen. This Article presents distinctly one of the principal points of difference between us. I do not propose here to discuss this subject at large, but only to offer a few general considerations in regard to it. The bounty allowed by the United States, as you are aware, is not granted to all classes of our fishermen, but only to a certain description of vessels

engaged in the cod-fishery. The continuance of this bounty will give no advantage whatever to our fishermen engaged in the herring and mackerel fisheries, the branches of that business which make it desirable to the United States to acquire the right proposed to be secured by the Treaty under consideration. To the English subjects engaged in taking mackerel and herring (that kind of fishing in regard to which American fishermen will be brought more directly into rivalry with them if the Treaty should be concluded), the bounty granted only to certain of our vessels engaged in the cod-fishery must be a matter of indifference. It gives no aid to American citizens engaged in the mackerel and herring fisheries, and consequently works no injury to British subjects employed in the same fisheries. Besides the amount of bounty paid to our fishermen is not large, and is continued, as I have had occasion to state to you, mainly for the purpose of countervailing the advantage that the fishermen of other nations have over ours on account of our salt duty: while British fishermen get their salt free of duty, ours are obliged to take it burdened with a duty of about 30 per cent. *ad valorem*. Considering the quantity of salt used in curing fish, the British fishermen have a decided advantage over ours in this respect, an advantage not much more than compensated, even in the cod-fishery, by the bounty which the latter now receive. In other respects British fishermen have irremovable advantages, which place them beyond reasonable apprehension of a competition on equal terms from American fishermen. This is proved by the large quantity of British-caught fish now brought into the markets of the United States notwithstanding the duty thereon, compared with the supply of that article from our own fishermen. In our system of finance, salt is a revenue article; and, until our Legislation shall place it on a list of free articles, it would be unjust towards our fishermen to withdraw the bounty which has for a long time been extended to them, and is necessary to enable them to enter fairly into competition with the fishermen of other nations engaged in taking cod. So far as other fishermen are concerned, they receive no detriment from the bounty, but in the mackerel and herring fishery derive an advantage from the continuance of our duty on salt. The withdrawal of the bounty might lead to the repeal of the duty on salt, at least on that used in the fisheries, and consequently the British fishermen engaged in the mackerel and herring fisheries would lose the advantage they now have in those branches of the business over our fishermen, who are obliged to pay a higher price for the salt used in curing their fish.

The reciprocal clause proposed in regard to the use of the canals in the United States, which is, I presume, only intended to extend to such as the United States own or can control, would be nugatory; for they have no interest in or direction over any canals whatever. These canals are generally State works: some, however, belong to incorporations. The United States have no right to interfere with either. As income is the great object of those interested in these works, I cannot think there is any reason to apprehend that those who have the management of them will ever undertake to discriminate in regard to their use, or on the rate of tolls between our citizens and other persons, who may desire to avail themselves of these artificial channels of trade and travel. There would not be any objection to a stipulation engaging the Executive of the United States to apply to and urge upon the State Governments to secure, by proper regulations or enactments, 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.

Another most serious point of difference, which has arisen in this negotiation, is that which relates to the proposition for the free registration in the United States of vessels built in the British provinces, when such vessels become the property of American citizens. I have had occasion in our conferences to state the substantial objections to this stipulation, and do not propose here to go over the ground again. The shipping interest in this country, as it is in yours, is one of very great importance, and our Government looks to it, and will watch over it, with the deepest concern. The tendency of our legislation has been of late evidently towards a relaxation of restrictions upon foreign commerce, but its

progress in that direction must be cautious and conformable to public opinion. Such an innovation in our navigation policy, such a material change in regard to the ship-building interest as is proposed, would not be wise, nor would it be sustained by those whose approval is required to secure success to the measure. Besides, the competition between the British Colonial ship-builders and those of the United States would not be waged on equal terms. Many of the articles used in the construction of vessels in the United States are, under our financial system, revenue articles, and, of course, are more costly here than in the British provinces. I would allude particularly to iron and hemp. One of the direct and immediate advantages, which British Colonial ship-builders would have over ours, would be the amount of duty imposed by our tariff on dutiable articles used in the construction of ships. This duty is about 30 per cent. *ad valorem* under our tariff. The value of such articles used in the construction of ships is very considerable; so much so as to place the British Colonial ship-builders on a better footing than those of the United States. Such a change would also be regarded as an alarming departure from a policy long established and much cherished in this country, and would array against any Treaty which proposed it a powerful opposition, not only from those engaged in ship-building, but various other influential interests. The injury likely to result from it would, in the judgment of the country, far outweigh all the advantages which would be derived to our citizens from the proposed Treaty, irrespective of the many other concessions made to Great Britain on other subjects embraced in it. The main objection above presented to this Article cannot be disposed of by alleging that the United States can, if they choose, remove by legislation the burden of the import duty on articles used in the construction of ships, and in that way make the competition in that business between our ship-builders and those of the British provinces more nearly equal and fair.

This would require a revision of our whole revenue system, and such changes as the Executive Branch of our Government would not ask, because it could not approve, and such as Congress would not make.

I flatter myself that this Article will not be insisted on; for, if it is, I frankly say to you that, in my opinion, the contemplated arrangement, which is in so many respects advantageous to both countries, must be abandoned.

The proposition to allow British vessels to clear from ports in the United States to California and our possessions on the Pacific, is met by a constitutional objection, which cannot be removed without leaving open to Her Majesty's subjects upon the Atlantic as well as the Pacific coast our entire coasting trade; and it will not, as I understand, in the face of this difficulty, be any further pressed.

The enumeration of the estuaries and rivers, which are to be excluded from that clause of the first and second Articles of the Treaty, granting common rights, will be very long attended with some difficulty, if the whole extent of our Atlantic coast is to be run over. I therefore suggest, after passing as far south as the southern point of the coast of Massachusetts, the exception of these estuaries and rivers should be general. I propose to add to the enumerated list in the second Article, after naming those estuaries and rivers north of the proposed point, the following clause, viz., "and all estuaries and rivers on the Atlantic coast of the United States south of the southern limit of the Massachusetts."

I believe I have brought into view in the foregoing remarks all the material matters in regard to which there is likely to be any diversity of opinion, except those in respect to the enumerated articles to be admitted free of duty from the British provinces into the United States, and *vice versa*. Our discussions upon these have been full, and I shall therefore be brief in presenting what I have to say on this subject.

The theory of the reciprocal branch of the Treaty is a free exchange between the British provinces and the United States of the natural and agricultural products of the respective countries.

Rigidly carried out, this theory would exclude all manufactured articles, and include all the natural and agricultural productions of each.

From the list of free articles in the accompanying draft of a Treaty, I have excluded all manufactures.

In the Schedule which had been previously considered, the article of printed books, not subject to copyright, was included. As a fabricated article it seemed to be out of place; but, if desired, there would not, I conceive, be much objection to restoring it.

The British *projet* inserted on the Schedule as free articles “*metal of ores;*” to this, objections are made principally upon the ground of the indefiniteness of the term. Passing by the objection that it is a manufactured article, that of uncertainty as to its meaning in many cases ought to be, in my opinion, conclusive. Scarcely any other term could be used, and properly too, which would designate so great a variety of objects. Among these objects may be specified gold, silver, lead, mercury, copper, tin, iron, zinc, palladium, &c.; and it is applied to them in various states produced by labour and manufacturing processes. Blooms, pig-iron, steel, and iron bars might, without much impropriety, be denominated metals. The same difficulty would be found in regard to several other minerals.

If this article should be inserted in the Treaty, I am convinced that innumerable controversies would spring up; and under it, many invasions of the revenue laws of the respective countries would be sheltered. As I am not aware that any considerable interest in the provinces will be advanced by retaining it, I trust that its insertion will not be insisted on.

As the principle of the reciprocity clause of the Treaty is an agreement for a full and free exchange of the natural and agricultural productions of the United States, and the British North American provinces, all important products ought to be included in the schedule of free articles, and if any are omitted it should be done for special reasons.

To the enumeration, as presented in the former Drafts, there was a general objection, which seemed to me likely to embarrass and defeat the adoption of the Treaty. The list of free articles appeared to be settled without due regard to the interests of all sections of the United States. It had the aspect of being an arrangement for the almost exclusive benefit and accommodation of the British provinces, and the eastern and some of the middle States. Many of the staple products of the southern and southwestern States were omitted.

To the free list first made out I have added rice, tar, pitch, and turpentine. These are articles mostly of the growth of the southern section of our Union, and I am not aware of any serious objection to placing them on the Schedule. Should they be left off*, as well as sugar and tobacco, the omission in the Treaty might, with fairness and force, be assailed on the ground of its marked sectional features. On the part of the United States it has been proposed to omit coal, and on the part of Her Majesty's Government to omit unmanufactured tobacco and sugar. I am fully persuaded that the reasons for excluding coal are quite as strong as any that have been, or can be, offered for excluding tobacco and sugar; and the interests of the United States are quite as seriously affected by striking the two latter articles from the free list as the interests of the British provinces can be by the exclusion of coal. Coal of all descriptions is found in the United States, and in some parts of them in great abundance: this product from our own quarries will meet the foreign article in all the markets of the United States; and when the numerous avenues for the transporting this bulky article, now in the course of construction and contemplated, are opened, as they soon will be, that brought from the British provinces will encounter a well-sustained competition with it. This consideration, I admit, has a double aspect: while it shows that the British provinces cannot have a very great interest in procuring a free introduction of their coal into the United States; on the other hand, the United States cannot have a very great interest in preventing such introduction.

But it is to be feared that those engaged in the coal business are not yet prepared to take this view of the subject. The owners of coal-quarries were not long since, and probably are now, very urgent for high duties

* *Sic* in orig.

upon foreign coals, as an incidental protection to their interest: they were sturdy opponents to our tariff law of 1846, because it reduced the impost on foreign coal, and have since urged an increase of such duty on that ground. From this class of citizens, who are numerous and influential in the three large States of Pennsylvania, Virginia, and Maryland, vigorous opposition may be apprehended to any Treaty which stipulated for the introduction of coal free of duty from the British North American provinces. Whether the effect they dread would be realized or not, is not the question to be settled; but as long as they believe it will be, they will oppose the Treaty as strongly as if the effect was inevitable, and such opposition might seriously endanger its ratification.

The object for retaining this article on the free list is not, I believe, so important to the British provinces as has been imagined. The amount of coal imported from them into the United States in 1852, the last year for which there are full returns, was 87,036 tons, and the duty received on it only \$48,330.

For this concession to the United States, which, in the draft of the Treaty herewith submitted, I have assumed will be acceded to, I desire to direct your attention to the concessions which are made to the British provinces. The two first items which I consent to have excluded from the free list, should coal be excluded, are leaf-tobacco and unrefined sugar. These are produced in the United States, and not in the provinces; if freely admitted, they would meet with no competition from home-produced articles; and the supply for the provinces would be principally derived from the United States: a large market would be there opened to two of our staple agricultural products. The great advantage to the United States in establishing reciprocal trade in natural products with the British possessions in North America is, to open a market there for such of these products as are not grown or found in those possessions. It is certainly a great concession—far greater than is asked in return—to agree to exclude from the free list these two important productions, of which there is a large amount consumed in that part of the British dominions, and with which they would be almost wholly supplied from the United States.

I have also, as you will observe, included in the free list “furs, &c.” of which the British Provinces supply a large amount. These are appropriately revenue articles. They can in no respect be included among those things which in the present state of society are regarded as the necessaries, or even the comforts of life. They are used mostly by those who can afford to pay taxes, and are willing to indulge in luxuries.

If tobacco and sugar are to be excluded upon the ground that they are revenue articles in the Provinces, and if received free of duty from the United States, the resources for the support of their respective Governments would be impaired; the consideration of giving up a revenue on an article very suitable for taxation might well be urged on the part of the United States for excluding “furs, &c.” from the free list. They are included, however, as a concession for which a compensating concession may be reasonably expected.

I am fully aware that by the operation of such a Treaty as we have now under consideration, many interests on each side will be injuriously affected by some of its various stipulations. It is but fair that concessions to one party should be met by concessions to the other. I think the draft here submitted is framed in a liberal spirit towards Her Majesty's Provinces; it gives as much as it proposes to take; but in its operation, on the whole it will, in my judgment, be beneficial to both Governments.

I avail, &c.
(Signed) W. L. MARCY.

Inclosure 2 in No. 194.

Draft of a Commercial Convention proposed by the Government of the United States.

THE Government of the United States, being equally desirous with Her Majesty the Queen of Great Britain, to avoid further misunderstanding between their respective citizens and subjects in regard to the extent of the right of fishing on the coasts of British North America, secured to each by Article I of a Convention between the United States and Her Britannic Majesty's Government, signed at London on the 20th of October, 1818: and being also desirous to regulate the commerce and navigation between their respective territories and people, and more especially between Her Majesty's possessions in North America and the United States, in such manner as to render the same reciprocally beneficial and satisfactory, have respectively named Plenipotentiaries, &c., &c., who have agreed upon the following Articles:

ARTICLE I.

It is agreed by the High Contracting Parties, that in addition to the liberty secured to American fishermen by the above-named Convention of October 20, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks of Canada, New Brunswick, Nova Scotia, Newfoundland, Prince Edward's Island, and of the several islands, without being restricted to any distance from the shore; 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 British fishermen in the peaceable use of any part of the said coast, in their occupancy for the same purpose.

It is understood that the above-mentioned liberty shall not extend to the right of fishing in the estuaries and rivers hereinafter designated: that is to say,

which right is reserved exclusively for British fishermen.

ARTICLE II.

It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty to take fish of every kind, except shell-fish, on the sea-coasts and shores of the United States, except the coasts of the State of Florida and the adjacent islands, and on the shores of the several islands belonging thereto, and in the bays, harbours, and creeks of the United States, and of the said islands, without being restricted to any distance from the shore, with permission to land upon the coasts of the United States and of the islands aforesaid (except the coasts of Florida and the adjacent 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 fishermen of the United States in the use of any part of the said coasts, in their occupation for the same purpose.

It is understood that the above-mentioned liberty shall not extend to the right of fishing in the rivers and estuaries of the United States hereinafter designated, that is to say:

which right is reserved exclusively for American fishermen.

ARTICLE III.

It is agreed that the reciprocal rights and privileges granted to the citizens and subjects of the High Contracting Parties, in the two foregoing Articles (I and II), shall, to the full extent therein conceded,

be enjoyed by them respectively; to take, dry, and cure fish of any kind, except shell-fish, on the sea-coasts and shores; on the continental territories and possessions of either party; on the coasts of the Pacific Ocean, and in the bays, harbours, and creeks of the said territories and possessions, and on the coasts and shores of the adjacent islands belonging to either party, without being restricted to any distance from the shores.

ARTICLE IV.

It is agreed that the articles enumerated in the Schedule hereunto annexed, being the growth and produce of the aforesaid British colonies, or of the United States, shall be admitted into each country respectively, free of duty.

Schedule.

Grain: Flour and Breadstuffs
of all kinds
Animals of all kinds
Fresh, Smoked, and Salted
Meats
Cotton-wool, Seeds, Vegetables
Undried fruits, Dried fruits
Fish of all kinds
Poultry
Hides, Furs, Skins or Tails,
undressed
Stone or Marble in its crude or
unwrought state
Butter, Cheese, Tallow
Lard, Horns, Manures
Ores of metals of all kinds
Pitch, Tar, Turpentine, Ashes
Timber and Lumber of all
kinds: round, hewed and
sawed: unmanufactured in
whole or in part
Fire-wood
Plants, Shrubs and Trees
Pelts, Wool
Fish-oil
Rice, Broom corn and Bark
Gypsum, ground or unground
Hewn or wrought Burr-stones
Dye-stuffs
Flax, Hemp, and Tow, un-
manufactured.

ARTICLE V.

It is agreed that the citizens and inhabitants of the United States

shall have the right to navigate the River St. Lawrence and the canals in Canada, used as the means of communicating with the Great Lakes and the Atlantic Ocean, with their vessels, boats, and crafts, as fully and freely as the subjects of Her Britannic Majesty ; subject only to the same tolls and other assessments as now are or may hereafter be exacted of Her Majesty's said subjects ; it being understood, however, that the British Government retains the right of suspending this privilege, on giving due notice thereof to the Government of the United States.

It is further agreed, that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the operation of Article IV of the present Treaty, for so long as the suspension of the free navigation of the River St. Lawrence or the canals may continue.

It is also agreed that the citizens and inhabitants of the United States shall have the right to the free navigation of the River St. John, in the province of New Brunswick, as fully and freely as the subjects of Her Britannic Majesty, and that no export duty or any other duty shall be levied on lumber or timber of any kind, cut on that portion of the American territory in the State of Maine, and watered by the River St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick.

ARTICLE VIII.

The present Treaty shall take effect as soon as the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and by the Provincial Parliaments of those of the British North American Colonies which are affected by this Treaty, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the Treaty shall remain in force for ten years from the date at which it may come into operation, and further, until the expiration of twelve months after either of the High Contracting Parties shall

ARTICLE VI.

The present Treaty shall take effect whenever the laws required to carry it into operation shall have been passed by the Imperial Parliament of Great Britain and the British Provincial Assemblies on the one hand, and by the Congress of the United States on the other, and shall be binding only so long as said laws, whether now existing or hereafter to be enacted, shall remain in force ; and whenever the Imperial Parliament or the Provincial Assemblies on the one hand, and the Congress of the United States on the other, shall repeal said laws, or either of them, this

give notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards.

It is clearly understood, however, that this stipulation is not intended to affect the reservation made by Article V of the present Treaty, with regard to the right of temporarily suspending the operation of Articles IV and V thereof.

Treaty shall cease to be binding on the other party; either party may, however, after the expiration of seven years, terminate the said Treaty by giving to the other one year's notice of its intention to have the same terminated and become inoperative.

No. 195.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, September 19, 1853.

THE Earl of Clarendon having, upon the receipt of your letter of the 15th of June last, referred to the consideration of the Law Officers of the Crown the Act passed by the Legislature of New Brunswick "relative to the coast fisheries and for the prevention of illicit trade," I am directed by his Lordship to acquaint you, for the information of the Duke of Newcastle, that those officers have made a report in which he concurs, that there is no reason for refusing Her Majesty's approbation to that Act.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 196.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, September 22, 1853.

WITH reference to your letter of the 12th of May last relative to the proposed conclusion of a Treaty between Great Britain and the United States for the regulation of the commercial questions pending between the two countries, I am directed by the Earl of Clarendon to transmit to you a copy of a despatch* from Mr. Crampton, inclosing a copy of a note which he has received from the United States Secretary of State, together with a draft of Treaty submitted to him by Mr. Marcy for the above purpose. And I am to request that you will lay Mr. Crampton's despatch and its inclosures before the Duke of Newcastle, and move his Grace to favour Lord Clarendon with his observations thereupon.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 197.

Mr. Addington to Sir Emerson Tennent.

Sir,

Foreign Office, September 22, 1853.

WITH reference to your letter of the 20th of April last upon the subject of the commercial relations between Great Britain and the United States with reference to the proposed conclusion of a Treaty to regulate the commercial questions pending between the two countries, I am directed by the Earl of Clarendon to transmit to you a copy of a despatch* from Mr. Crampton, inclosing a copy of a note which he has received from the United States Secretary of State, together with a draft of Treaty submitted to him by Mr. Marcy for the above

* No. 194.

purpose. And I am to request that you will lay Mr. Crampton's despatch and its inclosures before the Board of Trade, and move them to favour Lord Clarendon with their observations thereupon.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 198.

The Law Officers of the Crown to the Earl of Clarendon.—(Received September 22.)

My Lord,

Doctors' Commons, September 22, 1853.

WE are honoured with your Lordship's commands signified in Mr. Addington's letter of the 6th instant, stating that he was directed to transmit to us a letter from the Admiralty, inclosing a copy of a despatch from Vice-Admiral Seymour, reporting the substance of his communications with Commodore Shubrick, of the United States navy, on his arrival at Halifax, upon the subject of the North American Fisheries question; and to request that we would take this despatch into consideration, and report to your Lordship our opinion whether, under the Act 9 Vict., c. 93, s. 73, a Vice-Admiralty Court in one province can take cognizance of a seizure made on the coast of another province for a breach of the Convention of 1818 between Great Britain and the United States.

In obedience to your Lordship's commands we have taken the despatch into consideration, and have the honour to report: that we have considered the statute 9 Vict., c. 93, and are of opinion that if both the forfeiture incurred and the seizure made on the coast of a province having a Vice-Admiralty Court such seizure cannot be taken cognizance of by the Court of another province; and that, if the forfeiture be incurred on the coast of the province, and the seizure be made on the coast of another, both having Vice-Admiralty Courts, the captor may, at his option, resort to the Court of either province, but that he cannot resort to the Court of a province on the coast of which neither the forfeiture was incurred nor the seizure made, unless both forfeiture and seizure were incurred and made on a coast not within the jurisdiction of any Vice-Admiralty Court whatever, and, in that case, he must resort to the Court of the nearest adjoining province or colony.

We have, &c.
(Signed) J. D. HARDING.
A. E. COCKBURN.
RICHARD BETHELL.

No. 199.

The Secretary to the Admiralty to Mr. Addington.—(Received September 27.)

Sir,

Admiralty, September 26, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Clarendon, a copy of a letter from Vice-Admiral Sir G. F. Seymour, dated the 15th instant, relative to the visit of the American Commodore to the fishing-grounds in the Gulf of St. Lawrence.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure in No. 199.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," Halifax, September 15, 1853.

I HAVE to acquaint you, for the information of the Lords Commissioners of the Admiralty, that the employment of the United States ships of war in the Gulf of St. Lawrence appears to have been cautiously conducted; and that Commodore Shubrick, after passing rapidly along the fishing-grounds, arrived at Sydney, Cape Breton, with the "Princeton" and "Fulton," on the 4th instant, where I sent Captain Seymour, of "Cumberland," to meet him in Her Majesty's steam-sloop "Medea" on the 9th instant. The Commodore acquainted Captain Seymour that he had not met the "Cyane" and "Decatur," which are employed on the same service, but that he himself had not seen or heard anything which gave him reason to complain of the conduct of the British officers employed in superintending the execution of the Convention, and that he should report accordingly to his Government.

Commodore Shubrick sailed on the same day for St. John's, New Brunswick, from whence he said he should return to the United States, and be followed by the "Cyane" and "Decatur," which were required elsewhere.

I have since received reports from Captain Forbes, of "Calypso," at Gaspé, dated the 10th, where he had missed Commodore Shubrick, who touched in the preceding week at that bay.

The American vessels are now congregated there in great numbers, and had shown some disposition to be intractable, both ashore and afloat, although they avoided fishing within the three-mile limit whilst our ships were near. Captain Forbes had been obliged in one case to expel a vessel from Gaspé on the 10th, the master having refused to hoist his colours, and would not go out, although in want of neither wood nor water, which expulsion I have approved of.

