



NORTH AMERICA. No. 6 (1876).

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CORRESPONDENCE respecting the Navigation of the  
United States' Canals by Canadian Vessels.

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*Presented to both Houses of Parliament by Com-  
mand of Her Majesty. 1876.*

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LONDON :  
PRINTED BY HARRISON AND SONS.

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OF

# THE UNITED STATES' CANALS

BY

## CANADIAN VESSELS.

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## Correspondence respecting the Navigation of the United States' Canals by Canadian Vessels.

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### No. 1.

*Sir E. Thornton to Earl Granville.—(Received January 27.)*

My Lord,

*Washington, January 15, 1872.*

AT a recent interview with Mr. Fish he reminded me that the President, in his Message to Congress at the opening of the Session on the 4th ultimo, stated that a communication had been addressed to the Governors of the different States interested in the matter, urging upon the Governments of those States respectively the necessary action on their part to carry into effect the object of the Article of the Treaty of 8th May last which contemplates the use of the canals, on either side, connected with the navigation of the lakes and rivers forming the boundary, on terms of equality by the inhabitants of both countries.

Mr. Fish then proceeded to read to me the answer which he had received from the Governor of the State of New York, in the canals belonging to which State the inhabitants of Canada are perhaps more interested than in those of any other. It was to the effect that his Excellency had consulted the legal advisers of the State, and that after examination it did not appear to them that there was any Law of the State which prohibited British subjects from navigating its canals, or vessels wholly or in part owned by them from passing through the canals, without the payment of other or higher dues or imposts than those paid by citizens of the United States or their vessels. Governor Hoffman promised, however, to take an early opportunity of submitting the matter to the State Legislature, with a view to obtain an expression of its opinion on the matter.

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

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### No. 2.

*Viscount Enfield to Mr. Herbert.*

Sir,

*Foreign Office, January 31, 1872.*

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton,\* reporting a conversation he had had with Mr. Fish in regard to the carrying into effect the object of the Article of the Treaty of Washington as to the use by the inhabitants of Canada and the United States of the canals, on either side, on terms of equality.

I am, &c.  
(Signed) ENFIELD.

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*Sir E. Thornton to the Earl of Derby.—(Received May 10.)*

My Lord,

*Washington, April 28, 1874.*

DURING the interview which Mr. Brown and I had yesterday with Mr. Fish, the latter alluded to a letter which he had received in 1871 from the Governor of the State of New York relative to the provisions of the XXVIIth Article of the Treaty of Washington, relating to the navigation of the State canals.

In my despatch to Earl Granville of the 15th January, 1872, I informed his Lordship that Mr. Fish had read to me the above-mentioned letter.

Mr. Fish yesterday expressed his belief that he had sent me a copy of that letter, but, on my replying that he had not done so and expressing a wish to have it, he promised to send it me. In answer to my question whether the Governor had obtained any expression of opinion upon the subject from the State Legislature of New York, he said he did not know, but would make inquiries.

I now have the honour to inclose copies of Mr. Fish's note to me and of the letter of the Governor of New York, dated December 4, 1871, upon the subject of the canals of that State.

I shall also forward copies of these documents to the Governor-General of Canada.

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

Inclosure 1 in No. 3.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, April 27, 1874.*

I HAVE the honour to inclose herewith, in compliance with your verbal request, a copy of a letter addressed to the President by the Governor of the State of New York, under date of December 4, 1871, upon the subject of carrying into effect the provisions of the XXVIIth Article of the Treaty of Washington.

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

Inclosure 2 in No. 3.

*Mr. Hoffman to President Grant.*

Sir,

*State of New York Executive Chamber, Albany,  
December 4, 1871.*

I RECEIVED this morning your letter of the 29th November, transmitting to me a copy of a Treaty, concluded on the 8th of May last, between the United States and Great Britain, calling my attention to the XXVIIth Article thereof, whereby the United States engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by, or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States, and requesting me to bring the provisions of this Article before the Legislature of this State, now about to convene, and to recommend to it such legislation as will secure to the subjects of Her Britannic Majesty in North America the use of the canals of this State on equal terms with our own citizens.

I have caused inquiries to be made of those charged with the administration of the canals of this State, and learn from them that they know of no restrictions now to be found in the laws of this State upon the equal use of the canals by British subjects and American citizens; that there are no restrictions upon foreigners being the owners, in part or in whole, of boats entitled to navigate our canals, nor would a boat owned wholly in Canada be forbidden the use of our canals, or be subjected to other tolls or other regulations than those imposed upon boats owned in our own State.

I shall, nevertheless, with great pleasure call the attention of the Legislature to

the subject, and recommend them to pass such laws as they may find to be necessary to carry into effect at once the agreement made in the XXVIIth Article of the Treaty.

I have, &c.  
(Signed) JOHN W. HOFFMAN.

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No. 4.

*Lord Tenterden to Mr. Herbert.*

Sir,

*Foreign Office, May 13, 1874.*

I AM directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, copy of a despatch on the subject of the navigation of the United States canals by British subjects.\*

I am, &c.  
(Signed) TENTERDEN.

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No. 5.

*Sir E. Thornton to the Earl of Derby.—(Received December 6.)*

My Lord,

*Washington, November 23, 1874.*

I HAVE the honour to inclose copies of a despatch and of its inclosure which I have received from the Governor-General of Canada relative to the engagement taken by the United States' Government in the XXVIIth Article of the Treaty of May 8, 1871, to urge the State Governments to throw open the canals therein referred to to British subjects on terms of equality with American citizens.

The Report of the Committee of the Privy Council, transmitted by his Excellency, states that Canadian vessels are still entirely excluded from the use of any and all of the canals within United States' territory, except the Sault Sainte