As the return of the United States steam-vessels enables me to reduce the number of Her Majesty's ships in the Gulf, I have recalled the "Argus," whose commander will be able to make a further report to me on the subject, as these proceedings appear to have commenced before Captain Forbes arrived at Gaspé.

As I considered it desirable that a British ship of war should be present in the Bay of Fundy at the same time as the American ships, I sent Captain Thompson to Campobello in the "Vestal," on his way to the West Indies," where he will proceed as soon as the "Princeton" leaves that quarter.

I have, &c.

(Signed) G. F. SEYMOUR.

No. 200.

Mr. Crampton to the Earl of Clarendon.—(Received October 16.)

(No. 164.)

My Lord,

Washington, October 3, 1853.

I HAVE the honour to inform your Lordship that the American squadron under the command of Commodore Shubrick, which was sent to the Gulf of St. Lawrence with a view of protecting the rights of American fishermen in those seas, has returned to Portsmouth, in the United States, at which place the Commodore struck his flag on the 22nd ultimo. I have the honour to inclose an extract from the "National Intelligencer," containing an account of this ceremony; and also a handsome testimony to the temper and moderation of the commanders of Her Majesty's ships of war, in the performance of the duty assigned to them of enforcing a due observance of the provisions of the Treaty of 1818, in regard to the British fisheries in North America.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 200.

Extract from the "National Intelligencer" of September 27, 1853.

DISBANDING OF THE FISHING SQUADRON.—The ceremony yesterday of striking the broad pennant worn by Commodore Shubrick, as commander-in-chief of the eastern fishing squadron, was beautiful and touching. At meridian all the officers of the flag-ship "Princeton" met the commodore in his cabin, and after the kindest expressions on both sides all hands were called on the deck, and the commodore and staff went over the sides. As the barge dropped to the stern of the ship a salute was fired, and at the last gun the broad pennant was hauled down. The commodore stood in his boat uncovered; the "Princeton's" yards were manned and three hearty cheers were given; the oarsmen "tossed their oars" and returned the cheer. It was a touching spectacle, and the boat had gained a long distance from the ship before silence was broken in that leave-taking company.

The sloop of war "Cyane" also saluted the commodore. It is worthy of remark that this ship, with the "Levant," was captured when Commodore Shubrick was a lieutenant on board the "Constitution."

The ships of the fishing squadron have done themselves great credit by the activity and energy and thoroughness with which they have cruised in the fishing-grounds resorted to by the American fishermen. Not a place has been left unvisited; and yet not a complaint has been heard. The fishermen are obeying the Treaty of 1818, as it is their duty to do. The stories about captures, seizures, condemnations, and harsh treatment by the British cruisers are all fudge and falsehood. There is no truth, nor the semblance of truth, in the newspaper reports of that character. The case of the schooner "Starlight," of Gloucester, is the only one that approaches a foundation. She was detained at Charlotte Town for an infringement of the Treaty, and the fishing captain was permitted to resume his command and leave in peace on his admitting that he had violated the Treaty.

Commodore Shubrick and his officers have done all that men could do to bring about good feeling and harmony among conflicting interests. No squadron could have cruised over a greater space in the same time, and none could have carried with it more goodwill than was everywhere in the British provinces evinced for this.

THE FISHERIES.—The Washington "Union" states that Captains Hollins, Watson, and Engle, together with Commodore Shubrick, part or all of whom have been from Eastport to Halifax, through the Gut of Canso to Prince Edward's Island, across the Gulf of St. Lawrence to Gaspe in Lower Canada, over the Gulf to Sydney, down the whole coast of Nova Scotia and New Brunswick, over to Labrador and Newfoundland, and back again, concur in the statement that there is no good grounds of complaint amongst our fishermen. British cruisers have been lenient in enforcing the Treaty of 1818. In many cases, it is said, our fishermen have been permitted to obtain their fares from inside the "three marine miles;" and that the much talked-of "headlands" has rested where it was first conceived—in the hands of the vaporous provincial politicians.

We have no doubt that this is a true account of the matter. All the efforts of certain newspapers to induce our fishermen to arm themselves and to get up a fight with the British cruisers, and to make the people and the Government believe that our fishing rights were suffering constantly from British oppression and tyranny, have so far been wholly unavailing. We are glad to see the Newburyport "Herald" acknowledging that the admitted failure in the fishery this year has been owing to the scarcity of fish, and not to the molestation of British cruisers. We trust the fact will likewise be duly acknowledged by other papers, which far more than the "Herald" have been instrumental in misdirecting the public mind on this subject.

No. 200a.

Mr. Crumpton to the Earl of Clarendon.—(Received October 16.)

(No. 169.)

My Lord,

Washington, October 3, 1853.

I HAVE the honour to inclose the copy of a circular letter addressed by the Secretary of the Treasury to collectors of customs of the United States and others, requesting authentic information in regard to the working of the present rates of duty upon the leading branches of American industry, with a view to their reduction during the approaching session of Congress.

I will not fail to take every fitting opportunity of pressing upon the attention of the American Government those considerations which I have already submitted to them in regard to the expediency of applying the principle now announced by the Secretary of the Treasury to the existing duties on those articles of British produce or industry, in regard to which a reduction would appear most likely to be beneficial to the commercial interests of both countries.

The instructions which have been addressed to this Legation in regard to a modification of the United States tariff have, however, been, with some exceptions, of a general nature, and some of them are founded upon data taken some years back. Under these circumstances, I would venture to suggest to your Lordship that the present opportunity might be a good one for furnishing me with a more especial enumeration of those articles of British produce in regard to which a reduction of duty would, in the opinion of Her Majesty's Government, be desirable, accompanied by a statement of such facts and considerations as would be most likely to weigh with the Government and Legislature of the United States in the application of the contemplated revision of the tariff in a manner favourable to British industry.

I have, &c.

(Signed) JOHN F. CRAMPTON.

 Inclosure in No. 200a.
Circular.

Sir,

Treasury Department, September , 1853.

THE increasing revenue and accumulating amount of money in the Treasury render it most probable that the tariff will be made a prominent subject of discussion and examination, with a view to reduction, during the approaching session of Congress. In the meantime, and at as early a day as may be, I am desirous to obtain, from the most reliable sources, the best information of the working of the present rates of duty upon the leading branches of industry of the country, and of the effect to be expected from proposed modifications.

Understanding that you take an interest in this subject, and have given some attention to it, and perhaps have been in situations to place within your reach very valuable information, you will much oblige me by communicating to this Department your views thereon, and by furnishing lists of articles now subject to duty which, according to such views, should be duty free, and of such other articles on which the present duty should be reduced.

The existing tariff having been designed, generally and substantially, for revenue, and for a fair and equal operation, both as between the various sections of the country and the various branches of industry, the same objects should undoubtedly be kept in view, and the reductions, if any shall be made, should be so arranged as to afford an equal participation in the benefit to every interest and to every section. Articles which enter into our manufactures, and those which do not come into competition with American products, are those about which there will doubtless be the least question.

Besides these objects in the proposed reduction of the tariff, of such an arrangement as will afford proportional benefits and relief to every portion and interest of the country, there is another, which ought by no means to be dis-

regarded—I mean, to abridge the labours of the custom-houses. This object will be consulted by adding to the free list articles of general consumption, and articles paying little duty, which, but for this consideration, might properly be made subjects of revenue.

I am, &c.

(Signed)

JAMES GUTHRIE,

Secretary of the Treasury.

To _____, Esq.

No. 201.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, October 24, 1853.

I AM directed by the Earl of Clarendon to transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a despatch* from Her Majesty's Minister at Washington reporting the result of the visit of the United States' squadron to the British fishery grounds.

I am, &c.

(Signed)

H. U. ADDINGTON.

No. 202.

The Law Officers of the Crown to the Earl of Clarendon.—(Received October 27.)

My Lord,

Doctors' Commons, October 26, 1853.

WE are honoured with your Lordship's commands, signified in Mr. Addington's letter of the 17th ultimo, stating that with reference to his letter of the 6th of September last respecting the jurisdiction of Vice-Admiralty Courts in one British Colony over acts committed in the waters of another British Colony, he was directed to transmit to us a letter from the Colonial Office inclosing a report from the Governor of Prince Edward Island containing observations on that subject as bearing upon the capture of an American schooner the "Starlight;" and Mr. Addington was pleased to request that we would take these, together with the former papers, into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands we have taken these, together with the former papers, into consideration, and have the honour to report :

That we are of opinion that in accordance with our report on this subject, of the 22nd of September, and with the provisions of 8 & 9 Vict., c. 93, s. 73, the doubts entertained in this case by the authorities of Prince Edward Island were well founded, and that the "Starlight" would not legally have been proceeded against in the Vice-Admiralty Court at Charlotte Town, neither "the cause of prosecution having arisen" nor the "seizure having been made" within its jurisdiction, both having taken place within the jurisdiction of the Vice-Admiralty Court of Canada.

We have, &c.

(Signed)

J. D. HARDING.

A. E. COCKBURN.

R. BETHELL.

No. 203.

Mr. Addington to the Secretary to the Admiralty.

Sir,

Foreign Office, October 28, 1853.

THE Earl of Clarendon having submitted to the consideration of the Law Officers of the Crown the question put in your letter of the 30th of August last, and also a similar question requested by the Colonial Office, whether a Vice-Admiralty Court in one British province can take cognizance of a seizure made on the coast of another for a breach of Treaty; I am directed by his Lordship to transmit to you, for the information of the Lords Commissioners of the Admiralty, copies of two Reports† from the Law Officers on this subject.

I am, &c.

(Signed)

H. U. ADDINGTON.

* No. 200.

† Nos. 198 and 202.

No. 204.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, October 28, 1853.

THE Earl of Clarendon having submitted to the consideration of the Law Officers of the Crown the question put in your letter of the 16th ultimo, and a similar question requested by the Admiralty regarding the right of a Vice-Admiralty Court in one British province to exercise jurisdiction in regard to transactions which occurred within the range of a Vice-Admiralty Court in another British Province; I am directed by his Lordship to transmit to you copies of two Reports* upon this subject from the Law Officers; and I am to request that you will suggest to the Duke of Newcastle the propriety of giving instructions accordingly to the Governors of Prince Edward's Island and other colonies.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 205.

Mr. Crampton to the Earl of Clarendon.—(Received October 24.)

(Private.)

(Extract.)

Washington, October 9, 1853.

I HAVE received your letter of the 23rd ultimo, and I am not surprised at the effect produced upon you by Mr. Marcy's draft for a Commercial Treaty. The principle of Treaty-making ascribed by Mr. Canning to the Dutch, of "granting too little, and asking too much," has certainly been religiously deserved by Mr. Marcy on this occasion. The only way of meeting this cool pertinacity is, as you remark, not to break off the negotiation, for this would be made an excuse for throwing the blame of any future trouble upon us, but by making counter-propositions, strictly fair in themselves, and which we are really willing and able to carry into effect the moment we are met in a fair spirit. These, if now made, must go before the American public, and they ought to be accompanied, I think, by a statement on our part of our whole case, for, as yet, this country has been mystified by partial and imperfect accounts, and discussions on isolated points regarding the commercial relations between the United States and the British colonies. When the whole matter is considered, it will be seen that the United States have been treated with the greatest liberality, both by British and provincial legislation, on all matters affecting commercial intercourse, with little or no response from the American Congress. In fact, they have uniformly refused to apply to us the principle of reciprocity which they so often have put forward as the guiding maxim of their commercial policy. The immense advantages accorded to the United States by—

1. The admission of their corn to British markets;
2. The admission of American manufactures on the same terms as those of the mother country by the British colonies;
3. The East India and intercolonial trade;
4. The grant of British registers to American vessels, which throws the whole of our ship-building trade open to American competition,—without mentioning other concessions; have never been responded to at all, and are studiously kept out of sight whenever they want to get any of the few remaining things we have yet to concede.

I am, however, glad that Mr. Marcy has at length been induced to make us officially the proposals he has embodied in his draft of note, such as they are, because it will give us an opportunity of making a counter-statement and counter-propositions which must go before Congress; and Jonathan will see that, if we have still got anything he wants, it must be fairly paid for. There is no want of acuteness of perception on his part in regard to these matters, but unfortunately he has adopted it as a maxim, that no American Government or

* Nos. 198 and 202.

Minister is to be forgiven for settling a question or making a bargain on simply fair and equitable terms, until it has been shown that grasping and extortion have been pertinaciously tried and failed.

No. 206.

Mr. Booth to Mr. Addington.—(Received November 19.)

*Office of Committee of Privy Council for Trade,
Whitehall, November 18, 1853.*

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 22nd September last, transmitting copy of a despatch from Her Majesty's Minister at Washington, in which Mr. Crampton has forwarded a note, together with the counter-proposition submitted by Mr. Marcy, the Secretary of State of the United States, in lieu of the draft Treaty which had been proposed by Her Majesty's Government.

After carefully considering the counter-proposition thus submitted by Mr. Marcy, and the terms of the note by which it has been accompanied, it does not appear to my Lords that the counter-proposition, viewed commercially, is such a one as they can advise Her Majesty's Government to entertain.

It must be borne in mind that it was a suggestion of the American Minister at this Court, adopted by his Government, that the discussion then pending relating to the Fisheries question should be so expanded as to comprehend "all subjects affecting the commercial relations of the two countries," and that Great Britain assented to its extension in the hope of imparting a character of increased freedom to their trading relations.

It is with regret that my Lords have learned from the despatch of Mr. Crampton, that the hope entertained by them that the Government of the United States would be disposed to enter into a Treaty upon a basis of fair reciprocity and equal advantage to both nations has been disappointed, and that the tone of Mr. Marcy's letter in submitting the counter-proposition on the part of the President of the United States, is such as to preclude any well-founded hope of advantage resulting from a further prosecution of the negotiation as regards the general trading relations between the two countries.

The American Government decline, upon the grounds of commercial policy by which that country is guided, to entertain the more important proposals submitted for their consideration by Her Majesty's Government with a view to the extension of the commercial intercourse between the two countries, involving the revision with that object of the United States tariff, and the admission of British-built ships to the privileges of American registration; and they confine their counter-proposal to the free interchange of a limited number of articles of raw produce with our British American colonies, claiming in return the admission of American vessels to the navigation of our North American rivers, and to the right of fishing without restriction on our coasts.

Although my Lords do not propose on this occasion to discuss the general question of the comparative merits of the commercial policy acted on by this country and the United States respectively, they cannot abstain from pointing out that if any argument were wanting to show the inconveniences resulting from the system pursued by the United States, and to prove the superiority of the free-trade policy of this kingdom, nothing can be stronger than the admission by Mr. Marcy that their duty on salt prevents them from competing with our fisheries on equal terms, and their duty on hemp and iron from competing with our shipbuilders.

As regards the original question of admitting the citizens of the United States to a participation in the Colonial fisheries of North America now expressly reserved to the subjects of Her Majesty, my Lords can only advise the resumption of its consideration on a distinct and independent footing, leaving to the United States Government, who have already admitted the inadequacy of any equivalent which they have to offer in merely throwing open their own coasts to the fishermen of Great Britain, to suggest for the acceptance of this country such additional advantages as they may be prepared to concede in lieu of those which they have now declined to entertain.

As regards Mr. Marcy's proposal to exempt the coasts of Florida from any arrangement to be made as to the reciprocal right of fishing of the two countries on the ground of some apprehended interference with the slave population of that State, my Lords would observe, that while they have no desire to touch the question of slavery in any way, they would be reluctant to advise that this country should, upon any ground derived from that subject, forego its just rights to fish upon the coasts of Florida in case the right to fish upon the coasts of our North American Provinces, without exception, were conceded to the United States. My Lords confine themselves, therefore, to suggesting to Lord Clarendon that it seems to them desirable to view this question simply as a question of reciprocal right of fishing.

My Lords see great difficulty in acceding to the proposal of Mr. Marcy to include the coast of the Pacific, as well as that of the Atlantic, in any arrangement for mutual admission to the fisheries of both, the Crown having already by Royal Charter conveyed to the Hudson's Bay Company the colony of Vancouver's Island, together with the fisheries in the seas, bays, inlets, and rivers within or surrounding that settlement, as well as all royalties of the seas and coast within the limits of their grant.

With regard to the proposal contained in the counter-proposition submitted by Mr. Marcy, that certain articles the produce alike of the United States and of the British colonies should be reciprocally received duty free, the mutual advantages of such an arrangement are apparent; and as my Lords would hope for their ultimate attainment through the good understanding of the respective Governments leading to the adjustment of their tariffs, they would suggest to the Earl of Clarendon the propriety of ascertaining from the Duke of Newcastle whether an assurance could not be given to the American Government that on the adoption in the tariff regulations of the United States of an arrangement of the nature referred to in Mr. Marcy's correspondence with Mr. Crampton, Her Majesty's Secretary for the Colonies would be prepared to exert his influence with the Legislatures of the British Provinces to induce them to make a corresponding provision.

I have &c.
(Signed) JAMES BOOTH.

No. 207.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, November 23, 1853.

WITH reference to Mr. Addington's letter of the 17th of September last, inclosing a copy of a despatch from Mr. Crampton, Her Majesty's Minister at Washington, together with a draft of Treaty submitted to him by the United States Secretary of State for the regulation of the commercial questions pending between the two countries, I am directed by the Earl of Clarendon to transmit to you a copy of a letter* upon the subject of Mr. Marcy's counter-project, which has been received from the Board of Trade, to which department a reference upon this subject was also made on the 22nd of September last.

And I am to request that you will lay the inclosed letter before the Duke of Newcastle, and move his Grace to favour Lord Clarendon with his opinion, at his earliest convenience, upon the point which is suggested by the Board of Trade respecting Mr. Marcy's proposal for the reciprocal free interchange between the United States and the British North American Colonies of articles of American and Colonial produce.

I am, &c.
(Signed) H. U. ADDINGTON.

* No. 206.

No. 208.

The Secretary to the Admiralty to Lord Wodehouse.

My Lord,

Admiralty, November 22, 1853.

I AM commanded by my Lords Commissioners of the Admiralty to send you, herewith, for the information of the Earl of Clarendon, copies of a letter from Vice-Admiral Sir George Seymour, dated the 10th November, and of its inclosures, relating to the North American Fisheries.

I am, &c.

(Signed) W. A. B. HAMILTON.

Inclosure 1 in No. 208.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Cumberland," at Halifax, November 10, 1853.

I HAVE to report, for the information of the Lords Commissioners of the Admiralty, that the North American fishing season of 1853 has closed; and I have recalled, in consequence, Her Majesty's ships which have been employed in protecting the interests of the colonists, and preventing foreign encroachments; and have withdrawn the crews from the tenders I was authorized to employ.

It is due to the commanding officers and crews of the whole, that I should acquaint their Lordships that this service (one requiring continual diligence and perseverance) has been steadily and successfully carried out, with the moderation and forbearance enjoined by their Lordship's instructions.

That the colonies have derived advantages, has been proved by an increased number of vessels being fitted out, and of a better description, which affords every hope, that if fraudulent assumption of our flag is checked, the natives of Nova Scotia will not long find it their interest to pursue their calling in foreign vessels, when they can do so more successfully in their own; and it is certain that the support which has been given to the fishing interests by Her Majesty's Government has had a wholesome influence on the public mind throughout the British provinces.

Should future protection be necessary, I should, however, recommend to their Lordships to employ smaller steam-vessels, except for the senior officer in the Gulf, and on the coast of Newfoundland, as far less expensive; and I consider screw-vessels, under officers who have had experience on the station, are those which can, with most advantage, perform the duties required.

Their Lordships are already aware American naval officers of rank and character have been sent to the Gulf of St. Lawrence in 1852 and 1853; on both occasions they have made no complaint of the manner in which the Convention of 1818 has been enforced; and the rumours which have circulated so industriously in the United States, to the contrary purport, have in no instance been confirmed. The "Devastation" and "Basilisk," having been employed in both seasons, I have already reported to their Lordships my opinion of Commander, now Captain Campbell's zeal and activity; and I desire to add, that Commander the Honourable Francis Egerton, of the "Basilisk," who has lately been the senior officer in the Gulf of St. Lawrence, has evinced very creditable ability and integrity during the two seasons in which he has been employed on this service. Lieutenant Newport, of the "Cumberland," also managed the protective service this year in the "Netley," in the Bay of Fundy, without a difficulty or complaint; and a young officer, Mr. Grubbe, midshipman of the "Devastation," deserves credit for keeping off intruders from a part of the coast near Gaspé, much exposed to encroachment, in one of that sloop's boats, having succeeded Lieutenant Jenkins in that duty, whose deserving conduct has already recommended him to their Lordships.

I beg to inclose copies of Reports from the following officers, viz., Commander Honourable F. Egerton, of "Basilisk" steam-sloop, on the fisheries in

the Gulf of St. Lawrence; * Commander de Horsey, of "Devastation," on the same fisheries; and Lieutenant Newport, in charge of the "Netley" tender, on the fisheries in the Bay of Fundy.

I have, &c.
(Signed) G. F. SEYMOUR.

Inclosure 2 in No. 208.

Lieutenant Newport to Vice-Admiral Sir G. Seymour.

Sir,

"Netley," *Halifax, September 25, 1853.*

IN pursuance of your orders I have the honour to lay before you a general statement of the fisheries in the Bay of Fundy, together with such remarks collected from personal observations and inquiries during the period Her Majesty's cutter "Netley," under my command, has been detached on that service.

In the first place it affords me great satisfaction to inform you, that from the commencement of June last, up to the present date, there has not been one single instance of the slightest encroachment within the prescribed limits of the fishing-grounds by American vessels, which, I am led to believe, was of frequent occurrence in former years, and can attribute it in a great measure to the precaution taken, by leaving a boat at the south-west head of the Grand Manan with orders to be constantly in sight of vessels passing to and fro, and to row guard once during the night through the bays for the prevention of nets being set during the spawning season. I repeatedly visited all the fishing stations in the Bay of Fundy; and, on the whole, this season is generally considered to have been more successful than previously. With regard to the success of the fisheries, the present season is acknowledged to have been more favourable for the deep sea fishing than formerly, which is chiefly to be accounted for by the continuance of very fine weather, and likewise to the facility of procuring abundance of herring from the weirs, which are generally used along the shores of the bay; this practice is, nevertheless, deemed very destructive to the herring fishery, in consequence of such vast numbers of small herrings being destroyed at the same time, which as it is the means of depriving cod and other fish of their natural food, the consequence is they are forced from the shores into deep water.

This the deep sea fishermen greatly complain of, as they could as readily procure their bait from fishermen using long nets, which let the small fish through.

The injurious practice of throwing the gurry, or offal, of the fish overboard on the fishing-grounds (which gorges the fish, and prevents their taking the bait) has been prevented this season and the previous one, through the energy and exertions of those holding the appointment of Fish Wardens, by having gurry or offal deposits on shore above high-water mark in different parts of the island of Grand Manan, the result of which has proved most beneficial.

The immense catch of herrings has been this season more favourable in the weirs at Grand Manan and those of the Quaddy River, than at Digby, Brier's Island, and at St. Mary's Bay, where it has proved a partial failure on account of the fish having taken a different course in their annual migrations; but, on the other hand, the catch of mackerel at the latter places has been more plentiful than usual, which partially compensates the fishermen for his disappointment, and which probably explains the scarcity of herrings. The pollock also has been exceedingly abundant.

I frequently boarded schooners from Brier's Island laden with barrels of "tinker" mackerel for the United States' market. The tinker mackerel are very small in comparison to the usual size, but fetch at the rate of 4 dollars, and sometimes 5 dollars per barrel, which is equivalent to a barrel of herrings, in a great measure making up for the loss sustained by the latter.

The greater part of the pollock and cod-fish from Brier's Island, and the immediate vicinity, are exported to the West India markets; but those from Grand Manan are shipped for St. John's, New Brunswick, and the United

States. The fishermen at the Grand Manan, when they have a heavy haul of fish, generally exchange their badly cured fish for articles of home consumption, as there is no duty enforced on their being landed in American ports. The inhabitants of Grand Manan are uncommonly active, industrious, and hard-working; those in want of employment readily procure it by engaging themselves in American fishing vessels, for which they are exceedingly well paid, and as they are generally good fishermen, and well acquainted with the pilotage of the bay, they are invaluable.

At Campobello the inhabitants, I am told, are more diligent than they were previously, and I have since ascertained that this change for the better is in consequence of the protection they have received from our cruisers. Their boats and gear are apparently in excellent condition, and they are very sanguine of the success of their vessels sent to Chaleur Bay, which are expected to return about the middle of October. I should imagine that this island will be much benefited, owing to the partial failure of the herring fishery at Digby, in consequence of their finding a better market than usual for their fish. The largest number of herring taken in one weir to the date of my leaving, was 4,000 boxes, averaging 2s. sterling each, which amounts to 400*l.* sterling; but from the statement of some of the respectable residents of the island, I am informed that all other fish has been very limited here.

During the time I have been employed in the protection of the fisheries, I have inspected the different light-houses in the Bay of Fundy and found them in very good order, which reflects much credit to those entrusted with their charge. The Gannet Rock Light I have observed distinctly at the distance of sixteen miles, and heard the sound of the Fog-horn upwards of six to seven miles, which I consider has been the cause of saving many vessels from being stranded on the Murray Ledges. I beg leave, in conclusion, to inclose a copy of a letter I addressed to the Governor of New Brunswick, relative to the lodging of my boat's crew at Grand Manan during my absence, and also to the assistance afforded me by Mr. Mc Laughlin, overseer of the fisheries, residing on that island, as well as his Excellency's reply.

I have, &c.
(Signed) J. W. NEWPORT.

Inclosure 3 in No. 208.

Lieutenant Newport to the Governor of New Brunswick.

Sir,

"Netley," Campobello, September 17, 1853.

I HAVE the honour to inform you that on my arrival at the Grand Manan in July last I considered it advantageous to station a ship's boat at the south-west head, with two men for the protection of the herring fisheries during the spawning season.

On making inquiries as to the lodgings of the boats' crew during my absence, I placed them under the charge of Mr. Laughlin who resides in that vicinity.

It affords me much satisfaction in calling your Excellency's attention in his behalf for the zeal and activity he has evinced during the time the boat's crew were under his charge, from the 15th of July to the present date. I made an arrangement with Mr. McLaughlin before leaving that they should be lodged at the rate of 2 dollars a-week for each man, which I considered moderate.

I beg leave again to state to your Excellency that I consider the great service Mr. McLaughlin has rendered me upon the occasion, and principally night-duty in the boat, inspecting the grounds for the prevention of laying nets, has been invaluable and highly deserving of some remuneration from the Colonial Government.

I have, &c.
(Signed) J. W. NEWPORT.

Inclosure 4 in No. 208.

*The Governor of New Brunswick to Lieutenant Newport.**Government House, Fredericton, New Brunswick,
September 19, 1853.*

Sir,

I HAD the honour of receiving your letter of September 17, dated from Campobello.

The Admiral's Secretary has been directed to obtain Mr. McLaughlin's account for the board of your men, and I trust there will be no difficulty in obtaining some remuneration for his own services. I beg to thank you for the exertions which you have made for the protection of the fisheries in the Bay of Fundy during the present season.

I have, &c.
(Signed) EDMUND HEAD.

Inclosure 5 in No. 208.

Commander De Horsey to Vice-Admiral Sir G. Seymour.

Sir,

"Devastation," Halifax, October 28, 1853.

IN compliance with your instructions I have the honour herewith to forward such observations on the subject of the fisheries in the Gulf of St. Lawrence as my limited experience, whilst in command of this sloop and of the "Rose," tender, will admit of.

I was stationed on the north coast of Prince Edward Island during the months of July and August, but the fishing-vessels did not appear in any number till the end of July, and then only occasionally stopping perhaps a day off North Point and Cape Kildare, and then running over to Escununac Point or the Bay of Chaleur, where the mackerel appeared to be more plentiful.

The main part of the fleet of American fishermen remained about Miscou and Bonaventura Island until the middle of September, when they nearly all left that coast for the neighbourhood of East Point, Prince Edward Island, and Port Hood. After the end of September the fishing appeared to be concentrated between Port Hood and Sea Wolf Island on the Cape Breton shore, averaging, during the month of October, about 180 vessels, half English and half American.

At that time a great number of American vessels had left the station, probably in consequence of the badness of the season and the unwelcome presence of so many English cruizers. The increased proportion of English to American vessels at the end of the season is also probably in consequence of the contraction of the best fishing-grounds, rendering it a matter of greater difficulty for the Americans to continue their encroachments within the limits.

I should think the maximum number of vessels employed fishing during the past season, at any one time on these coasts, did not exceed 150 Americans and 100 English; this, however, can be merely a rough estimate.

I beg to inclose a list of vessels boarded by the boats of this sloop, and of the "Rose," whilst under my command, which will convey a better idea of the description of vessels employed mackerel-fishing and of their success than I can otherwise give. Every vessel I have met, however, has spoken of the season as having been the worst for mackerel in their recollection, except latterly on the Cape Breton shore, where they appear to have caught No. 1 mackerel in considerable quantities. It was then (as I had the honour to report to you at the time) most satisfactory to see about eighty or ninety English vessels enjoying their lawful right of fishing in-shore with success and free from molestation, whilst the Americans were forced to remain without the limits.

The protection of the fisheries during the last season (1853) must have entailed a considerable expense to Government from the number and size of vessels employed, but that they have been generally successful in guarding our coasts I think no one will deny.

What encroachment did take place, appears to have been principally on the Canadian coasts between Cape Gaspé and Magdalen river, for a few days in the early part of the season; but when I passed up there, and across to the Bay of Seven Islands in the end of August, every vessel had gone southward, and I am told did not return.

With regard to the American vessels congregating in our harbours for shelter, or other purpose, it does not appear to me that it is a privilege they are likely to abuse in respect to remaining longer than is necessary, it being naturally their interest to proceed to sea as soon as the weather or their supplies of wood and water will admit. As they number, however, occasionally as high as 100 vessels, averaging twelve men each, it can hardly be expected that 1,200 men thus suddenly thrown together will be orderly, particularly when there is little or no civil power to keep them in check.

As long, therefore, as they continue in such numbers, it would be advisable that assistance to the civil power be at hand, for which purpose an armed tender appears sufficient.

The American fishermen complain (and there does seem some reason in it) that they are forced to pay harbour dues on entering the ports on the north side of Prince Edward Island, notwithstanding that they are insufficiently buoyed and lighted. In a few instances, in consequence of applications made to me by the authorities whose business it is to collect the dues, I was forced to detain them until they had complied with the colonial law on this subject. It is true, and at Cascumpeque particularly, that sufficient attention is not paid to the buoys and beacons, which require occasionally to have their position changed, in consequence of the bar shifting; but if the American vessels are allowed the privilege of entering those harbours, they should be the last to demur at the established expenses of maintaining them.

I have heard of the American vessels taking mackerel inside the harbours on the north coast of Prince Edward Island, particularly in Richmond Bay; but an instance never came to my knowledge. The mackerel certainly do enter the harbours occasionally, but I should think the harbour-masters or other authorities are fully able to prevent such a practice if it took place.

Of the harbours on the north coast of Prince Edward Island, the only one fit for a vessel of any size, is Malpeque, which harbour I have twice entered without obtaining less than 17 feet water over the bar. There is a light to steer in by at night, but I should not recommend any vessel to trust to it, as a slight error in their compass, or want of exactness in taking the bearing of the light, would lead into danger.

At Cascumpeque there are two beacons, and a light in the course of erection, but the same remark applies to the latter as to the one at Malpeque; I would suggest that it would be but little additional expense, and make the entrance safe by night as well as by day, to have a light on each beacon at different heights.

There is such a turn in the channel that no two beacons will lead right into the harbour, but if they were placed so as to conduct a vessel safely over both bars, the channel beyond is of comparatively slight importance. The entrance to Tracadie is narrow, with only 7 or 8 feet at low water, over a shifting bar.

If a small steamer should be employed on this coast in future, I think it would be better for her to take all her coal from Cascumpeque than to risk entering this harbour in bad weather. The other harbours on this coast are not worth naming, being only fit for very small vessels.

Towards the fall of the year too much precaution cannot be taken to avoid being caught on the north coast of Prince Edward Island in one of the north-easterly gales which set into the bay formed by North and East Point, with a severity that no sailing vessel or small steamer can make head against. My experience only extends to one of the gales, which occurred on September 29, 1853, when, had I been in a vessel small enough to attempt to cross the bar of any of the harbours, the weather, unlike an ordinary north-east wind, was so thick as to render it impossible that a sufficient good land-fall would have been made.

It should also be remembered that a barometer gives very little warning on a north-east coast, because it will stand comparatively high with the wind in that quarter.

The feeling against encroachment on the part of the American vessels is not so strong as it should be, particularly amongst the Prince Edward Islanders; indeed, they hail their presence on that coast as a means of profit. This is an evil that will probably remedy itself, for as the American vessels get worried off the coast, in consequence of being unable to take a sufficient quantity of fish to repay them, their places will be supplied by our own vessels, manned in all probability by those who now form the crews of vessels under American colours. For it must be remembered that three-fourths, or at least one-half, of the crews of the vessels under American colours, are our own countrymen. This last fact alone appears to be a sufficient reason for not giving up one particle of our exclusive rights to the in-shore fishing, and for thus gradually inducing the American vessels to quit our coasts, for as Captain Campbell points out in his report of last year, "that Englishmen employed in American vessels, where republicanism is constantly applauded, can hardly be expected to preserve their loyalty untainted."

There is no doubt that, since the decisive measures of the last two years have been adopted, the number of English vessels employed in the mackerel fishing has increased, and that they are generally of a better description.

Some of the vessels lately built, and particularly those belonging to Lunenburg, Nova Scotia, are as fine, if not finer, than any of the United States vessels.

I would further beg to suggest, that the custom-house authorities should be required to act up to the letter of the law in all that relates to registering of English vessels, for although the various provisions of the Act, such as "the tonnage being cut on the main beam, name painted legibly on the stern," &c., appear trifling in themselves, when it is considered that they put difficulties in the way of fraud they assume a much greater importance; and I have no doubt that, if these small matters are strictly attended to, it would deter those who are sufficiently unprincipled from attempting to sail under duplicate colours. I must say, that I did not come across any vessel, to my knowledge, under false colours, which I think probably owing to Captain Campbell's prompt seizure of the "Speed" having frightened those so inclined into honesty.

Whilst on the subject of English fishing-vessels, it may be well to remark, that it would simplify the duty of protecting the fisheries, and greatly assist the officers so engaged, if they would show their colours more readily.

One would suppose their own interests would lead them not to give trouble in that respect to the men-of-war especially employed for their benefit; but I think the other officers engaged in the protection of the fisheries will bear me out in saying, that half the distance travelled over has been after English vessels, who will not adopt that simple mode of showing their right to the fishing-ground.

It has been said that the scarcity of mackerel this past season has been partly owing to the presence of steamers. Whether they may be the cause of driving the fish off the coast I cannot say, but should think not, from the fact of having had occasion frequently, both in the "Devastation" and "Rose," to lay close alongside, and to steam round vessels, while they were taking fish as plentifully as before our approach.

With regard to the American vessels being armed, I can only say I have never come across one (except the "Garland," of Newburyport, on board which vessel was a swivel, carrying about an 8-ounce ball), or heard of any resistance being offered to the tenders or boats in the execution of their duty, nor do I think such is ever likely to occur whilst they are manned and officered by Her Majesty's navy.

From what knowledge I have been able to obtain of the weather and harbours on the north coast of Prince Edward Island, I would respectfully recommend that the vessel employed there should be a small, but powerful, screw steamer, with serviceable fore and aft sails, and not drawing above seven feet water. In the Bay of Chaleur a schooner seems to answer the purpose, but she should be large and fast-sailing. A boat stationed at Miscon during the whole time of the fishing on that coast, would be of great use. The boat stationed at Point Peter, however, appears to have been perfectly successful in preventing any encroachment in Gaspé and Inal Bays; and I beg to take the opportunity of saying, that the officer lately in charge of her, Mr. W. H. H. Grubbe, midshipman, of this sloop, was most zealous in the performance of that duty.

In conclusion, I would say that I firmly believe that, if the present measures

of protection are persevered in for a year or two longer, the American vessels will gradually disappear from our coasts, and the fisheries, left in the possession of the rightful owners, will no longer require the large force that has lately been necessarily engaged in their protection.

I have, &c.
(Signed) A. F. R. DE HORSEY.

No. 209.

Mr. Merivale to Mr. Addington.—(Received November 24.)

Sir,

Colonial Office, November 23, 1853.

I AM directed by the Duke of Newcastle to state to you, for the information of the Earl of Clarendon, that his Grace has had under consideration the papers transmitted with your letter of the 17th of September last, containing a project of Treaty, suggested by Mr. Marcy, for the adjustment of the questions of trade, navigation, and fishery now pending between this country and the United States. The Governor-General of the North American Provinces being at present in England on leave of absence, his Grace referred the papers for his Lordship's opinion, which has been furnished in the letter of which I annex a copy.

2. It appears to the Duke of Newcastle that Mr. Marcy's project is not only inadmissible but impracticable, because the assent of the Lower Provinces would assuredly not be given to it.

3. Mr. Marcy has no equivalent to offer for the proposed free navigation of the British rivers and canals. Yet he retains this concession by Article V of his draft Treaty; upon what ground his Grace is at a loss to understand.

4. According to his Grace's view, either the Treaty must be restricted to the concession of reciprocal rights of fishery and of trade in natural products (which is not desirable unless more is impossible), or we must insist on the points urged upon Mr. Crampton by Lord John Russell in January last. And his Grace considers that, in any case, the inclusion of coal in the list of British products to be admitted into the States free of duty must be made a *sine quâ non*.

I am, &c.
(Signed) HERMAN MERIVALE.

Inclosure in No. 209.

The Earl of Elgin and Kincardine to the Duke of Newcastle.

My Lord Duke,

London, November 12, 1853.

I HAVE had the honour to receive your Grace's despatch bearing date the 19th ultimo, and inclosing copies of the draft Treaty proposed by Mr. Marcy for the regulation of the commercial questions now pending between Great Britain and the United States, and of other papers having reference to the same subject. These documents did not reach me until after some delay, in consequence of my being from home at the time of their transmission.

2. I have now carefully perused them, and am of opinion that, although much disappointment would doubtless be occasioned by the acquiescence of Her Majesty's Government in some of Mr. Marcy's propositions, such as the refusal to grant American registry to colonial-built vessels, and to discontinue the bounties to fishermen of the United States, it might, nevertheless, be deemed expedient, in so far as Canada alone is concerned, rather to conclude a Treaty on the basis suggested by him than to run the risk of indefinitely postponing the attainment of the important object of a reciprocal freedom of trade in bread-stuffs and timber.

3. But with the Lower Provinces the case is different. I am inclined to believe that in them, Mr. Marcy's Treaty, more especially as it excludes coal from the schedule of articles to be relieved from duty, would be regarded as

altogether one-sided, and favourable to United States interest alone. Under these circumstances, I would venture respectfully to submit that it might be expedient, before proceeding further in the matter, to obtain confidentially, or otherwise, the opinions upon it of the officers administering the Governments of the North American colonies.

4. I would further observe that the argument urged on Mr. Crampton by Mr. Marcy with the view of inducing Her Majesty's Government to accede to the more objectionable part of his proposals, would appear to be susceptible of being employed with greater effect for an opposite purpose. For if it be true that the prejudices of a certain portion of the people of the United States, in deference to which, as it is alleged by Mr. Marcy, these proposals are made, are fast passing away, it may surely be doubtful whether it be a prudent policy to give them increased stability and importance by raising upon them a superstructure of international rights in the form of Treaty stipulations. I will add on this point that the active demand for breadstuffs in Europe has a tendency, while it lasts, to diminish the desire of the Canadian farmer to obtain reciprocity of trade with the United States, and that of the United States' farmer to withhold it.

5. I think it right to state, before closing these remarks, that I am aware that some persons whose opinions are entitled to respect are very apprehensive of the dangers which may be expected to ensue if the fishermen of the United States obtain the right of landing on the shores of the colonies for the purposes of their trade. My own opinion is, that this point cannot be received separately, but that it must be taken in connection with other important questions affecting the interests of trade and those of peace, which it is the purpose of the proposed Treaty to adjust on terms of mutual advantage to the parties concerned.

The inclosures to your Grace's despatch are herewith returned in accordance with your directions.

I have, &c.
(Signed) ELGIN & KINCARDINE.

No. 210.

Lord Wodehouse to Sir J. Emerson Tennent.

Sir,

Foreign Office, November 30, 1853.

WITH reference to your letter of the 18th instant, I am directed by the Earl of Clarendon to transmit to you, for the information of the Board of Trade, a copy of a letter* which has been received from the Colonial Office, in answer to a reference which was made to that department, as well as to the Board of Trade, on the 22nd of September last, respecting the Project of a Convention which had been submitted to Mr. Crampton by the United States' Secretary of State, for the settlement of the commercial questions pending between the two countries. And I am to request that you will move the Duke of Newcastle to favour Lord Clarendon with any observations he may have to offer upon the inclosed letter from the Colonial Office.

I am, &c.
(Signed) WODEHOUSE.

No. 211.

Mr. Merivale to Lord Wodehouse.—(Received December 3.)

My Lord,

Colonial Office, November 30, 1853.

I AM directed by the Duke of Newcastle to acknowledge the receipt of our Lordship's letter of the 23rd instant; and with reference to the point suggested by the Lords of the Committee of Privy Council for Trade, that certain articles of Colonial and American produce should be reciprocally admitted into the British North American provinces and the United States, duty free, I am to request that you will state to the Earl of Clarendon that his Grace is of opinion, that if "coal" is included, the North American provinces ought

* No. 209.

to pass, and probably will pass, Acts regulating their tariffs in accordance with a Treaty such as that now suggested. But how far the settlement of this part of the originally proposed Treaty may render less likely the adjustment of the remainder, is a question for his Lordship's consideration.

I am to add, that should Lord Clarendon consider it expedient, his Grace will be prepared to communicate with the Lieutenant-Governor of Nova Scotia on the subject of omitting coal from the tariff, but that without such prior communication he is unable to give any assurance of the acquiescence of that province in the proposed arrangement.

I am, &c.
(Signed) HERMAN MERIVALE.

No. 211 a.

Mr. Booth to Mr. Addington.—(Received December 5.)

*Office of Committee of Privy Council for Trade,
Whitehall, December 5, 1853.*

Sir,

I HAVE laid before the Lords of the Committee of Privy Council for Trade your letter of the 26th of October, inclosing copy of a despatch and inclosures from Her Majesty's Minister at Washington relative to a contemplated reduction in the United States' tariff.

Mr. Crampton transmits a circular letter issued by the Secretary to the United States' Treasury requesting authentic information as to the working of the present rates of duty upon the leading branches of American industry, with a view to their reduction during the approaching session of Congress, and he desires to be furnished with a more especial enumeration of those articles of British produce in regard to which a reduction of duty would, in the opinion of Her Majesty's Government, be desirable, together with a statement of such facts and considerations as would be likely to weigh with the Government and Legislature of the United States in the application of a revision of their tariff in a manner favourable to British industry.

In reference to this suggestion I am now directed to request that you will submit to the Earl of Clarendon the following observations.

The proposed revision of the United States' tariff appears to have been taken into consideration in consequence of an accumulating surplus of customs' revenue, which has placed the Government in a position to give up a part of the revenue derived from this source. They propose to accomplish this object by a reduction of duty upon imports in such a manner as to diffuse equal benefits among the different industries and sections of the United States.

It appears to my Lords that no reductions upon imports could be made which would be more calculated to produce these results than such as might be effected in regard to the principal articles with which England supplies the American markets.

The present amount of duty upon coal and iron, constituting as they do the raw materials of almost every branch of industry, must operate as a general burden, and their remission, in whole or in part, as a general relief.

As regards our textile fabrics and those of cotton and linen, more especially entering as they must into the consumption of the industrial classes of every branch, it is impossible to conceive any taxation a relief from which would be more generally shared and felt by all the sections of the community.

My Lords cannot, therefore, but hope that in revising their tariff with the view proposed in the circular, the United States' Government will not fail to apply reductions to those important articles of importation.

They, however, observe with regret that Mr. Guthrie states in his circular letter that in the proposed revision, those articles which do not enter into competition with American products are those about which there will doubtless be the least question, and taking this expression in connection with the views contained in Mr. Marcy's despatch of the 1st September last, on the subject of the negotiations pending between this country and the United States, my Lords are not disposed to think that claims for special reduction of duty upon particular articles can be pressed upon the United States' Government at the present moment with any prospect of advantage.

They would rather suggest that the British Minister at Washington should be instructed chiefly to refer in his representations on this subject to those general principles and considerations which sooner or later cannot fail to determine the adoption of a free trade policy by the United States, and especially as they affect the branches of British trade which were enumerated in Sir Emerson Tennent's letter to Lord Wodehouse of the 20th April last.*

My Lords would, therefore, recommend that Mr. Crampton should be furnished with copies of the memorandum† recently prepared in this department on the trade of Great Britain with France, to be used by him conjointly with the memorandum on the trade with the United States, already transmitted to him, with the view of its being submitted to the Government of the United States in support of the arguments enforced in the latter document.

My Lords would also suggest that Mr. Crampton should be supplied with copies of the Parliamentary paper No. 318 of last session, containing detailed statistics of the trade and public expenses of Great Britain during recent years.

1. My Lords would desire that the attention of that Government should be more especially called by Mr. Crampton to the remarkable progress of the foreign trade of Great Britain, from which it will be seen that the exports of our principal manufactures have increased in proportion as protection has been withdrawn, and particularly as regards the trades in cotton, woollen, and silk manufactures.

The case of silk is deserving of special consideration, as it is a branch of manufacture for the production of which England possesses less natural facilities than other countries, and for which protection was formerly held to be indispensable.

It will, however, be seen that so far from having suffered from the partial withdrawal of protective duties, its prosperity has steadily augmented with each successive remission of duty.

My Lords would also refer to the healthy influence of free competition upon the mercantile marine, the results of which, although as yet only partially known, owing to the brief interval which has elapsed since the repeal of the Navigation Laws, is conclusively established by the shipping returns given in the memorandum.

Another most striking example of the effect of the withdrawal of protection upon the protected interest is that afforded by the case of British colonial sugar, the importation of which, in spite of the complicated and unfavourable circumstances under which the measure was adopted, has steadily increased contemporaneously with successive reductions of duty.

2. With regard to the trade between England and France during the period considered in the memorandum, the United States' Government will perceive that while England has derived most important benefits from her more liberal admission of French products, though not in the degree in which doubtless she would have done had not France persevered in a contrary policy, yet France herself suffers far more than England from the maintenance of that policy by restricting her supply of articles necessary for her industry.

The suicidal character of these restrictions has been so much felt in France as regards coal and iron, that since the preparation of the memorandum the duties have been materially modified on these important articles, and my Lords trust that these relaxations may be the prelude to still more important reductions.

The comparative condition of the export trade of the two countries in their staple manufactures, is well deserving of serious consideration; and my Lords would direct special attention to the case of the French linen manufacture, the export of which will be seen (at page 27), to have fallen off by more than one-half in the period during which they have been protected from English competition by the reimposition of prohibitive duties.

3. The very remarkable effects upon the export trade of the United States of their recent policy, require no comment; they appear to my Lords conclusive as to the interests of that country in extending the application of its principles.

Possessing, as the United States do, within their own territories, the staple materials and main elements of industry, and an eminent degree of mechanical skill and ingenuity, it is difficult to believe that in the particular case of the

* No. 138.

† Dated August 3, 1853, and printed separate.

United States protection can be other than an impediment to progress, and a heavy tax upon industry.

Taking the average rate of import duty at 30 per cent., there is annually levied upon the principal articles of British exportation to the States (amounting to more than 10,000,000*l.*, as shown by the trade return of 1851), a sum exceeding 3,000,000*l.* sterling.

The fact that the United States already exported no less than 7,672,151 dollars' worth of cotton manufactures, and 2,303,819 dollars' worth of iron and steel in 1851-2, proves their capacity to compete in neutral markets, at least as regards certain branches of these important industries, with the similar productions of Great Britain. It is impossible to doubt, as regards iron, that a remission or reduction of the duty upon importation of the raw material would directly stimulate the export of the American manufactures.

In considering the case of our cotton manufactures, it cannot be forgotten that more than two-thirds of the raw material are drawn from the United States of America, and that thus every impediment to their importation into the States is in fact a direct restriction upon the progress of one of their most important agricultural industries.

Nor can it be doubted that the denial to our manufacturers of free access to their markets, and the unequal terms upon which we are therefore placed in our trade with the United States, has a direct tendency to oblige our manufacturers to look to other countries for the supply of this important commodity, which only require the development of their resources to render them formidable rivals to the States in its production.

My Lords have confined themselves on this occasion to a few of the most important considerations which appear to them to be suggested by an examination of the statements and statistics contained in the memoranda. Those memoranda appear to my Lords to prove in the most conclusive manner the unmixt advantages which Great Britain has derived from a liberal commercial policy; the proportionate participation which America has enjoyed, as by relaxations in her tariff she has partially stimulated the activity of her own commerce; and the evils which have resulted to France from steadfast adherence to the opposite system. In submitting these documents to the Government of the United States, Mr. Crampton's experience will no doubt enable him to draw from them further arguments which might be advanced with effect.

The adoption of free trade by England was determined by considerations of national interest, and the removal of commercial restrictions on the part of the Government of the United States can neither be expected or sought upon other grounds.

It is upon the conviction that the prosperity of the United States would be best promoted by extending and consolidating their commercial relations with Great Britain, that my Lords are led to entertain the hope, that in the approaching revision of their Customs Tariff, the American Government will be induced to develop and confirm a policy which they have commenced with marked success, and which the well-understood interests of both countries alike require.

I have, &c.

(Signed) JAMES BOOTH.

No. 212.

Mr. Booth to Lord Wodehouse.—(Received December 7.)

*Office of Committee of Privy Council for Trade,
Whitehall, December 7, 1853.*

My Lord,

I AM directed by the Lords of the Committee of Privy Council for Trade, to acknowledge the receipt of your Lordship's letter of the 30th ultimo, inclosing for my Lords' observations thereon, a letter from the Colonial Office, together with its inclosures, on the subject of the settlement of the commercial questions pending between this country and the United States; and in reply, I am to acquaint you, for the information of the Earl of Clarendon, that my Lords find nothing in those communications leading them to take a different view of the subject from that conveyed in my letter of the 18th ultimo:

I have, &c.

(Signed) JAMES BOOTH.

No. 213.

Lord Wodehouse to Sir J. Emerson Tennent.

Sir,

Foreign Office, December 8, 1853.

WITH reference to your letter of the 18th ultimo, upon the subject of the draft of Treaty submitted to Mr. Crampton, Her Majesty's Minister at Washington, by the United States' Secretary of State, for the regulation of the commercial questions pending between the two countries, I am directed by the Earl of Clarendon to transmit to you a copy of a letter* from the Colonial Office, in reply to that part of your letter of the 18th ultimo, which related to the reciprocal interchange, duty free, between the British North American Colonies and the United States, of certain articles of Colonial and American produce. And I am to request that you will move the Lords of the Committee of Privy Council for Trade, to favour Lord Clarendon with their opinion thereupon.

I am, &c.

(Signed) WODEHOUSE.

No. 214.

The Earl of Clarendon to Mr. Crampton.

(No. 119.)

Sir,

Foreign Office, December 9, 1853.

I COMMUNICATED to the Board of Trade your despatch No. 169 of the 3rd of October last, relative to the contemplated revision of the United States' customs tariff, and I inclose herewith a copy of a very able letter† which I have received from that department in reply, which with the documents alluded to therein, of which copies are also herewith inclosed, will furnish you with cogent arguments for pressing upon the Government of the United States, the adoption of a more liberal commercial policy.

I leave to your discretion the selection of the course which it may be most advisable to take in bringing this subject before the United States' Government, whether by verbal communication at first with Mr. Marcy, or by obtaining his permission to discuss the whole subject with the Secretary to the Treasury, or by presenting a note to the Secretary of State, inclosing copies of the documents accompanying this despatch, with a view to their being laid before Congress.

You will take care, however, to observe that Her Majesty's Government make no claims, and that they do not urge a system of reciprocity upon the United States' Government, because they are convinced that the latter ought to be guided and will only be guided by what is for the interests of the American people. By that principle alone the British Government was guided when they carried out the system of commercial freedom in this country. It was not adopted at the request of any foreign Government, and from no foreign Government was anything asked in return. But as the experience of several years has more than realized the most sanguine expectations with regard to that system, and as Her Majesty's Government are in possession of statistical facts of the highest importance, bearing not only upon the general results of the system, but upon the commerce of this country with the United States, they think it a duty to submit those facts to the consideration of the United States' Government, in the firm conviction, however, that the trade between Great Britain and the United States is capable of an enormous development, and that by the removal of existing restrictions, the happiness and progress of both nations would be promoted, and the friendly relations between them would be more firmly secured by being placed on a broader basis of reciprocal interests.

I am, &c.

(Signed) CLARENDON.

* No. 211.

† No. 211 a.

No. 214 a.

Mr. Robert Milligan to the Earl of Clarendon.—(Received December 10.)

My Lord,

Bradford, December 8, 1853.

I HAVE the honour of transmitting to your Lordship the accompanying memorial of the Bradford Chamber of Commerce, to which I beg your Lordship's kind consideration.

I have, &c.
(Signed) ROBT. MILLIGAN.

Inclosure in No. 214 a.

Memorial.

To the Right Hon. the Earl of Clarendon, K.G., G.C.B., &c., Her Majesty's Secretary of State for Foreign Affairs.

The memorial of the Bradford Chamber of Commerce,

Showeth,

THAT your Memorialists represent a district almost exclusively engaged in the manufacture of worsted goods :

That the exportation of those goods to the United States of America is the most important branch of the foreign trade of this district, and which would, undoubtedly, be greatly increased if the present high *ad valorem* duty of 25 per cent. were to be materially modified :

That, under these circumstances, your Memorialists consider it their duty to call your Lordship's attention to a circular which has lately been issued by Mr. Guthrie, Secretary to the United States' Treasury, from which they infer that a thorough revision and partial reduction of the American tariff is in contemplation, and that there are two objects recommended by that gentleman to be particularly kept in view, viz :

Firstly. That any reductions made should afford an equal participation in the benefit to every interest and to every section ; and,

Secondly. That such articles should be most favourably considered which do not come into competition with American products.

Your Memorialists are of opinion that the goods manufactured by their constituents fall under the heads recommended to such favourable distinction, because, from their great variety of texture and styles, and range of prices, they not only form a part of the necessary clothing of the poor and middle classes, but they contribute also indispensable materials for the dresses of the highest, and consequently an increased importation would be a benefit to every class and to every section. Nor would they compete with American products, for your Memorialists are not aware of any considerable quantity of similar goods being manufactured in the United States, with the sole exception of " de laines," for printing purposes.

Your Memorialists are fully aware that any direct interference by Her Majesty's Government is neither practicable nor desirable, in a matter belonging so exclusively to the domestic economy of an independent nation ; but they believe that there is a possibility of your Lordship conferring a great boon upon the trade of this district by instructing Her Majesty's Representative at Washington to seize every favourable opportunity for bringing the peculiar circumstances referred to above, under the notice of the proper authorities.

Your Memorialists therefore pray, that such instructions may be given in such manner as to your Lordship may seem most likely to promote the objects of your Memorialists.

And your Memorialists will ever pray, &c.

(Signed) WM. RAND,
President of the Bradford Chamber of Commerce.
JOHN DARLINGTON,
Secretary.

No. 214 b.

The Earl of Clarendon to Mr. Crampton.

(No. 121.)

Sir,

Foreign Office, December 16, 1853.

I INCLOSE herewith a copy of a memorial* which I have received from the Bradford Chamber of Commerce, upon the subject of the high *ad valorem* duties in the United States on worsted goods; and with reference to my despatch No. 119 of the 9th instant, I have to instruct you to use your best efforts to forward the objects of the memorialists.

I am, &c.
(Signed) CLARENDON.

No. 215.

Mr. Booth to Lord Wodehouse.—(Received December 14.)

*Office of Committee of Privy Council for Trade,
Whitehall, December 13, 1853.*

My Lord,

I AM directed by the Lords of the Committee of Privy Council for Trade, to acknowledge the receipt of your Lordship's letter of the 8th instant, transmitting, by direction of the Earl of Clarendon, copy of a letter from the Colonial Office, on the subject of the suggestion contained in my letter of the 18th November, that the mutual admission of certain natural products of the United States and the British Colonies of North America might, if excluded from the Commercial Treaty under negotiation between this country and the United States, be effected by the independent action of the Legislatures of the United States and the Colonies respectively.

It appears from Mr. Merivale's letter, that the Duke of Newcastle is of opinion that in the event of the admission, duty free, by the United States of the colonial products specified in Mr. Marcy's despatch of the 1st September last, with the addition of coal, the Legislatures of those Colonies ought to adopt, and probably would adopt, corresponding measures with regard to the products of the United States mentioned in the same despatch.

With regard to the doubt implied in the Colonial Office letter as to how "far the settlement of this part of the originally proposed Treaty may render less likely the adjustment of the remainder," I am to remark that the proposed exclusion from both sides of the draft Treaty, of what my Lords presume must be considered as equivalent concessions, did not appear to them to affect the relative position of the contracting parties with regard to the adjustment of the remaining conditions.

Regarding this question solely in its commercial bearings, it seemed to my Lords that if the retention in the draft Treaty, of the stipulations for the mutual free admission of certain products of the United States and the British possessions of North America, served to facilitate the adjustment of the Convention, it could only do so by rendering less prominent the unequal character of the respective concessions as regards the national fisheries, which when left to form the sole subject of negotiation would appear in its true light of manifest inequality.

It will be for the Earl of Clarendon to decide whether the considerations of general policy affecting this question are of a kind to render it expedient, with a

* Inclosure in No. 214a.

view to the settlement of the points at issue between the United States and this country, to admit conditions which in a commercial point of view my Lords must regard as inequitable.

I have, &c.
(Signed) JAMES BOOTH.

No. 216.

Mr. Crampton to the Earl of Clarendon.—(Received December 27.)

(No. 192.)

My Lord,

Washington, December 12, 1853.

I HAVE the honour to inclose herewith copies of the Report* of the Secretary of the Treasury of the United States, which accompanied the late annual message of the President to both Houses of Congress.

Your Lordship will perceive that a revision of the tariff, by which a very considerable reduction of the now existing duties upon imports into the United States would be effected, is recommended to the consideration of Congress.

All the tables necessary for a thorough comprehension of the practical effect, on each article of importation, of the plan now proposed by the Secretary of the Treasury, have not yet been printed; but the Assistant Secretary has been so obliging as to furnish me with a manuscript copy of Table I, being the list of articles which it is proposed shall be added to those which can be imported free of all duty under the existing tariff.

Your Lordship will remark with satisfaction, that it is intended to include in this list a number of articles of British produce already largely imported into the United States, and upon which considerable duties are now levied. I would only mention some which appear to me to be of importance, viz., copper, now subject to a duty of 20 per cent. *ad valorem*; earthenware, now subject to a duty of 30 per cent. *ad valorem*; linens, subject to a duty of 20 per cent. *ad valorem*; salt, now subject to a duty of 20 per cent. *ad valorem*; tin plates, now subject to a duty of 15 per cent. *ad valorem*. The differential duty now existing upon tea and coffee, when imported from Great Britain and the place of its growth, would also be done away with.

I have been unable, before the departure of the present packet, to make a more minute examination of the bearing of the proposed alterations upon many other articles of British produce: it is evident, however, that should the American Legislature adopt those alterations (and from the preponderance of the party in favour of a liberal commercial policy in both Houses of the present Congress, as well as from the flourishing state of the United States' revenue, there is a fair prospect of their doing so), a very great advance will have been made in the direction of free trade in general, as well as towards a more unrestricted commerce between the United States and Her Majesty's dominions.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 217.

Lord Wodehouse to Sir J. Emerson Tennent.

Sir,

Foreign Office, December 29, 1853.

I AM directed by the Earl of Clarendon to transmit to you a copy of a despatch† from Mr. Crampton, Her Majesty's Minister at Washington, inclosing a copy of the Report of the Secretary of the Treasury which accompanied the

* Not printed.

† No. 216.

late Message of the President of the United States to Congress, together with a table of articles, the duties on the importation of which into the United States it is proposed to repeal; and I am to request that you will lay Mr. Crampton's despatch and its inclosures before the Lords of the Committee of Privy Council for Trade, and move them to favour Lord Clarendon with any observations they may have to offer thereupon.

I am to request that the inclosed table of articles may be returned to this Office when done with.

I am, &c.
(Signed) WODEHOUSE.

No. 218.

Lord Wodehouse to Sir J. Emerson Tennent.

Sir,

Foreign Office, January 13, 1854.

WITH reference to your letters of the 18th November and 13th December, relative to the negotiations for a commercial convention with the United States of America, I am directed by the Earl of Clarendon to transmit to you a draft of a despatch which his Lordship proposes to address to Her Majesty's Minister at Washington, in reply to the American propositions. And I am to request that you will move the Board of Trade to take this draft into their consideration, and to favour Lord Clarendon with their observations thereupon.

I am, &c.
(Signed) WODEHOUSE.

No. 219.

Sir J. Emerson Tennent to Mr. Addington.—(Received January 18.)

*Office of Committee of Privy Council for Trade,
Whitehall, January 16, 1854.*

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 13th instant, transmitting, by the direction of the Earl of Clarendon, for their Lordships' observations, a draft of a despatch which his Lordship proposes to address to Her Majesty's Minister at Washington in reply to the last propositions of the United States' Government on the subject of the commercial negotiations now pending between this country and the United States of America.

I am, in reply, to state that my Lords concur generally in the instructions which Lord Clarendon proposes to send to Mr. Crampton on this subject, but there are two points in his Lordship's despatch upon which I am directed to make the following remarks.

At page 16 Lord Clarendon refers to the omission in the counter draft proposed by the United States' Government of the stipulation for the discontinuance of bounties to United States' fishermen. My Lords perceive that the Report of the Secretary of the United States' Treasury contains a distinct recommendation to this effect, a measure consequent, in Mr. Guthrie's opinion, upon the proposed remission of the salt duties which have hitherto formed the pretext for the retention of the system of bounties.

If, therefore, this measure is effected by the independent legislative action of Congress, it appears to my Lords that Her Majesty's Government can hardly complain of the omission of a stipulation upon this point in the proposed Treaty.

The second point to which I am directed to advert is the insertion in the free list contained in Article IV of Mr. Marcy's draft Treaty of "Furs and Skins," which Lord Clarendon characterizes at page 17 of the draft despatch to Mr. Crampton as a petty concession on the part of the United States Government.

As this article is one of those which it is proposed to include in the free list of the contemplated new Tariff of the United States, small as this item appeared before, it is now less important than ever as a Treaty concession.

I have, &c.
(Signed) J. EMERSON TENNENT.

No. 220.

Sir J. Emerson Tennent to Lord Wodehouse.—(Received January 18.)

Office of Committee of Privy Council for Trade,
Whitehall, January 17, 1854.

My Lord,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 29th December, transmitting for their Lordships' observations, by direction of the Earl of Clarendon, copy of a despatch from Her Majesty's Minister at Washington, inclosing a copy of the Report of the Secretary of the United States' Treasury, which accompanied the late message of the President to Congress, together with a list of the articles which it is proposed to admit duty free into the United States.

It appears from that Report that the Government of the United States proposes to revise the tariff of import duties in the following manner:—

1. By repealing all duty upon the importation of certain articles specified in List I.

2. By the arrangement of the articles paying duty into two classes.

a. The first subject to a duty of 100 per cent. *ad valorem*.

b. The second to a duty of 25 per cent. *ad valorem*.

The loss of revenue from the remission of duty upon the articles on the free list is computed at 8,000,000 dollars, and that resulting from the equalization of duty upon all other articles in the two classes respectively at 4,500,000 dollars, the two sums together amounting to about 2,600,000*l.* sterling.

My Lords observe, with much satisfaction, among the articles which are included in the free list, several of the most important exports from the United Kingdom, whether of British produce and manufacture, or foreign articles, re-exported, which have hitherto been subject to restrictive duties in the United States.

They would more particularly refer to the following list of articles to be added to the free list of the United States tariff.

ARTICLES.	Present rate of Duty.
	Per cent.
Brass, in pigs and bars	10
„ in plates and sheets	30
Earthen and stone ware	30
Wool, under 10 cents per lb.	30
Linen, bleached and unbleached	20
Yarns of all kind	25
Salt of all kinds	20
Steel; cast, shear, or German, in bars	15
Tin; in pigs, bars, and blocks	5
„ in plates and sheets	15
Copper, in pigs and bars	5
„ in plates and sheets	20
Spices, of all kinds	30 and 40
Opium	20
Wines of all kinds	40
Quicksilver	20
Raw Silk	15
Tallow	10
Soaps	10
Watches	10
Zinc, unwrought	5
„ sheets	15
„ manufactures	30
Coffee, imported from places other than those of growth	20
Tea, imported from places to the west of the Cape of Good Hope	20

It will be seen from this list, that many very important branches of British industry are largely interested in the changes which the United States' Government propose to make in regard to the articles comprised in Schedule I, and that those changes cannot fail to have a very beneficial effect upon the international trade of the two countries.

The value of the export of linens alone from this country to the United States amounted, in 1852, to 1,735,384*l.*, the duty upon which was therefore no less than 317,076*l.* The reduction in the cost of these manufactures to the American consumer will amount to one sixth, which must lead to an increased consumption in the States, and extend the demand for this class of British export.

The value of the earthen and stone ware exported from this country to the United States was, in 1852, 503,008*l.*, the duty upon which was, therefore, 150,900*l.*

So far, therefore, as this list is concerned, the proposed change of the United States' tariff must be considered as very advantageous to British industry.

The next point for consideration is the effect upon British interests of the projected alteration of duty upon articles not included in the free list.

The class of imports which are to be subject to the high duty of 100 per cent. does not include any articles in which the British export trade is largely interested, being confined to brandy and other spirits distilled from grains or other materials, cordials, absynthe, arrack, curaçoa, maraschino, and all other liqueurs of a similar character.

To exhibit the operation, with regard to British exports, of the change of duty upon the articles which are comprised in the class which are to pay 25 per cent., I am directed to subjoin the following Table, showing the present and proposed duty upon the most important of these exports.

British Exports not included in Free List.

ARTICLES.	Value of	Present	Proposed
	British Exports.	rates of Duty.	rates of Duty.
	£	Per cent.	Per cent.
Coals and Cinders	58,681	30	25
Cotton Manufactures	2,575,547	25	
" Yarn	7,233	25	
Glass	50,211	30 and 40	
Hardwares and cutlery	939,372	30	
Iron and steel	3,100,551	30	
Lead and shot	107,573	20 and 30	
Leather wrought and unwrought	76,761	soles, &c., cut, 20 all others, 30	
Painters' colours	59,034	20	
Silk manufactures	463,195	25	
Woollen and Worsted yarn	25,136	30	
" Manufactures	2,799,553	20	

The proposed alterations of duty, so far as regards the articles included in the above list, will be seen to be, in the main, favourable to British interests. The duty upon cotton and silk manufactures will remain unchanged; but upon coal, hardware, woollen manufactures, and glass, a reduction of duty from 30 to 25 per cent. would result from the adoption of the new scale.

With regard to the duty upon iron, my Lords observe that the Secretary of the United States Treasury adverts in his Report to the possibility of a fixed rated duty being substituted for the proposed *ad valorem* duty of 25 per cent. In the absence of any knowledge as to the amount of such rated duty, my Lords are of course unable to express an opinion as to which of the two courses under consideration would be most conducive to the interests of this branch of British trade; but they think that Her Majesty's Minister at Washington should be instructed to lose no opportunity of endeavouring to obtain for this article the

most favourable terms of admission into the United States that may be possible.

It will be observed that, in the case of leather, the proposed change, while it will lower the duty upon uncut leather, will raise that upon soles and cut leather, which are exported in some quantity from this country.

My Lords regret to perceive, from the small amount of reduction in duty upon the articles of British export which more especially compete with similar products of the United States, that the United States' Government is still unwilling to abandon the principle of protection; and they remark, that even this small amount of reduction is justified by Mr. Guthrie, on the ground that the reduced cost of the raw materials, and in the United States manufactures, consequent upon remissions of duty, will counteract the effect of reduction of duty upon foreign manufactures, and not "materially affect the interests of domestic industry."

On the whole, however, my Lords are of opinion that the proposed changes, if adopted, will constitute an important step in the direction of free trade.

The last point to which my Lords would direct the attention of Lord Clarendon, is the bearing of the proposed tariff upon the products of the North American Colonies, included in the free list, inserted in the draft Treaty for improving the commercial relations of this country and the North American British Colonies and the United States of America, recently under consideration.

Lord Clarendon will perceive from the following Table that the only articles included in that list, which are also included in the free list of the proposed tariff, are furs and skins, and printed books (old).

Exports from British North American Colonies to United States.

ARTICLES.	Present Duty.	Proposed Duty.
	Per cent.	Per cent.
Meats; ham, bacon.. ..	40	25
Fish	20	
Hides; raw and salted	5	25
„ tanned	20	
Furs, skins, &c.	10 and 20	free.
Lard	20	25
Ores (specimens of)	20	25
Timber, lumber, &c.	20	25
Firewood	30	25
Fish-oil	20	25
Flax, unmanufactured	15	25
Hemp, do.	30	25
Printed books	10	Editions printed prior to 1830 free.
Metals unmanufactured, not otherwise provided for	30	

His Lordship will also perceive, that upon the articles of preserved meats, timber and lumber, fish, hides, flax, and hemp, the new tariff has the effect of raising the duty from 20 to 25 per cent. *ad valorem*; and as those articles form some of the principal exports from the British North American Colonies, the projected arrangement must be regarded as unfavourable to colonial interests.

I have, &c.

(Signed) J. EMERSON TENNENT.

No. 221.

*Sir J. Emerson Tennent to Mr. Addington.—(Received January 20.)**Office of Committee of Privy Council for Trade,
Whitehall, January 19, 1854.*

Sir,

WITH reference to my letter of the 17th instant, on the subject of the proposed new tariff in the United States of America, I am directed by the Lords of the Committee of Privy Council for Trade to transmit to you, for the information of the Earl of Clarendon, the inclosed copy of a memorial which has been addressed to this Board by the hide-brokers, leather-factors, tanners, and leather merchants of London, setting forth the effect of the proposed change of duty on leather imported into the United States.

In laying this communication before the Earl of Clarendon, I am to request that you will state to his Lordship that my Lords are of opinion that it is highly desirable that Mr. Crampton should be furnished with a copy of the memorial with a view to the subject being brought under the serious attention of the Government of the United States.

I have, &c.
(Signed) J. EMERSON TENNENT.

Inclosure in No. 221.

Memorial.

To the Right Hon Edward Cardwell, M.P., President of the Board of Trade.

The memorial of the hide-brokers, leather-factors, tanners, and leather-merchants of London,

Showeth,

THAT since the abolition of the import duties on the admission of hides and leather into the United Kingdom, the importation of leather from the United States of America has been generally increasing; and that in the first year, 1853, it was more than three times greater than any previous year.

That our export trade to the United States, exceeding the imports thence, has been growing during the same period, so that in the three years 1850, 1851, and 1852, the exports were five times greater than in the three preceding years, (your memorialists have not been able to procure the statement of the exports for the year 1853), but the high prices that have existed in the United Kingdom will have tended greatly to diminish the exports to America.

That the articles imported (all which are free of duty), consist chiefly of sole leather tanned with hemlock bark—a bark very abundant and cheap in America, by the use of which the tanners of the United States can successfully compete with those of any other part of the world, in the production of a low-priced article.

That the exports to the United States consist chiefly of sole leather and calf skins tanned with oak bark (a tanning material comparatively scarce in America), besides sheep skins of every form of manufacture.

That your memorialists are of opinion that the present duty of 20 per cent. on the importation of leather into America, operates as a great impediment to the extension of this branch of trade between the two countries, and that the removal or large reduction of such duty would, on the contrary, tend to a considerable increase both of the export and import trades.

That the manufactures of both countries would therefore be benefited by the total or partial repeal of this duty, each by an increased demand for those articles of which each is relatively the largest producer, as there is no doubt that a larger and more regular outlet for our tannages would induce a correspondent increase of imports from the United States to supply the deficiency thus created; the American community would obtain extended supplies of the better qualities of leather at reduced cost, and the American shoe manufacturers

would be placed in a position better to compete with the foreign manufactures in the various foreign and colonial markets.

That your memorialists do not hesitate to state their opinion, that with one-half the present rate of import duty on the admission of leather, a considerable gain would accrue to the Exchequer of the United States.

That while such reasons appear to your memorialists to point to an advantageous result from a reduction or abolition of the American import duty on leather, your memorialists observe with regret, that this article is classed according to lists recently published, with those on which a duty of 25 per cent. is henceforth to be imposed. In the list of articles recommended to be admitted free of duty, your memorialists notice "linens" and "lastings for making shoes," it appears most anomalous to your memorialists that these articles should be classed with the duty free goods, while leather should be placed with those to be subjected to the 25 per cent. duty; a preference in favour of a raw material cannot account for it, leather being as much a raw material as "linens" or "lastings," and being applicable in some cases to the same purpose as the "lastings."

Your memorialists beg therefore to submit this case to your consideration, with the request that you will kindly represent it to the American Government, not doubting that that Government, which wisely assumes the principle of levying fiscal, and not protective duties, will see it to be their interest, if not to abolish, to lower, rather than to augment the duty on the import of leather in the coming reconstruction of their tariff.

Signed on behalf of the hide-brokers, leather-factors, tanners, and leather-merchants of London.

(Signed) JAMES POWELL, *Chairman.*

No. 222.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, January 20, 1854.

WITH reference to your letter of the 23rd of November last, I am directed by the Earl of Clarendon to transmit to you, to be laid before the Duke of Newcastle, the draft of a despatch which his Lordship proposes to address to Mr. Crampton, respecting the pending Commercial Convention with the United States; and I am to request that you will move the Duke of Newcastle to favour Lord Clarendon with his opinion respecting this draft; and that you will at the same time inform his Grace that Lord Clarendon has already referred the draft to the Board of Trade, and has been informed by that Board that they concur in its terms.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 223.

The Earl of Clarendon to Mr. Crampton.

(No. 11.)

Sir,

Foreign Office, January 20, 1854.

I REFERRED to the Board of Trade your despatch No. 192 of the 12th ultimo, inclosing a copy of the Report of the United States Secretary of the Treasury, relative to the proposed reduction of duties on importations into the United States; and I now transmit to you copy of the reply* which I have received from the Board of Trade showing in what respects the proposed alterations will prove beneficial or otherwise to British trade.

I have to call your attention especially to the observations of the Board of Trade with respect to the duty on iron, and to desire that you will closely watch the progress of this matter, with a view to procure advantageous terms for

* No 220.

British importations. You will also use your best endeavours to obtain a more favourable consideration for the productions of the British colonies, as you will observe by the letter from the Board of Trade that the proposed rates of duties, if adopted, will act injuriously to the colonies, and will add much to the difficulty of the questions now pending between the two countries.

I am, &c.
(Signed) CLARENDON.

No. 224.

The Earl of Clarendon to Mr. Crampton.

(No. 12.)

Sir,

Foreign Office, January 20, 1854.

WITH reference to my despatch No. 11 of this date, I transmit to you herewith copy of another letter* which has been received at this office from the Board, inclosing a memorial from the leather-factors and merchants of London, showing the effect of the proposed change of duty on leather imported into the United States. And I have to instruct you to bring this subject under the serious consideration of the Government of the United States, and to take such steps as you may deem fittest for obtaining an alteration of the scale of duty now proposed.

I am, &c.
(Signed) CLARENDON.

No. 225.

Memorial to the Earl of Clarendon from the Belfast Chamber of Commerce.

To the Right Hon. the Earl of Clarendon, K.G., G.C.B., &c., Her Majesty's Secretary of State for Foreign Affairs.

The memorial of the Belfast Chamber of Commerce,

Showeth,

THAT the Secretary of the Treasury to the Government of the United States has lately intimated his intention to propose the free admission of a number of articles, on which hitherto a high *ad valorem* duty has been charged :

That while it is intended by the American Executive to abolish the duties upon linen cloth, which if sanctioned by Congress will prove of inestimable benefit to Ireland, it is to be deeply regretted that another branch of industry nearly as important, viz., sewed or embroidered muslins, has not been included in the contemplated free list, particularly as it has since been understood that the Secretary of the United States Treasury would have been favourably disposed towards admitting this class of fabrics also, had a timely representation been made to him :

That the sewed trade is of the greatest moment to Ireland, inasmuch as it affords a means of livelihood to "two or three hundred thousand females," who would otherwise have no occupation; that it not only has saved large numbers of them from becoming inmates of our workhouses, but in very numerous instances has led to a considerable transfer of the inmates of our workhouses to their own homes, where the trade is carried on :

That independent, therefore, of the money annually spent in wages, supposed to amount to upwards of a million of pounds sterling, the advantage, on the score of morality, of these young people being placed under the control of their parents is not to be overlooked :

That of the entire quantity of sewed muslins produced in Ireland, 500,000*l.* worth is said to be yearly exported to the United States, where no similar manufacture exists, the high value of female labour there preventing the attempt, so that no opposition can arise on the plea of protection to native industry :

That as Britain is the largest consumer America has for her cotton wool, and as the finest qualities of Sea-island cotton are extensively used for manufacturing the sewing and embroidery muslin of Ireland, it is obviously the interest of America to countenance a change that will increase her own commerce and afford her people articles for wear at a third less cost than they pay at present:

That, therefore, this Chamber has reason to believe the remission of the duties upon the import of sewed muslins into the United States would be popular with the American people, many of whom also being of Irish descent would naturally desire the passing of a measure calculated to aid materially the industry of the mother-country, and to further a branch of Irish manufacture, the beneficial results of which cannot be overrated:

This Chamber, therefore, respectfully pray your Lordship to direct Her Majesty's Minister at Washington to bring this subject, at the earliest possible moment, before the Government of the United States, in the hope that the application may yet be in time to be favourably entertained.

Signed on behalf of the Belfast Chamber of Commerce.

(Signed)

JAS. BRISTOW, *President.*

JA. KENNEDY, *Vice-President.*

No. 226.

Mr. Merivale to Mr. Addington.—(Received January 30.)

Sir,

Downing Street, January 28, 1854.

I AM directed by the Duke of Newcastle to acknowledge the receipt of your letter of the 20th instant, and to acquaint you in reply, for the information of the Earl of Clarendon, that his Grace concurs in the terms of the despatch which his Lordship proposes to address to Mr. Crampton respecting the pending Commercial Convention with the Government of the United States.

I am, &c.

(Signed)

HERMAN MERIVALE.

No. 227.

Mr. Booth to Mr. Addington —(Received February 2.)

*Office of Committee of Privy Council for Trade,
Whitehall, February 1, 1854.*

Sir,

WITH reference to this Board's letter of the 19th ultimo, on the subject of the duty on leather in the United States, I am directed by the Lords of the Committee of Privy Council for Trade to transmit to you, for the information of the Earl of Clarendon, the accompanying copy of a letter received by their Lordships from the Manchester Chamber of Commerce on the same subject.

I am directed to suggest that a copy of this letter should be transmitted to Her Majesty's Minister in the United States.

I have, &c.

(Signed)

JAMES BOOTH.

Inclosure in No. 227.

The Manchester Chamber of Commerce to the President of the Board of Trade.

*Chamber of Commerce and Manufactures,
Manchester, January 28, 1854.*

Sir,

I HAVE been instructed to express to the Lords Committee of Privy Council for Trade, the deep obligation of the Directors of this Chamber for having caused to be communicated to them the very gratifying information conveyed in the letter which Mr. Edgar Bowring addressed to the Secretary on

the 24th November last, whereby the Directors learned that intelligence had just been received from Her Majesty's Minister at Washington, to the effect that, consequent upon the representations made by Her Majesty's Government, on the subject of the Secretary's letter of the 5th February, there is reason to believe that the Government of the United States will recommend Congress, in the present session, to extend the existing exemption from duty on coffee imported from the place of growth to cases where the importation is from countries other than that of production.

The attention of the Directors of this Chamber has been drawn to the alteration in the tariff of the United States, which the Secretary to the Treasury has announced his intention of proposing to Congress, and which appear, in some instances, to be somewhat incongruous. We are fully sensible of the delicacy required in any interference in the fiscal arrangements of other States; and this Chamber, advocating at all times the propriety and wisdom of arranging our own duties without reference to the course which any foreign State may mark out for itself, would not lightly recommend any attempt at such an interference; but if friendly representation may stop, *in limine*, any injury to an important branch of our own export industry, no harm, but some good, may possibly result. Against the principle of the proposed division of import duties into two classes, one paying 25, the other 100, per cent. *ad valorem*, this Board could not object; but whilst that Government is professing to diminish customs duties, it may be permitted to doubt the propriety, as it does the wisdom, of increasing the duties on any. By the proposed arrangement, some articles which now pay a duty of 20 per cent., will be carried into that list which is to be charged with 25 per cent., whilst others, which are analogous in the use to which they are put, are classed with the free list. Thus, rough tanned leather will be charged with an additional duty of five per cent., whilst "lastings, suitable for shoes, slippers, &c.," and "manufactures of mohair, cloth, silk, twist, or other manufactures of cloth suitable for the manufacture of shoes, slippers, boots, &c." are both placed in the free list. The manufacture of rough tanned leather is one of considerable importance in this country; and, at times, a moderate vent has been found for it in the United States, even under an import duty of 20 per cent.; but with a charge of 25 per cent., the venture would be hopeless of profit. Nor is it obvious why this increase on rough tanned leather should be proposed; it is scarcely removed from the class of raw materials; whilst the "lastings" and "other manufactures fitted for the manufacture of boots, shoes, &c.," which are put into the free list, are completed manufactures, and will, of course, enter into competition with similar goods made at home: the tanners of the United States would have no more right to complain than the manufacturers will of rough tanned leather, or indeed any leather, also placed in the free list, inasmuch as they will now, for the first time, be placed in the position of receiving their hides, bark, and all other tanning materials free from duty. This Board would, therefore, respectfully suggest, that Her Majesty's Minister at Washington may be instructed to endeavour to procure the insertion of, at least, rough tanned leather in the free list of the United States' tariff, or, under any circumstances, to obtain a large reduction of the present rate. There would seem to be an additional incentive to the attempt, in the fact that the American tanners are constant and successful competitors with our own in the raw hide markets of this country, a circumstance which this Board would not wish to see other than it is; but which, at the time, furnishes a sound plea for remonstrance against an increase of duty, if it do not establish a right to a total remission.

I have, &c.

(Signed) THOS. BAZLEY, *President*.

No. 228.

The Earl of Clarendon to Mr. Crampton.

(No. 19.)

Sir,

Foreign Office, February 2, 1854.

HER Majesty's Government have had under their consideration your despatch No. 151 of the 3rd September of last year, in which you report the communications which had taken place between yourself and the United States' Secretary of State on the subject of the Commercial Convention now under discussion between the Governments of Great Britain and the United States, and transmit home a counter-project which Mr. Marcy had placed in your hands.

Her Majesty's Government have given their most anxious attention to that counter-project, and to the observations with which you state that it was accompanied on the part of Mr. Marcy, in the earnest hope that they might discover some element of compromise by which they might be enabled to reconcile the restricted propositions of the United States' Government with the wider and more equal conditions submitted on the part of Great Britain, and with the reasonable expectations of Her Majesty's Government. But I regret to say that in this hope they have hitherto failed.

Her Majesty's Government give full credit to Mr. Marcy and to his Government for the sincerity of their desire to establish the commercial relations of the two countries upon a broader and freer basis than that on which they now stand; and they rejoice to see, and readily admit, that that sincerity is exhibited by the projected reductions in the present United States' tariff of duties which you have brought to their knowledge. But it is obvious that in matters of international negotiation, positive and tangible concession on one side must be met by equal concession of the same character on the other side; and that prospective and unsubstantial hopes held out to the one party cannot be taken to countervail solid advantages legally secured by Treaty to the other party.

Mr. Marcy observes, that by embodying in a Treaty the concessions required on the part of Great Britain and the British colonies, there will be great risk of that Treaty being rejected by the United States' Legislature. But it must be borne in mind that if the United States' Government is amenable to public opinion, as expressed in the United States' Legislature, so also is the British Government compelled to consult public opinion as expressed in the British Legislature; and they would render themselves justly liable to public censure if they consented to give up present and positive for prospective and uncertain advantages.

Having premised thus much, I will proceed to state the points in which we find it impossible to agree to the terms now proposed by Mr. Marcy.

In Article II of Mr. Marcy's counter-project, in which the right to fish on the coasts of the United States is secured to British subjects, an exception is taken with regard to Florida and the adjacent islands, which it is proposed to exclude from the operation of the Article.

To this arrangement Her Majesty's Government cannot assent. The reasons assigned by Mr. Marcy for pressing the exclusion of Florida may be valid in the American sense; but the proposed Convention is purely commercial, and must be considered in a commercial view only by Her Majesty's Government. With other considerations they have nothing to do. If the right accorded to the United States' citizens to fish on the coasts of British North American Colonies be general, so also should be the counter-right accorded to British subjects to fish on the coasts of the United States.

In Article III of Mr. Marcy's counter-project it is proposed to include in the general and mutual right of fishery to be conceded by Treaty the coasts of the Pacific Ocean. To this proposition it would be difficult, if not impossible, for Her Majesty's Government to accede, because the Crown has already conveyed, by Royal charter, to the Hudson Bay Company the Colony of Vancouver's Island, together with the fisheries in the seas, bays, inlets, and rivers within or surrounding that settlement, as well as all the Royalties of the seas and coast within the limits of their grant.

In Article IV, containing a schedule of articles being the growth or produce

of the British colonies or of the United States to be admitted into each country respectively free of duty, the articles coals and metals, for which we had contended, and which we cannot relinquish, are omitted: printed books are also omitted.

Article VI of the English draft of Treaty stipulating for the admission of British-built vessels to the privilege, under certain conditions, of United States' registry, in like manner as United States' vessels are admitted to British registry, is altogether omitted in Mr. Marcy's counter-project.

On the other hand, the stipulation for the admission of United States' citizens to the free navigation of the River St. Lawrence and the Canadian canals is expanded on the part of the United States' Government by the proposed inclusion in the same Article of the St. John's river. To that inclusion Her Majesty's Government could not agree.

Thus, with the exception of one concession which Her Majesty's Government had claimed in the article of "furs," and which was so insignificant that it was inserted in the proposed free list of the tariff, the United States Government rejects all the propositions of Her Majesty's Government; while it puts forth claims itself to considerably extended concessions on the part of Great Britain.

Under these circumstances, it appears to Her Majesty's Government that it would be fruitless to continue the negotiations on their present footing, and with the little chance of success which they hold out of coming to a satisfactory conclusion.

Nevertheless, Her Majesty's Government would be loath to break off the negotiations, and would prefer rather to suspend them in the hope that time may improve the chance of coming to a better understanding; and in the meantime the prospect may, in the opinion of Her Majesty's Government, be materially improved by mutual legislative action of a liberal character on the part of the United States and of the Legislatures of the North American Provinces.

The United States' Government are advancing in earnest in the path of commercial freedom upon which Great Britain entered some years since, and in which she has persevered with such unquestionable advantage to herself and to the world; and this great step on the part of so powerful a nation as the United States, and one whose commerce reaches to every corner of the globe, must necessarily tend to smooth the way towards mutual commercial concessions on the part of Great Britain and the United States, without which no Treaty could be concluded, or, at all events, could be formed on a solid and enduring basis.

You will communicate to Mr. Marcy the conclusion to which Her Majesty's Government have come, as above stated; namely, that in our present divergence of views it may be better to suspend for a while the pending negotiations until we can see our way more clearly towards an approximation of those views; and you will at the same time to express to Mr. Marcy the earnest hope of Her Majesty's Government that the moment of such approximation may not be far distant; and assure him that it will be the constant and earnest wish of Her Majesty's Government to place and maintain the relations of the two Governments and countries upon the most liberal and friendly footing.

I am, &c.

(Signed) CLARENDON.

No. 229.

The Earl of Clarendon to Mr. Crampton.

(No. 24.)

Sir,

Foreign Office, February 6, 1854.

I TRANSMIT to you herewith a copy of a letter* from the Chamber of Commerce at Manchester to the Board of Trade, calling attention to the duty proposed to be levied under the United States' tariff upon rough-tanned leather.

I have already instructed you, by my despatch No. 12 of the 20th ultimo,

* Inclosure in No. 227.

to take steps with a view of endeavouring to obtain an alteration of the scale of duty on the importation of leather into the United States; and you will report to me the result of your efforts in this matter.

I am, &c.
(Signed) CLARENDON.

No. 230.

The Earl of Clarendon to Mr. Crampton.

(No. 25.)

Sir,

Foreign Office, February 6, 1854.

I TRANSMIT to you herewith a copy of a memorial* from the Chamber of Commerce at Belfast, relative to the advantages which would result to British industry and to American consumers, if, in the new Tariff about to be proposed to the United States' Legislature, the duties on sewed or embroidered muslins should be reduced; and I have to instruct you to use your best endeavours to procure a reduction of this duty.

I am, &c.
(Signed) CLARENDON.

No. 231.

Mr. Booth to Lord Wodehouse.—(Received February 9.)

*Office of Committee of Privy Council for Trade,
Whitehall, February 8, 1854.*

My Lord,

I AM directed by the Lords of the Committee of Privy Council for Trade to transmit to you, for the information of the Earl of Clarendon, the accompanying copy of Resolutions passed at a meeting of the Shipowners' Association of Liverpool, relative to the opening of the coasting-trade to the ships of all friendly nations; and to state that my Lords wish to take this opportunity of again expressing, as they have so frequently expressed before, their opinion of the importance to British commerce of the objects which the Liverpool Shipowners' Association seek to urge upon the notice of Her Majesty's Government.

I have, &c.
(Signed) JAMES BOOTH.

Inclosure in No. 231.

Resolutions passed by the Liverpool Shipowners' Association.

AT a special meeting of the Liverpool Shipowners' Association, held on the 4th day of February, 1854, convened to ascertain the sentiments of the Association upon that part of the Queen's Speech relating to the Coasting Trade.

Present:

J. P. Palmer, Esq., in the Chair,
&c. &c. &c.

THE following paragraph of the Queen's Speech, on opening Parliament, was read: "I recommend to your consideration a Bill which I have ordered to be framed for opening the coasting-trade of the United Kingdom to the ships of all friendly nations; and I look forward with satisfaction to the removal of the last legislative restriction upon the use of foreign shipping for the benefit of my people:"

Resolved—

That this meeting is of opinion that the opening of the coasting-trade of the United Kingdom to all friendly nations would not be injurious to British shipping and seamen employed in such trade.

That this meeting, however, trusts that Her Majesty's Government in promoting such a measure will bear in mind the advantages that would accrue to this country from reciprocity by other nations in this respect, and especially from the opening of the coasting trade of the United States, including the voyage between the Eastern and Western States, and *vice versâ*, and will endeavour to secure such advantages for this country.

That copies of the foregoing resolutions be transmitted to the President of the Board of Trade and the members of the borough.

Extracted from the proceedings.

(Signed)

THOMAS CARRON, *Secretary*.

No. 232.

The Earl of Clarendon to Mr. Crampton.

(No. 33.)

Sir,

Foreign Office, February 10, 1854.

I TRANSMIT to you herewith a copy of a letter* from the Board of Trade, inclosing a representation from the Shipowners' Association at Liverpool, relative to the expediency of obtaining for British vessels from foreign Governments a privilege of engaging in the coasting-trade of foreign countries, in return for permission to foreign vessels to engage in the coasting-trade of Great Britain.

In Mr. Marcy's letter to you of the 1st of September, 1853, inclosed in your despatch No. 151 of the 5th of September, he stated that the proposition to allow British vessels to clear from ports in the United States to California and to American possessions on the Pacific, was met by a Constitutional objection, which could not be removed without leaving open to Her Majesty's subjects upon the Atlantic, as well as the Pacific, the entire American coasting-trade. A similar statement has been made to you by Mr. Everett, as reported in your despatch No. of the 19th of September, 1852; and Her Majesty's Government gather from the observations respectively made by those Ministers that they expressed a willingness on the part of their Government to respond to any liberal measures of Her Majesty's Government, in so far as the Constitution of the United States might allow it.

Now it appears that the Constitutional objections raised by Mr. Marcy and Mr. Everett turn upon the 9th section of Article I of the Constitution, by which it is provided that "no preference shall be given by any regulation of commerce or revenue to the ports of one State (of the Union) over those of another;" and although, therefore, an objection would undoubtedly exist under that provision to granting a favour to one State and not to another, such Constitutional objection would altogether cease if that favour were extended to all the States of the Union.

Her Majesty's Government, therefore, giving, as they do, full credit to the amicable expressions of Mr. Marcy and Mr. Everett, conclude that the time has now arrived when the Government of the United States would be willing to throw open their whole coasting-trade to British subjects, in return for a like advantage to be granted by Her Majesty's Government to American citizens; and I have accordingly to instruct you to bring this matter immediately to Mr. Marcy's notice.

I am, &c.

(Signed)

CLARENDON.

No. 233.

Mr. Crampton to the Earl of Clarendon.—(Received February 21.)

(No. 29.)

My Lord,

Washington, February 6, 1854.

I HAVE the honour to inclose the copy of a message from the President to the House of Representatives of the United States, transmitting, in answer to a resolution of the House, a letter from the Secretary of the Navy, accompanied by copies of "the correspondence with, and various orders which have been issued during the past year to, the officers of the United States Navy commanding vessels on the coast of British North America, for the purpose of protecting the rights of fishing and navigation secured to citizens of the United States under Treaties with Great Britain."

Among these papers I would particularly call your Lordship's attention to the letter from Mr. Secretary Dobbin to Commodore Shubrick, dated the 14th of July last, because it professes to put Commodore Shubrick in possession of the past history of the controversies and Treaties between the United States and Great Britain in regard to the Fishery questions, as well as the views entertained by the present Administration of the United States.

I have already had occasion to remark upon the unsoundness of the arguments by which it has been attempted to invalidate the construction of the Convention of 1818, held by Her Majesty's Government in regard to the meaning of the word "bays" in the first Article; and from the confidence with which the American doctrine on this subject has been re-asserted, more especially in the President's message on the opening of the present Congress in December last, I had expected that some additional, if not more plausible, argument in its support would have been adduced.

Your Lordship will, however, perceive from a perusal of Mr. Dobbin's letter that nothing of the sort has been attempted.

Mr. Dobbin contents himself with stating that the American Government contend that American fishermen have a right to enter and fish in any of the bays, which indent the shores in question, "provided they never approach for the purpose of taking fish within three marine miles of the coasts by which such bays are encompassed," without alleging any reason for so manifest a departure from the obvious meaning of the words of the Convention, or seeming to perceive that the adoption of his construction would render the insertion in the Convention, after the word "coasts," of the words "bays, creeks, and harbours," inexplicable, or leave them without any meaning whatever, a position inadmissible according to the invariably received canons of legal construction.

Appearing, however, to feel that so manifest a departure from the grammatical sense of the words of the provision in question requires some support, he endeavours to obtain it from a reference to the succeeding provision of the Convention, the true tenour of which it is evident he does not understand. This provision authorizes American fishermen "to enter such bays, creeks, and harbours," that is, those described in the preceding clause, "for the purpose of shelter, and repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever;" and Mr. Dobbin states that the President is further of opinion that this clause precludes the idea that the Convention alludes to large open bays, because these would afford "little better shelter than the open sea."

It is difficult to conceive under what impression the President can suppose that the words "bays" must therefore be restricted to narrow small bays and harbours. For it is clear that the permission contained in the proviso applies, for the purposes therein enumerated, to all bays, creeks, or harbours whatever named in the Treaty, without any restriction as to distance from the shore; and consequently can have no reference whatever to their dimensions, or in any way modify the sense of the words of the preceding clause of this Article.

I have much satisfaction in calling your Lordship's attention to the letter from Mr. Louis A. Kimberley of the United States Navy, to Captain Whittle, dated August 30, 1853 (page 26), being one of the papers accompanying Mr. Dobbin's report, which contains an account of the humane and gallant

exertions of that officer and his boat's crew, in saving the officers and crew of the British vessel "Cleopatra," under circumstances of great danger and difficulty.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 233.

Message from the President of the United States, January 9, 1854, transmitting Correspondence respecting the Fisheries.

[See Congressional Papers, 33rd Congress, Ex. Doc. No. 21.]

No. 234.

Mr. Crampton to the Earl of Clarendon.—(Received March 3.)

(No. 34.)

My Lord,

Washington, February 12, 1854.

I HAVE the honour to inclose herewith the copy of a note which, in obedience to the instructions contained in your Lordship's despatch No. 12 of the 20th ultimo, I have addressed to the United States' Secretary of State, bringing under the consideration of the United States' Government the injurious effects of the proposed change in the duty of leather imported from Great Britain into this country.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure in No. 234.

Mr. Crampton to Mr. Marcy.

Sir,

Washington, February 11, 1854.

IN conformity with an instruction I have received from Her Britannic Majesty's Government, I have the honour to recommend to the serious consideration of the United States' Government a copy of a memorial addressed to the Board of Trade in London from the leather factors and merchants of London, showing the injurious effect of the proposed change of duty on leather imported into the United States with the view to obtaining an alteration of the scale of duty now proposed by the Secretary of the United States' Treasury in his Report lately submitted to Congress.

I have, &c.
(Signed) JOHN F. CRAMPTON.

No. 235.

Mr. Crampton to the Earl of Clarendon.—(Received March 8.)

(No. 35.)

My Lord,

Washington, February 13, 1854.

I HAVE the honour to inclose to your Lordship herewith a copy of a note in which, in compliance with the instructions contained in your Lordship's despatch No. 121 of the 16th of December last, I transmitted to the Government of the United States a copy of the memorial recently presented to your Lordship by the Bradford Chamber of Commerce upon the subject of the high *ad valorem* duties in the United States on worsted goods, with a view to their

reduction if compatible with the contemplated measures for the revision of the United States' tariff. I have also the honour to inclose a copy of the reply of the Secretary of State of the United States, informing me that the memorial in question has been submitted to the consideration of the Secretary of the Treasury.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 235.

Mr. Crampton to Mr. Marcy.

Sir,

Washington, January 6, 1854.

I HAVE the honour to transmit to you, herewith, a copy of a memorial presented to the Earl of Clarendon, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, by the Bradford Chamber of Commerce, upon the subject of the duties levied in the United States on worsted goods; and in pursuance of his Lordship's instructions, I beg to request you to be so good as to submit it to the consideration of the Secretary of the Treasury with a view to their reduction, if compatible with the contemplated measures for the revision of the United States' tariff.

I avail, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 2 in No. 235.

Mr. Marcy to Mr. Crampton.

Sir,

Department of State, Washington, January 9, 1854.

I HAVE the honour to acknowledge the receipt of your note of the 6th instant, transmitting a copy of a memorial recently presented to the Earl of Clarendon by the Bradford Chamber of Commerce, relative to the reduction of the duties which are now levied in the United States upon worsted goods, and to state, in reply, that the same has, in accordance with your request, been submitted to the consideration of the Secretary of the Treasury.

I avail, &c.
(Signed) W. L. MARCY.

No. 236.

Mr. Addington to Dr. Travers Twiss.

(Confidential.)

Sir,

Foreign Office, March 7, 1854.

FOR a long series of years past a controversy has existed between the Governments of Great Britain and the United States with respect to the true construction of Article I of the Convention of 20th October, 1818, concluded between the two countries for the settlement of the rights of fishery conceded by Great Britain to the United States in certain parts of the sea bordering the coasts of the British provinces in North America: the Government of Great Britain maintaining that the United States' fishermen are by that Article prohibited from fishing within three marine miles of the entrance of any of the bays, creeks, or harbours of Her Britannic Majesty's dominions in America; while the United States' Government contend, on the contrary, that the United States' fishermen are permitted by the said Article to fish in the said bays, creeks, or harbours, provided they do not approach within three miles of the shore in the pursuit of their trade.

I am directed by the Earl of Clarendon to submit to you all the papers which have reference to this question, and I am to request that you will take the matter into your attentive consideration, and that, as an impartial lawyer, you

will favour Lord Clarendon with your unbiassed opinion as to the true and correct interpretation to be put upon the expressions employed in Article I of the Convention of 20th October, 1818, with regard to the point in question.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 237.

Sir J. Emerson Tennent to Lord Wodehouse.—(Received March 9.)

My Lord,

*Office of Committee of Privy Council for Trade,
Whitehall, March 8, 1854.*

WITH reference to my former letters of 19th January and 1st February, transmitting copies of memorials which had been addressed to this Board on the subject of the alteration of the customs' duty upon leather in the United States of America, I am directed by the Lords of the Committee of Privy Council for Trade to request that you will lay before the Earl of Clarendon the inclosed copy of a similar memorial from persons engaged in the leather trade in Exeter and its vicinity.

I have, &c.

(Signed) J. EMERSON TENNENT.

Inclosure in No. 237.

Memorial.

To the Right Hon. Edward Cardwell, President of the Board of Trade, &c.

This memorial of the undersigned tanners, leather-factors, and others interested in the leather-trade in Exeter and vicinity,

Sheweth,

THAT, seeing in the late message of the President of the United States, a promise of removal of the import duties of all raw materials, and observing subsequently, in the admitted list of these materials, that "linens, bleached and unbleached," and "lasting, for making boots, shoes, slippers, &c.," are admitted duty free :

That whilst the duties on those materials used in the manufacture of shoes, chiefly worn by the middle and upper classes, are admitted duty free, it is surprising to us that leather, which is used by the whole mass of the population, has now to pay 5 per cent. more than its present duty, or say 25 per cent :

That we cannot account for such palpable inconsistency of placing "linens" and "lastings," which have passed through various processes, and are in truth manufactures, with duty free raw goods, and placing leather, which is merely the raw hides after the simple process of tanning, amongst the silks and satins, without the supposition that some class influence has been used to obtain this protection for leather :

That when, in 1843, it was proposed in our House of Commons to remove the duty on leather, it was represented that, if the measures were carried, the leather manufacturers would be ruined by the importation of foreign leather : but the result has not been the case (though attended with a little temporary inconvenience) ; it has flourished and gained a higher position, though placed in competition with the whole world :

That, if the United States were to remove this duty, it would result in the increased exchange of the goods of both nations ; and whilst our better managed oak-bark tannages of England would be sent to America, the hemlock-made leather of Baltimore would obtain more buyers in England, instead of prohibiting the export of our manufactured leather to the United States by the imposition of an increased duty :

Your Memorialists entreat you will be pleased to consider the position and prospects of the leather trade of this country ; and they pray your assistance

may be given as may to you seem most fitting to procure a modification or total abolition of restriction, which your Memorialists respectfully submit would be mutually beneficial to both nations.

And your Memorialists will ever pray, &c.

(Signed)

THOS. M. C. SHARLAND,
Tanner, Cheriton, Fitzpaine.
W. SANDERS AND WARE,
Tanners, Woodbury.

(And 17 others.)

No. 238.

Mr. Merivale to Mr. Addington.—(Received March 14.)

(Private and Confidential.)

Sir,

Downing Street, March 13, 1854.

I AM directed by the Duke of Newcastle to transmit to you, for the information of the Earl of Clarendon, the accompanying copy of a despatch, and of its inclosures, received from the Lieutenant-Governor of Nova Scotia, on the subjects of the British North American Fisheries, and reciprocity of trade with the United States.

I am, &c.

(Signed)

HERMAN MERIVALE.

Inclosure 1 in No. 238.

Sir Gaspard Le Marchant to the Duke of Newcastle.

(Private and Confidential.)

My Lord Duke,

Government House, Halifax, Nova Scotia,

February 16, 1854.

HAVING received this morning a private and confidential despatch from Mr. Crampton on the subject of the negotiations now pending between the British Government and the United States, with regard to the British North American Fisheries and reciprocity of Trade, I consider it right that I should place your Grace in possession of my reply to Mr. Crampton; and I have the honour of transmitting for that purpose a copy of my confidential despatch to that Minister, as also a copy of the communication addressed to me by that gentleman.

I have, &c.

(Signed)

J. GASPARD LE MARCHANT.

Inclosure 2 in No. 238.

Mr. Crampton to Sir Gaspard Le Marchant.

(Private and Confidential.)

My dear Sir,

Washington, February 5, 1854.

I PRESUME that you have been made acquainted by the Colonial Office with the substance of the propositions made by the United States in September last, upon the subject of the Fisheries and reciprocity of trade, as well as of Mr. Marcy's explanatory note which accompanied them. Lord Clarendon, feeling anxious that the matter should be speedily brought to a conclusion, has lately suggested to me that it might be well that I should communicate with you confidentially in regard to what might be effected in the United States by the colonies yielding upon some of the points which now form the obstacles to the conclusion of a Treaty.

With respect to this matter, all that I can tell you at present is this :

1. That a general disposition on the part of the United States' Govern-

ment certainly appears to exist, to go on in the direction of free trade; this is evinced in the proposals for a reduction of duties on various articles contained in the inclosed report of Mr. Guthrie, the adoption of which is recommended to Congress in the President's Message.

2. In regard to the three principal objections which, in conformity with my previous instructions, I took to Mr. Marcy's draft, viz.:

1st. The registry of vessels.

2nd. The admission of coals.

3rd. The abolition of the bounties on American-caught fish.

All of which the American Government declined to yield. You will perceive, from Mr. Guthrie's report, that the United States' Government proposes to abolish the bounties; this would evidently facilitate our arrangements, as far as this point is concerned.

With regard to coals, I have some reason not to despair of obtaining their admission.

And with regard to the registration of vessels, I am informed that a measure will shortly be proposed by an influential and independent member of Congress to grant the American register to foreign vessels.

Mr. Andrews, with whom you are already acquainted, and who has been confidentially consulted by Mr. Marcy during the whole course of this negotiation, is very well acquainted with the present position of the case; and in the event of his going to Nova Scotia he could furnish you with information upon which you could rely.

It appears to me to be very desirable that the colonies should come to some understanding in regard to what they can or cannot do in this matter.

It is very generally understood that Canada, Newfoundland, and Prince Edward's Island would receive the proposition favourably, whilst the difficulties are supposed to lie with New Brunswick and Nova Scotia. You will be the best judge how this is to be effected with regard to Nova Scotia.

The fishing season will soon be here again, and it will be a matter for grave consideration what is to be done to protect our rights. The two Governments differ as to their construction of the Treaty of 1818 as regards "bays," and we may not again be so fortunate as to avoid collisions, which I need not say are under present circumstances more than ever to be deprecated; though I fear, should it now be announced to the American public that all negotiations on the subject had finally failed, they would be much more likely to occur than while an impression existed that the subject was shortly to be arranged by Treaty.

I believe I may add that the present Government of the United States is better disposed to come to a settlement on this matter on liberal principles than their predecessors.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 3 in No. 238.

Sir Gaspard Le Marchant to Mr. Crampton.

(Private and Confidential.)

My Dear Sir,

*Government House, Halifax,
February 16, 1854.*

I HAVE had the honour to receive your "private and confidential" letter of the 5th instant this morning, and lose no time in furnishing an answer, which with a copy of your letter I have thought it proper to send to his Grace the Duke of Newcastle by this night's mail.

Neither the substance of the propositions made by the United States, nor Mr. Marcy's note, have been communicated to me. All the information I have is gleaned from the newspapers, or from private correspondence shown to me by members of the Legislature.

I can quite appreciate Lord Clarendon's desire in the present perplexed state of European relations to have no irritating controversies or collisions on this side of the Atlantic, and you may rely on my disposition and that of my Government to bear in mind the obvious requirements of Imperial

policy. At the same time it is my duty to inform you, that though I believe that Canada would cheerfully make any sacrifice to obtain the reciprocal interchange of her productions with the United States, a very deep feeling of resentment would pervade the Provinces of Nova Scotia and New Brunswick, if that were obtained at the sacrifice of their interests.

The Law Officers of the Crown in England have recently decided that within three miles of the coast the jurisdiction of the Provincial Governments and Legislatures legally and constitutionally extends.

Whatever may be decided, then, as respects the "bays," these rights ought not to be varied or compromised but with the consent of the parties concerned, and the equivalents to be given in exchange for rights of property so highly valued should rest upon no vague promises or indeterminate action of any member of Congress, but should be yielded and secured by the same instrument that made the concession.

By reference to the report, a copy of which I inclose, you will see how vast are the interests, provincial and national, involved in this question of the fisheries.

The Government of this Province has in 1851 evinced its readiness—

1st. To exchange with the United States the productions of the soil alone.

2nd. To exchange the produce of the sea, the forest, and the mine.

3rd. To yield the close fishery whatever might be the true construction of the Convention, provided we obtained the abolition of the bounties, the registry of ships, and the same privilege on the coasts of the United States that we surrender on our own.

To avoid all cause of embarrassment to Lord Clarendon, I would respectfully suggest, that should war break out we might possibly avoid collisions by suspending operations on the fishing-grounds for a year, or by stringent instructions to the officers employed.

Should Mr. Andrews, who is known to the members of my Government, come here, I shall be glad to discuss the whole subject with him; and should there seem to be a necessity for it, I will send some gentleman having my confidence to confer with you personally after the close of the Legislative session.

I have, &c.

(Signed) J. GASPARD I. E. MARCHANT.

No. 239.

Mr. Addington to Mr. Robert Milligan, M.P.

Sir,

Foreign Office, March 11, 1854.

THE Earl of Clarendon having forwarded to Her Majesty's Minister at Washington a copy of the Memorial from the Bradford Chamber of Commerce, inclosed in your letter of the 8th of December last, I am directed by his Lordship to acquaint you, that Mr. Crampton has supported the prayer of the Memorial; and that the question of a reduction of duty on British worsted goods has been referred to the consideration of the United States' Secretary of the Treasury.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 240.

Circular to Her Majesty's Ministers abroad.

Foreign Office, March 13, 1854.

HER Majesty's Government having introduced into Parliament a bill for opening the coasting trade of the United Kingdom to the ships of all nations, they are desirous of calling the attention of foreign Governments to the advan-

tages which may be likely to result to the trading interests of countries with which they are in friendly alliance from giving to British vessels in foreign parts the same privilege which it is proposed to grant to foreign vessels in British ports.

In proportion as freedom of commerce has been extended in this country, trade has increased; and the result of the alteration in the British Navigation Laws has been that while the number of tonnage of ships belonging to the United Kingdom has annually increased, that augmentation has not kept pace with the wants of the trade.

Her Majesty's Government are disposed to consider that the greater the facilities given in the United Kingdom to foreign trade, the greater will be the benefit to this country; and if this be true as regards Great Britain, it must be equally true that a similar system would be beneficial to other countries.

You will, accordingly, invite the Government to which you are accredited to throw open its coasting trade to the British flag, and thus to reciprocate the advantages which its vessels will obtain in British ports.

I am, &c.
(Signed) CLARENDON.

No. 241.

Mr. Addington to the Chairman of the Belfast Chamber of Commerce.

Sir,

Foreign Office, March 30, 1854.

WITH reference to the memorial of the Belfast Chamber of Commerce respecting the American import duties on sewed and embroidered muslins, I am directed by the Earl of Clarendon to inform you that Mr. Crampton, Her Majesty's Minister at Washington, has represented to the Government of the United States that the circumstances connected with the above-mentioned branch of industry in Ireland render it a subject of peculiar interest to Her Majesty's Government, and that consequently he had been instructed to call the especial attention of the Government of the United States to the subject as one particularly meriting their favourable consideration. I am further to add that it appears that, in consequence of Mr. Crampton's representations, the subject is now under the consideration of the United States' Treasury.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 242.

Mr. Addington to Sir J. Emerson Tennent.

Sir,

Foreign Office, March 14, 1854.

I AM directed by the Earl of Clarendon to acquaint you, for the information of the Lords of the Committee of Privy Council for Trade, that the subject of the resolutions of the Shipowners' Association of Liverpool, relative to the coasting trade, inclosed in your letter of the 8th ultimo, occupies the attention of Her Majesty's Government, and that a special instruction, of which a copy* is herewith inclosed, has been given to Her Majesty's Minister in the United States to urge the Government of that country to open its coasting trade to British vessels.

Instructions, according to the accompanying copy of a circular despatch,† have also been given to all Her Majesty's Ministers abroad upon the same subject.

I am, &c.
(Signed) H. U. ADDINGTON.

No. 243.

Mr. Crampton to the Earl of Clarendon.—(Received March 21.)

(No. 54.)

My Lord,

Washington, March 6, 1854.

IN obedience to the instructions contained in your Lordship's despatch No. 33 of the 10th ultimo, I have not failed to bring under Mr. Marcy's notice the representations which have been addressed to Her Majesty's Government relative to the expediency of obtaining for British vessels the privilege of engaging in the coasting trade of the United States, in return for the permission to American vessels to engage in the coasting trade of Great Britain.

Mr. Marcy said, as far as his individual opinion went, that he concurred with me in thinking that the reciprocal throwing open of the whole of their coasting trade by both countries, would be mutually beneficial; but, he added, that he would be misleading me if he were to tell me that there was any reasonable chance of the measure being adopted by Congress at the present time. "We shall come to it," said Mr. Marcy, "I have no doubt, and perhaps sooner than is generally expected; but not now. There would be a great majority in both Houses of Congress against such a measure."

Mr. Marcy fully admitted that the constitutional objection stated in his note to me of the 1st of September last to exist, against allowing foreign vessels to engage in the voyage from the eastern ports of the Union to those on the Pacific Coast, did not apply to a proposition to throw open the whole coasting trade of the United States. All that the Constitution required was, that measures regarding trade and navigation should be applicable, without distinction, to all the States of the Union.

I have thought it my duty to address to Mr. Marcy, in writing, the proposals of Her Majesty's Government to the Government of the United States, in regard to this matter, and I have accordingly embodied them in a note, a copy of which I have the honour to inclose herewith.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 243.

Mr. Crampton to Mr. Marcy.

Sir,

Washington, March 6, 1854.

IN compliance with the recommendation contained in Her Majesty's most gracious speech to both Houses of Parliament, pronounced on the 31st January, a bill has been framed and submitted to that body for opening the coasting trade of the United Kingdom to the ships of all friendly nations, thus removing the last legislative restriction upon the use of foreign shipping. Her Majesty's Government giving, as they do, full credit to the liberal and amicable expressions made use of by your predecessor and by yourself in the course of the commissions in regard to the commercial relations of Great Britain and the United States, which I have had the honour of holding with you, conclude that the time has now arrived when the Government of the United States would be willing to throw open the whole coasting trade to British subjects, in return for a like advantage to be granted by Her Majesty's Government to American citizens; and I have accordingly been instructed by Her Majesty's Principal Secretary of State for Foreign Affairs, to bring this important matter under your consideration.

I avail, &c.

(Signed) JOHN F. CRAMPTON.

No. 244.

Mr. Crampton to the Earl of Clarendon.—(Received March 21.)

(No. 59.)

My Lord,

Washington, March 6, 1854.

I HAVE not failed, in obedience to the instructions contained in your Lordship's despatch No. 25 of the 6th ultimo, to call the attention of the Secretary of State of the United States to the advantages which would result to British industry, and to American consumers without interfering with any branch of American industry, from an abrogation of the existing duty on sewed and embroidered muslins, the produce of Ireland.

Mr. Marcy has expressed himself favourably upon the subject, and promised to submit it to the consideration of the Secretary of the Treasury.

I have the honour to transmit the copy of a note which I have addressed to him in regard to this matter.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure in No. 244.

Mr. Crampton to Mr. Marcy.

Sir,

Washington, March 6, 1854.

A MEMORIAL has been addressed to Her Majesty's Government by the Chamber of Commerce at Belfast, a copy of which I have the honour to inclose herewith, setting forth the advantages which would result to British industry, and to American consumers, from a reduction of the present duty levied on sewed and embroidered muslins in the United States.

The circumstances connected with this branch of industry in Ireland, and which are alluded to in the above-named memorial, render it a subject of peculiar interest to Her Majesty's Government, and I have consequently been instructed to call the especial attention of the Government of the United States to the subject, as one particularly meriting their favourable consideration. I would consequently request of you, Sir, to bring it under the consideration of the proper department of the United States' Government, with a view to the inclusion of the articles in question in the list of those which have been submitted by the Secretary of the Treasury to Congress as fair subjects for the liberal commercial legislation which has been proposed for their adoption

I avail, &c.

(Signed) JOHN F. CRAMPTON.

No. 245.

Mr. Addington to Sir J. Emerson Tennent.

Sir,

Foreign Office, April 5, 1854.

WITH reference to Mr. Booth's letter of the 8th of February last, inclosing a representation from the Shipowners' Association at Liverpool, relative to the expediency of obtaining for British vessels from foreign ports a privilege of engaging in the coasting trade of foreign countries, in return for permission to foreign vessels to engage in the coasting trade of Great Britain; I am directed by the Earl of Clarendon to transmit to you, for the information of the Board of Trade, a copy of a despatch* from Mr. Crampton, Her Majesty's Minister at Washington, reporting the substance of a conversation with the United States' Secretary of State upon the above subject, and inclosing, also, a copy of a note which he has addressed to Mr. Marcy thereupon.

I am, &c.

(Signed) H. U. ADDINGTON.

* No. 243.

No. 246.

Mr. Crampton to the Earl of Clarendon.—(Received March 29.)

(No. 67.)

My Lord,

Washington, March 12, 1854.

WITH reference to your Lordship's despatch to me, No. 25 of the 6th ultimo, and to my despatch to your Lordship No. 59 of the 6th instant, I have now the honour to transmit to you herewith, in copy, a note from the Secretary of State of the United States, informing me that copies of my note to him of the 6th instant, and of the memorial of the Chamber of Commerce of Belfast, relative to the reduction of the present rate of duty levied upon sewed and embroidered muslins in the United States, will be immediately submitted to the consideration of the Secretary of the Treasury.

I have, &c.
(Signed) JOHN F. CRAMPTON.

Inclosure 2 in No. 246.

Mr. Marcy to Mr. Crampton.

Sir,

Department of State, Washington, March 9, 1854.

I HAVE the honour to acknowledge the receipt of your note of the 6th instant; and to state, in reply, that a copy of it, and of the memorial of the Chamber of Commerce of Belfast, relative to the reduction of the present rate of duty levied upon sewed and embroidered muslins in the United States, which accompanied it, will be immediately submitted to the consideration of the Secretary of the Treasury.

I avail, &c.
(Signed) W. L. MARCY.

No. 247.

The Secretary to the Admiralty to Mr. Addington.—(Received April 12.)

Sir,

Admiralty, April 11, 1854.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Earl of Clarendon, a copy of a despatch from Vice-Admiral Sir George Seymour, relative to the message to Congress from the President of the United States on the subject of the North American Fisheries.

I am, &c.
(Signed) W. A. B. HAMILTON.

Inclosure in No. 247.

Vice-Admiral Sir G. Seymour to the Secretary to the Admiralty.

Sir,

"Columbia," at Halifax, March 24, 1854.

I TRANSMIT, for the information of the Lords Commissioners of the Admiralty, copy of a message from the President of the United States, with accompanying reports in reference to the North American fisheries, laid before Congress on the 14th January, which, having been transmitted to the West Indies by Mr. Crampton, did not reach me until the 17th instant.

My letter of the 17th August last, No. 176, has already furnished their Lordships with a full report of the communications which took place between Commodore Shubrick and myself when he visited Halifax during the last summer. The report of that officer (No. 11 in the printed papers) is less ample,

but as the purport is mainly correct and tends to quiet the excitement which has prevailed in the United States on the subject, and to show that his countrymen had suffered no injustice at our hands, it is unnecessary for me to remark on the Commodore's more abridged statement of what occurred at our interview.

With regard, however, to the future, it deserves notice that Mr. Marcy's message to me, through Mr. Crampton, that there was no intention of contesting the only controverted point in the Convention of 1818 during the last season, under the hope that it might be arranged by negotiation, does not extend to this year; and that Mr. Dobbin, Secretary of the Navy, in his instructions to Commodore Shubrick (page 5) asserts that the restriction was not designed to be applicable to George's Bay, Miramichi, or Chaleur, in the President's view of the construction of the Convention.

I am not aware that any attempt has been made to exclude American fishermen from the Straits of Northumberland to which Mr. Dobbin also refers, but the three other bays appear to me clearly such as the United States' fishermen have no right to enter except for the purposes specified in the Convention, and the pretension, if renewed, will occasion difficulties.

I should also bring to their Lordship's observation the fact that Commodore Shubrick, in his final Report (No. 22, page 33), purposes the permanent establishment of a squadron of steam-vessels consisting of one war-steamer of suitable size for the commanding officer, with his head-quarters at Portland or Eastport, visiting occasionally the fishing grounds, and three small steam-vessels of light armament and draught of water, with speed and power, to be stationed every summer on our coasts, which certainly renders it desirable that the preparation on our part should be maintained by the employment of a class of vessels of a number and description which would afford security to the interests of Her Majesty's subjects and dominions in North America, and to the extent which the demands of the public service in other quarters will admit.

I have, &c.

(Signed) G. F. SEYMOUR.

No. 248.

The Earl of Clarendon to Mr. Crampton.

(No. 82. Confidential.)

Sir,

Foreign Office, April 17, 1854.

I INCLOSE, confidentially, for your information, a copy of a report* made to the Admiralty by Vice-Admiral Sir George Seymour on the proceedings of the United States' Government relative to the North American Fisheries.

I am, &c.

(Signed) CLARENDON.

* No. 247.

Dr. Travers Twiss to the Earl of Clarendon.—
(Received April 28.)

Doctor's Commons,
 My Lord, *April 28, 1854.*

HAVING been requested by Mr. Addington, under the directions of your Lordship, to take into consideration the provisions of the 1st Article of the Convention of the 20th October, 1818, concluded between Great Britain and the United States of North America, and to give my unbiassed opinion as to the true and correct interpretation to be put upon the expressions employed in that Article, with reference to the controversy for some time past existing between the two Governments on the subject of the Fisheries, I beg to state, for your Lordship's information, that I have read the various papers submitted to me, and consulted such other sources of information as suggested themselves to me in the course of the investigation, and have endeavoured to form an impartial judgment on the subject, the result of which I shall proceed to state at length to your Lordship, with the reasons for the conclusions at which I have arrived.

The controversy turns upon the true effect of the renunciation on the part of the United States, "of 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 certain abovementioned limits.

On the side of Great Britain it is maintained, that the United States' fishermen are prohibited from fishing within three marine miles of the

entrance of any of such bays, creeks, or harbours, of His Britannic Majesty's dominions in America, while the United States' Government contend that the United States' fishermen are permitted by that Article to fish in the said bays, creeks, or harbours, provided they do not approach within three miles of the *shore* in the pursuit of their trade.

The particular expressions in the 1st Article of the Convention, which have furnished the occasion of a disputed construction, are "on or within three marine miles of any of the coasts, bays, creeks, or harbours, of His Britannic Majesty's dominions." For the solution of this difficulty it will be convenient, in the first place, to state certain principles of interpretation to which recourse may be had, when there is any ambiguity in the terms of a Treaty.

In the first place it is an universal rule, dictated by common sense, for the interpretation of contracts, and equally applicable to all instruments, that if there is anything ambiguous in the terms in which they are expressed, they shall be explained by the *common* use of those terms in the country in which the contracts were made.—Cf. Pothier, *Obligations*, No. 94, "Ce qui peut paraître ambigu dans un contrat, s'interprète par ce qui est d'usage dans le pays."

In the second place it is an admitted principle, that for the meaning of the *technical* language of jurisprudence, we are to look to the laws and jurisprudence of the country, if the words have acquired a plain and positive meaning. ("The *Huntress*," Davies' *Admiralty* [American] *Reports*, p. 100. *Flint v. Flemyng*, 1 Barnwall and Adolphus, 48.)

In the third place, as Treaties are contracts belonging to the Law of Nations, and the Law of Nations is the common property of all nations, and, as such, a part and parcel of the law of every country (*De Lovio v. Boit*, 2 Gallison's *Admiralty* [American] *Reports*, p. 398. *Buvot v. Burbot*, cited by Lord Mansfield in *Triquet and others v. Peach*, 3 Burrows, p. 1481); if we have recourse to the usage of nations, or to the decisions of courts in which the Law of Nations is administered,

for the definition of terms which occur in such contracts and which have received a *plain and positive meaning*, we are not going beyond the law of either of the countries which are parties to the Treaty.

The interpretation contended for by the United States Government requires that we should, in effect, admit the words "of the shore" into the Article itself, as understood although not expressed, either before the words "of any of the coasts, bays, creeks, or harbours," &c., as necessary to make those words operative, or as authorized by usage; or before the words "bays, creeks, or harbours," as demanded by the context, and indispensable to prevent a conflict with other provisions of the Treaty.

Such an interpretation, however, is, in the first place, not required to make the words "of any of the coasts" operative. Assuming that we should be justified in applying to the language of the Treaty the decisions of the Admiralty Courts of the United States, where any words have received a judicial interpretation, the Treaty being a contract according to the Law of Nations, and the Admiralty Courts in the United States being tribunals which administer that law, we find that the term "coast" has received a judicial interpretation expressly with reference to territorial jurisdiction; and that, according to that interpretation the word "coasts" signifies "the parts of the land bordering on the sea, and extending to low-water mark;" in other words, "the shores at low-water."

This question was formally taken into consideration in the year 1804, in the case of the "*Africaine*," a French corvette, captured by a British privateer off the bar of Charleston, and on the outside of the Rattlesnake shoal, which is four miles at least from land. (*Bee's Admiralty Reports*, p. 205.) On this occasion, the Commercial Agent of the French Republic claimed the corvette to be restored as captured within the jurisdiction of the United States; and it was contended in argument, in support of the claim, that the term "coasts" included also the shoals to a given distance; and that all geographers and surveyors of sea-coasts understood

by the term "coasts" the shoals along the land. Mr. Justice Bee, however, who sat in the Court of Admiralty in Charleston, overruled this argument; and after observing that the interpretation of coasts in the large sense of the word might possibly be correct in a *maritime* point of view, decided that the term "coasts," in reference to *territorial jurisdiction*, is equivalent to shores, and must be construed to mean "the land bordering on and washed by the sea extending to low-water mark."

That the words "shores" and "coasts" are equivalent terms, according to the *common* sense of those terms in the jurisprudence of the United States, may be gathered from the language of various Acts of Congress. For instance, the Revenue Act of 1799 (*Laws of the United States*, vol. iii., p. 136) assigns districts to the collectors of revenue, whose authority to visit vessels is extended expressly to a distance of four leagues from the coast; and the districts of these collectors in the case of the Atlantic States are expressly recited as comprehending "all the waters, shores, bays, harbours, creeks, and inlets" within the respective States. This Act of Congress has also received a judicial interpretation, according to which the authority of revenue officers to visit vessels is held to extend over the high seas to a distance of four leagues from the shore of the main land. Again, the Judiciary Act of June 1794 uses the words "coasts" and "shores" not as alternative, but as equivalent terms, according to judicial decisions on this very point, when it speaks of the "territorial jurisdiction of the United States extending a marine league from the 'coasts' or 'shores' thereof."

It would thus appear that it is not necessary to understand the word "shore" before "coasts" in order that the latter word should be fully intelligible. It remains to consider whether such an understanding would be authorized by usage on the principle laid down by Pothier: "L'usage est d'une si grande autorité pour l'interprétation des Conventions, qu'on sous-entend dans un contrat les clauses qu'y sont d'usage, quoiqu'elles ne sont pas exprimées." (*Obligations*, No. 95.)

No such usage, however, of nations prevails,

applicable to the term "coasts." Islands indeed, which are adjacent to the land, have been pronounced by Lord Stowell to be natural appendages of the coast on which they border, and to be comprised within the bounds of territory. (*"The Anna,"* 5 Robinson's Reports, p. 385.) The assertion, therefore, of an usage to understand the word "shore" before "coasts" in Treaties, would tend to limit the bounds of territorial jurisdiction allowed by Lord Stowell in the case just cited, in which a question was involved to which the United States Government was a party, and in favour of whose claim, on the ground of violated territory, Lord Stowell pronounced.

It remains next to consider what is the true construction of the expressions within three marine miles of any of the "bays, creeks, or harbours." That the words "bays," "creeks," and "harbours," have all and each a distinct sense separate from and supplemental to the word "coasts," to which effect must be given, where there are reciprocal rights and obligations growing out of the Treaty in which these words have been introduced, is consonant with the rules for interpreting contracts, which have been dictated by right reason, and are sanctioned by judicial decisions. Mr. Justice Story may be cited as an authority of the highest eminence, who has recognised and applied this principle in construing a statute of the United States. "The other words," he says, "descriptive of place in the present statute (Statute 1825, c. 276, s. 22), which declare that 'if any person or persons on the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the Admiralty jurisdiction of the United States, and out of the jurisdiction of any particular State,' &c., give great additional weight to the suggestion that the 'high seas' meant the open, unenclosed ocean, or that portion of the sea which is without the *fauces terre* on the sea coast, in contradistinction to that which is surrounded or inclosed between narrow headlands or promontories: for if the 'high seas' meant to include other waters, why should the supplemental words, 'arm of the sea, river, creek, bay,'

&c., have been used?" (United States v. Grush, 5 Mason's Admiralty Reports, p. 298.)

This view of Mr. Justice Story is in accordance with Pothier's rule, "Lorsqu'une clause est susceptible de deux sens, on doit plutôt l'entendre dans celui dans lequel elle peut avoir quelque effet, que dans celui dans lequel elle n'en pourrait avoir aucun." (*Obligation*, No. 92.)

The word "bay" itself has also received a *plain and positive meaning* in a judicial decision of a most important case before the Supreme Court of the United States, upon the construction of the 8th section of the Act of 1790, cap. 9:—A murder had been committed on board the United States ship of war "Independence," lying in Massachusetts Bay, and the question was whether any Court of the State of Massachusetts, or only the Circuit Court of the United States, as a Court of Admiralty and Maritime Jurisdiction, had jurisdiction over a murder committed in such a bay. Chief Justice Marshall in delivering the opinion of the Court defined "bays" to be "*inclosed parts of the sea.*" (United States v. Bevan, 3 Wheaton's Reports, p. 387.)

Again, Mr. Justice Story in a question of indictment for assault with intent to kill, under the Crimes Statute of 1825, cap. 276, sec. 22, which declares, "that if any person or persons upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay within the Admiralty jurisdiction of the United States, and out of the jurisdiction of any particular State, on board any vessel, shall commit an assault," &c., decided, that the place where the murder was committed (the vessel lying at such time between certain islands in the mouth of the Boston river) was an arm of the sea.

"An arm of the sea," he further said, "may include various description of waters, where the tide ebbs and flows. It may be a river, harbour, creek, basin, or bay." (United States v. Grush, 5 Mason, 299.)

It would thus appear that the word "bay" has received a positive definition as a term of jurispru-

dence, which is in accordance with the common use of the term in text-books on the Law of Nations, which invariably speak of "bays" as "*portions of sea inclosed within indents of coasts,*" and not as indents of coast.

Assuming, therefore, as established beyond reasonable doubt, that the word "bay" signifies an arm or elbow of the sea inclosed within headlands or peaks, and not an indent of the coast, we may consider what is the true intention of the expression "within three marine miles of a bay." Are such miles to be measured from the outer edge or chord of the bay, or from the inner edge or arc of the bay? In the first place it may be observed, that the inner edge or arc of a bay touches the coast, and if the distance is to be measured from the shore of the bay, the word "bay" itself has virtually no distinct signification from "coast," and has no supplemental force; *prima facie*, therefore, this interpretation does not recommend itself on the grounds already stated.

Again: the interpretation which is given to the measure of distance from bays, must be given to the measure of distance from creeks and harbours, both of which, by the Municipal Law of the United States, equally as of Great Britain, are *infra corpus comitatûs*, and their waters are subject to the provisions of the Municipal Law precisely as the shores of the land itself. But it may assist in determining this question to keep in mind the rule that in contracts, "on doit interpréter une clause par les autres clauses contenues dans l'acte, soit qu'elles précèdent, ou qu'elles suivent." (Pothier, *Obligations*, No. 96.) In other words, a subsequent clause may serve to interpret a former clause, if the latter be at all ambiguous. Accordingly, we find the renunciation of the liberty to fish within three marine miles of any of the bays, creeks, or harbours of His Britannic Majesty's dominions, followed by the *proviso* that American fishermen shall be permitted to *enter* such bays and harbours for certain specified purposes other than taking fish. In other words, they may prosecute their voyage for other purposes than fishing *within the entrance* of any bay or harbour, but may not take fish within three marine miles of any bay or

harbour, *i. e.*, within three marine miles of the *entrance* of any bay or harbour. If this interpretation be not adopted, the *proviso* would be absurd; for if American fishermen are *implicitly* permitted to fish within three marine miles of the *shore* of any bay or harbour, they are permitted to *enter* such bay or harbour, if the breadth of the mouth be more than six miles, and the distance of the head of the bay or harbour from the entrance be more than three miles, for another purpose than for the purpose of shelter, or of repairing damages, or of purchasing wood, or of obtaining water. But the Convention expressly says, "*for no other purpose whatever.*" If, therefore, they cannot *enter* any bay or harbour for the purpose of prosecuting their occupation of fishing, it cannot be intended that they should be allowed to fish within three marine miles of the *shore* of any bay or harbour, as the two provisions would be inconsistent. Accordingly, as the question resolves itself into the alternative interpretation of *shore* or *entrance*, it follows that the correct interpretation, which makes the language of the entire Article consistent with itself, is within three marine miles of the *entrance* of any bay, such entrance or mouth being, in fact, *part of the bay itself*, and the bay being approachable by fishing-vessels only in the direction of the mouth or entrance.

That a bay of sea-water wider than six miles at its mouth may be within the body of a county, is laid down by Lord Hale in his Treatise *De Jure Maris et Brachiorum ejusdem* (Hargrave's *Tracts*, chap. 4): "An arm or branch of the sea which lies within the *fauces terræ*, where a man may reasonably discern between shore and shore, is, or at least may be, within the body of a county." This doctrine has been expressly adopted by Mr. Justice Story in *De Lovio v. Boit* (2 Gallison's *Reports*, p. 426, 2nd Ed.), in which, to use the language of Mr. Wheaton's argument in *United States v. Bevans* (3 Wheaton's *Reports*, p. 358), "all the learning on the civil and criminal jurisdiction of the Admiralty is collected together." There is, consequently, no doubt that the jurisdiction of the Municipal Law over bays is not limited to bays which are less than six miles in breadth or three miles in depth, since the general rule is, as was observed by the same eminent judge

in *United States v. Grush* (5 Mason, p. 300): "That such parts of rivers, arms, and creeks of sea, are deemed to be within the bodies of countries, where persons can see from one side to the other."

That the jurisprudence of the United States has recognised the principle of Courts of Municipal Law exercising jurisdiction over bays at a distance more than three miles from the shore, is shown by the decision of the Supreme Court in the case of *Church v. Hubbard*. (2 Cranch's *Reports*, p. 187.) In this case an American brigantine, the "Aurora," when at anchor in the Bay of Pará on the coast of Brazil, and four or five leagues from Cape Paxos, was seized and condemned by the Portuguese authorities for a breach of the laws of Portugal on a matter of illicit trade. Chief Justice Marshall, in delivering the opinion of the Court, said, "Nothing is to be drawn from the laws or usages of nations which proves that the seizure of the 'Aurora' by the Portuguese Government was an act of lawless violence."

The same principle was also involved in the opinion of the Attorney-General of the United States upon the seizure of the British vessel "Grange" by a French frigate, within the Bay of Delaware, and which was accordingly restored to the owners. In his Report to the United States Government (14 May, 1793), the Attorney-General observed, "that the 'Grange' was arrested in the Delaware, *within the capes*, before she had reached the sea," that is, in that part of the waters of the Delaware which is called *the Bay of Delaware*, and which *extends to a distance of sixty miles within the capes*. It is worthy of remark that the Bay of Delaware is not within the body of a county; its northern headland, Cape May, belonging to the State of New Jersey in property and jurisdiction, and its southern headland, Cape Henlopen, being part of the State of Delaware; yet the whole bay was held to be American territory.

The same principle was also involved in the judgment of the Supreme Court of the United States in the case of *Martin and others v. Waddell* (16 Peter's *Reports*, 367), in which it was agreed on all sides that the prerogative of the Crown prior to

the American Revolution, extended over all bays and arms of the sea, from the River St. Croix to the Delaware Bay.

Again, in the Report of the Committee of Congress (November 17, 1807) on the affair of the Little Belt, it was maintained that the British squadron had anchored *within the capes of Chesapeake Bay and within the acknowledged jurisdiction of the United States*, whilst it seems that the alleged violation of territory had taken place at a distance of three leagues from Cape Henry, the southern headland of the Bay of Chesapeake.

This assertion of jurisdiction was in accordance with the instructions sent May 17, 1806, from Mr. Madison to Messrs. Monroe and Pinckney, according to which it was to be insisted that the extent of the neutral immunity should correspond with the claims maintained by Great Britain around her own territory; and that no belligerent right should be exercised within the chambers formed by headlands, or anywhere at sea, within the distance of four leagues, or *from a right line from one headland to another*.

What those claims were, as maintained by Great Britain, may be gathered from the doctrine laid down by Sir Leoline Jenkins in his Report to His Majesty in Council, December 5, 1665 (*Life of Sir Leoline Jenkins*, vol. ii, p. 726) in the case of an Ostend vessel having been captured by a Portuguese privateer about four leagues west of Dover, and two Dutch leagues from the English shore, in which case a question arose whether the vessel had been taken within one of the King of England's chambers, *i.e.*, within the line (a straight one having been drawn) from the South Foreland to Dungeness Point, on which supposition she would have been under the protection and safeguard of the English Crown.

The same eminent Judge, in another Report to the King in Council (vol. ii, p. 732), speaks of one of those recesses commonly called "your Majesty's Chambers," being bounded by a straight line drawn from Dunemore, in the Isle of Wight, to Portland (according to the account given of it to the Admiralty in 1664). He says, "It grows very

narrow westward, and is scarce in any place four leagues broad, I mean from any point of this imaginary line to the opposite English shore."

And in a third Report, October 11, 1675 (vol. ii, p. 780), he gives his opinion that a Hamburg vessel captured by a French privateer should be set free, upon a full and clear proof that she was within one of "your Majesty's Chambers at the time of seizure, which the Hamburger in his first memorial sets forth as being eight leagues at sea over against Harwich."

This doctrine is fully in accordance with the text-books. Thus Azuni writes in his *Droit Maritime de l'Europe*, chap. ii, art. 3, § 3: "Les obligations relatives aux ports sont également applicables aux baies et aux golfes, attendu qu'ils font aussi partie de la souveraineté du Gouvernement dans la domination et le territoire duquel ils sont placés, et qui les tient également sous sa sauvegarde: en conséquence, l'asile accordé dans une baie ou dans un golfe, n'est pas moins inviolable que celui d'un port, et tout attentât commis dans l'un comme dans l'autre, doit être regardé comme une violation manifeste du droit des gens." Valin, *Comment. à l'Ordonnance de France*, tit. "Des Rades," art. i, may be cited in confirmation of this doctrine.

Mr. Wheaton, in the last edition of his *Elements of International Law*, part. ii, chap. iv, § 6, writes: "The maritime jurisdiction 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."

It has been urged, however, on the American side, that supposing the English interpretation as to the measuring the distance of three marine miles from the entrance of bays to be correct, the Bay of Fundy is not a bay from which American fishermen are prohibited—

First, because the Bay of Fundy is not a bay which a vessel would enter for the purpose of taking shelter.

Secondly, because it is not a bay of Her Majesty's dominions, as it is bounded in part by the State of Maine.

With regard to the first objection, it is not deserving of any serious attention, for although the Bay of Fundy may not be a bay to which vessels would at all times readily have recourse for the purpose of shelter, owing to the great rise and fall of the tide (60 feet), yet occasions might arise when it would be necessary for a fishing-vessel to enter the bay in pursuit of shelter, which if not found in the bay itself might readily be obtained on the eastern side of it, in the basin of Annapolis, described by Sir John Hervey as a noble estuary, and on the western side in the Harbour of St. John's. But there are other purposes specified in the Convention, for which it might be convenient for an American fishing-vessel to enter the Bay of Fundy.

This objection may be dismissed as unimportant.

The second objection, indeed, that the Bay of Fundy is not a bay of Her Majesty's dominions, goes to the root of the controversy, and demands more attentive consideration. For the purpose, however, of appreciating the weight of this objection, it will be indispensable to bear in mind that the Convention of London, concluded on the 20th October, 1818, arose out of difficulties relative to the claims of the United States to take and dry fish on certain coasts, bays, harbours, and creeks within His Britannic Majesty's dominions in America, and that those claims had been based on the Treaty of Paris of 3rd September, 1783, which Treaty in respect of the boundary line between the United States and the Province of Nova Scotia had been a subject of subsequent controversy, which has been finally arranged by various Conventions pursuant to the provisions of the Treaty of Ghent (24th December, 1814).

The Convention of London being thus supplemental to the Treaty of Paris, both Treaties must be looked at together, in order to arrive at a correct solution of the question of territorial dominion.

By Article II of the Treaty of 1783, the easterly boundary of the United States was defined to be "a line drawn along the middle of the River St. Croix, from its mouth in the Bay of

Fundy to its source, and from its source directly north to certain highlands (in the north-west angle of Nova Scotia) which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the point where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean; excepting such islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia."

From the provisions of this Article we gather that the mouth of the St. Croix river was considered to be in the Bay of Fundy, and that certain islands which formed part of the province of Nova Scotia were to the south of a line drawn due east from the point where the boundaries between Nova Scotia on the one hand, and East Florida on the other, respectively touched the Bay of Fundy and the Atlantic Ocean.

What the limits of the province of Nova Scotia were, before the province of New Brunswick was carved out of it in 1784, may be ascertained from the description of its boundaries in the Royal Commission issued to Sir Montague Wilmot, as Captain-General and Governor-in-chief of the province of Nova Scotia, bearing date November 21, 1763, when it became necessary to define the respective limits of the British provinces of Quebec and Nova Scotia upon the cession of Canada, and the renunciation of Acadia and Nova Scotia by Louis XV. under the Treaty of Paris (February 10, 1763).

"To the northward our said province shall be bounded by the southern boundary of our province of Quebec," (which had been previously settled by a Royal proclamation of the date of October 7, 1763), "as far as the western extremity of the Baie des Chaleurs; to the eastward by the said bay and the Gulf of St. Lawrence; and to the westward, although our said province hath anciently extended, and does of right extend, so far as the

River Pentagœt or Penobscot, it shall be bounded by a line drawn from Cape Sable, *across the entrance of the Bay of Fundy* to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec.”

It further appears, from Article IV of the Treaty of Ghent, that the United States claimed the several islands in the Bay of Passamaquoddy, which they alleged to be part of the Bay of Fundy, and the Island of Grand Menan, in the Bay of Fundy, as comprehended within their boundaries, under the Treaty of 1783,—which islands, on the other hand, were claimed as belonging to His Britannic Majesty, as having been at the time of, and previous to, the aforesaid Treaty of 1783, within the province of Nova Scotia ; and it was agreed that the question between the two countries should be determined by two Commissioners respectively appointed by the two countries, whose award, if they should agree, was to be conclusive.

Accordingly, two Commissioners were appointed, who decided, on November 24, 1817 (Hertslet's *Treaties*, vol. iii., p. 487), that “Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, and the Island of Grand Menan, in the Bay of Fundy, do each of them belong to His Britannic Majesty,” in other words, were in the language of the Treaty of 1783, within the limits of the province of Nova Scotia.

On referring to the map, it will be seen that the effect of this decision is to recognize the Island of Campo Bello as British territory, and as part of the old province of Nova Scotia, which decision is in perfect harmony with the language of the Royal Commission of 1763 ; and if they be construed together, it will be found: 1. That the territory of the province of Nova Scotia, in 1783, was bounded by a line drawn from Campo Bello to Cape Sable ; 2. That the mouth of the St. Croix river, which is the point from which, on the one hand, under the Treaty of 1783, the boundary line between the United States and the province of Nova Scotia was to be drawn westwardly ; and to which, on the other hand, under the Royal Commission of 1763, a line was to be drawn from Cape

Sable across the entrance of the Bay of Fundy, as constituting the water boundary of the province of Nova Scotia, is identified with the mouth of the channel which separates the Island of Campo Bello from the American mainland.

Such is the necessary conclusion from the award of the Commissioners in 1817, inasmuch as the expressions "boundaries between Nova Scotia, on the one hand, and East Florida, on the other," in the Treaty of 1783, mean the boundaries between Nova Scotia and the United States, on the one hand, and East Florida and the United States, on the other;" the former of which boundaries expressly commences at the mouth of the River St. Croix, in the Bay of Fundy, and is to be drawn westward along the middle of that river.

An apparent objection may be taken to this view, on the ground that the mouth of the St. Croix, intended by the Treaty as the point of departure for the boundary westward, ought, with more propriety, to be fixed at the point where that river meets the waters of the Bay of Fundy, in that part of it distinguished as Passamaquoddy Bay, opposite to the low headland upon which the town of St. Andrew stands, in Charlotte county, New Brunswick.

If this, however, were to be conceded, it would not affect the substantial question of territorial jurisdiction or dominion; for the Island of Campo Bello, Deer Island, and Marvel Island, which, with other small islands, form almost a continuous chain on the north-east side of the deep-water channel, are all British territory, and, with the adjoining waters, are within a county of New Brunswick. The water limits, therefore, of His Britannic Majesty's territory are co-extensive with the waters on the north-east side of the line drawn in continuation of the mid-channel between Campo Bello and the American mainland, to the mid-channel of the St. Croix river, between St. Andrews and the shore of the United States, along which river it is to be prolonged to its source.

This view is perfectly in accordance with the decision of the Circuit Court of the United States in the case of the schooner "Fame," reported in 3 *Mason's American Reports*, p. 147. (October 1822.)

This was a question of an English schooner seized for a violation of the United States' Coasting Act of 1793, c. 8, and the Revenue Act of 1799, c. 128; and it appeared in evidence, that the acts of illicit trade were committed on the American side of the stream, and about one third way over from the American side between Moose Island and Campo Bello Island. If the middle of the stream constituted by the Law of Nations the true boundary line, then it was admitted by the parties that the illicit acts were done within the American waters.

Mr. Justice Story held that by the Law of Nations, when no exclusive and prior occupancy has existed, "each of the nations inhabiting the opposite banks of a river or bay, has a right to go to the middle of the stream, calculated from low water mark as the limit of its territorial boundary. This doctrine has been affirmed by the Supreme Court in the case of *Handly's Lessee v. Anthony* (5 *Wheaton*, 374). But although the territorial line of a nation, *for purposes of absolute jurisdiction*, may not extend beyond the middle of the stream, yet, consistently with this doctrine, the right to the *use* of the whole river or bay *for the purpose of navigation, trade, and passage*, may be common to both nations. Such a right does not destroy the territorial jurisdiction to the middle of the stream; but it is in the nature of an *easement*, as it is called at the common law, or a *servitude*, as it is called in the civil law. It is like the right of a highway, or private way, over the land of another. This right of passage and navigation must exist, as a common right, in all those cases where such passage or navigation is ordinarily used by both nations, and is indispensable for their common convenience and access to their own shores. A river or bay may be so narrow or irregular, or so liable to difficulties from winds, waves, and currents, that it cannot be navigated by either nation without the necessity of the right of passing over the whole waters at all times. If in such a case no exclusive right is recognized in either nation, the constant use by both is conclusive proof of a common right of passage and navigation in both.

"There is no pretence to say that Great Britain had, as to us, acquired previously to the Revolution

any exclusive right to the waters of Passamaquoddy Bay. These waters were common to all the subjects of the realm, and just as much a part of our right and inheritance as of any other of the British dominions. The American colonies used them on all occasions, and the province of Massachusetts, which was contiguous to the bay, and perpetually used the waters for the *purpose of navigation and trade, and passage*, might just as well be deemed the proprietor as the province of New Brunswick or as the realm of England. In truth, the Law of Nations must, under such circumstances, be presumed to prevail, and annex the bay to the middle of the stream to the territories of the adjacent provinces; and as there was at all times a common right of passage and navigation exercised over the whole bay, and it was necessary for the convenience of all parties, the whole waters must be deemed common for these purposes. When the separation took place by the American Revolution and the Treaty of Peace, if nothing was stipulated on either side, the *status ante bellum* prevailed, and there was a continuance of the old rights and privileges.

“The Treaty of Peace of 1783 contains nothing definite on this subject. It fixes generally the eastern boundary line of the United States on the Bay of Fundy, of which Passamaquoddy Bay is part, but it is silent as to the exact line and the use of the waters. No subsequent Treaty has changed, or in any shape regulated, the general rights growing out of the Law of Nations on this subject, and, therefore, as I conceive, they remain in full force.

“In the negotiations which have taken place between the Governments of Great Britain and the United States as to this boundary, and which ended in Conventions which, though not ratified, are not understood to have involved any real difference of opinion on this particular point, the view taken by both Governments seems entirely in harmony with that of this Court. The Conventions of 1803 and 1807 take the middle of the channel between the islands belonging to the respective nations to be the true and proper line. (6 Wait's *State Papers*, 387 to 394; 10 Wait's *Confidential State Papers*, p. 470.) This is the same rule which results in the general Law of Nations.

“Upon the whole my opinion is, that the

'Fame,' being within the jurisdictional waters of the United States. and on this side of the middle of the channel, when she committed the illicit acts for which condemnation is sought, is brought within the forfeiture."

On the principle upheld by the above judgment the general rights, growing out of the Law of Nations, remain in full force in favour of Great Britain equally as of the United States. The right of fishery within its own territorial limits is one of the general rights of an independent State.

"Quoique la pêche," writes Azuni, "soit considérée comme un des effets de l'empire maritime, cependant le prince ou la puissance propriétaire de la mer territoriale a coutume de ne se réserver à elle seule que la grande pêche qu'on est en usage d'exécuter en des temps marqués ou en des lieux déterminés, ou enfin sur une certaine espèce de poissons; mais elle ne défend pas elle qui se fait pour l'usage et les besoins des peuples. Elle la permet même aux nations voisines quoique non sujettes, lorsque de leur côté elles laissent chez elles la même liberté."—*Droit Maritime de l'Europe*, ch. iii, art. viii, § 6.

Numerous authorities might be quoted in support of this general right, which is a *proprietary right* totally different in character from a *servitude*, and rests on the principle "quicumque est in territorio, etiam est de territorio." "C'est pour cette raison que non seulement la terre réellement habitée, mais aussi les districts non cultivés et les mers enclavées dans les frontières de l'Etat, font partie de son territoire, et que tout ce que ce territoire renferme de produit de la nature ou de l'industrie humaine, appartient à l'Etat." (Klüber, *Droit des Gens*, part ii, tit. ii, § 128.) Mr. Wheaton confirms this view in these words; "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." (*Elements of International Law*, part ii, ch. iv, § 8.)

Such being the invariable doctrine of the text-books, we find it confirmed by the circumstance that the liberty of fishing within the waters of an independent State has always been a matter of Treaty-privilege, and has been a subject of international negotiation and convention from the

earliest times. Upon the principle then of the general rights growing out of the Law of Nations, British subjects are entitled to an exclusive fishery on the north-east side of the boundary-line.

With regard to the limits of the old province of Nova Scotia, that the water-line drawn from Campo Bello to Cape Sable, across the entrance of the Bay of Fundy, and resting in its course upon the Island of Grand Menan, is not unreasonable in its extension of dominion and jurisdiction, must be admitted on the part of the United States, which claims exclusive maritime jurisdiction over the waters on these coasts, though included within lines stretching from quite distant headlands, as for instance from Cape Ann to Cape Cod, and from Nantucket to Montauk Point, and from that point to the Capes of Delaware, and from the South Cape of Florida to the Mississippi. (*Kent's Commentaries of American Law*, vol. i, p. 30.)

It being thus established that the waters of the Bay of Fundy, on the north-east side of the boundary line, are in the dominions of His Britannic Majesty, it hardly seems open to question that the American fishermen are prohibited from fishing within them, unless privileged so to do by Treaty. This boundary line being the boundary line of the old province of Nova Scotia, was described "*ante litem motam*" in the Royal Commission of 1763, as drawn across the *entrance* of the Bay of Fundy. It would thus appear that the known limit of the Bay of Fundy was identical with the water-boundary of the province of Nova Scotia; as the mouth or entrance of a bay is one of the limits of a bay. If indeed any portion of the sea beyond the water-boundary of the province of Nova Scotia has been ever regarded as part of the Bay of Fundy, from that part indeed American fishermen would not be excluded under the Convention of 1818, as it is not any longer within His Britannic Majesty's dominions. In determining this controversy it becomes important to take care that the term "Bay of Fundy" is not used equivocally, otherwise a verbal ambiguity may create difficulties, which do not arise on the face of the Convention itself of 1818.

By the first Article of that Convention, after

reciting that differences had 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 was agreed that the inhabitants of the United States should enjoy for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish on certain specified coasts, bays, harbours, and creeks (not within the province of Quebec), and to dry and cure fish in certain specified uninhabited bays, harbours, and creeks. The United States then proceeded to 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 purposes of shelter, or of repairing damages therein, of purchasing wood or of obtaining water, *and for no other purpose whatever.*

On the face of this Convention no difficulty ought to arise, in either case, whether the Bay of Fundy be strictly conterminous with the territorial waters of the province of Quebec, or the appellation has been extended by some geographers to waters beyond these, so as to allow the term to be used by different parties in somewhat different senses. One thing is clear, that the Bay of Fundy is not specified in the Treaty as one of the bays in which the American fishermen are to have the liberty to take, or dry, and cure fish.

The United States has thus no treaty-privilege to fish in British waters within the province of Quebec.

They can only have the general rights of fishery growing out of the Law of Nations, and such rights do not extend within British waters. No subsequent Treaty has changed or varied those rights. The renunciation was introduced to prevent any ambiguity, because the privilege of taking fish in certain of the coasts, bays, and creeks of His Britannic Majesty's dominions in America was granted to citizens of the United States by the Convention of

1818; but this privilege was not identical with the privilege under Article III of the Treaty of 1783. The latter privilege, which the citizens of the United States had enjoyed since the Treaty of 1783, until hostilities broke out between the United States and Great Britain, was a privilege to take and cure fish on all the coasts, bays, and creeks of His Britannic Majesty's dominions in America, just as the subjects of Great Britain, under Article VIII of that Treaty, had enjoyed the privilege of navigating the River Mississippi from its source to the ocean in common with the citizens of the United States.

The latter privilege in behalf of British subjects to navigate the waters of the Mississippi in common with the citizens of the United States ceased with the occurrence of war between the two countries, and was not re-established in any form by any subsequent Treaty.

The fishery privilege in behalf of American citizens ceased in like manner at the same time; but it was re-established in a limited form by the Convention of 1818; and that it might not be confounded with the former privilege, an express renunciation of the special portion of the former privilege, which had not been re-established, was inserted after the grant, so that the exclusive rights of British subjects to take fish in the waters of His Britannic Majesty's dominions in America *not included in the above-mentioned limits* might henceforth rest not merely on the general law of nations, but be protected from any question by this special treaty-arrangement.

The ambiguity in the privilege granted by the Convention of 1818, which is assumed to exist by the construction contended for on the part of the United States, disappears with the application of the general principles of the Law of Nations (1) that the right of fishery is *not a servitude* which may be enjoyed by one nation without any prejudice to the territorial jurisdiction of the other nation, within whose territory the fishery exists, and (2) consequently no foreign subjects or citizens may fish within the waters of an independent State without the consent of the Sovereign of that State.

The territorial jurisdiction of an independent State over waters of the open sea extends, by the comity of nations, to the distance of three marine miles seaward from the territory itself; and as all creeks, bays, and harbours of His Majesty's dominions are portions of Her Majesty's territory, citizens of the United States are, by the same comity of nations, excluded from fishing within three marine miles seaward from the mouth or entrance of all such bays, creeks, or harbours, as the open sea commences at such mouth or entrance. This absolute rule of the law of nations rests on a basis independent of the renunciation contained in the Convention. It never can be contended, with any show of reason, that the effect of that renunciation has been to limit the absolute rights of the British Crown growing out of the general Law of Nations on the subject of fisheries, more especially as by the subsequent words of the Treaty American citizens are expressly prohibited from *entering* any of such bays, creeks, or harbours for any such purpose as that of fishing.

In the case where a province of the United States approaches a province of the British Crown nearer than six marine miles, a different principle under the same general law of nations prevails, which annexes to the territory of either nation the waters as far as the middle of the passage between the two provinces.

The renunciation in the Convention of 1818 has accordingly left untouched the rights of citizens of the United States to fish within their own waters, when the channel between the two provinces is less than six marine miles; but in cases where the channel exceeds that width, it has established, by express words beyond a doubt, that they are not to take or cure fish within three marine miles of the entirety of any of the bays, creeks, or harbours of His Britannic Majesty's dominions in America, except those specifically mentioned in the Convention.

Upon the above considerations, I beg to report to your Lordship my decided opinion, that the Government of the United States is not justified in contending that the United States fishermen

are permitted by the first Article of the Convention of 1818 to fish in the bays, creeks, or harbours of Her Britannic Majesty's dominions, provided that they do not approach within three marine miles of the *shore* of any such bay, creek, or harbour, and that on the contrary the Government of Great Britain is justified in maintaining that the United States fishermen are by that Article prohibited from fishing within three marine miles of the *entrance* of any of the bays, creeks, or harbours of Her Britannic Majesty's dominions in America, with the exception of those bays, creeks, or harbours previously specified in the earlier part of the same article.

I have the honour to be,

Your Lordship's most obedient,
humble Servant,

TRAVERS TWISS.
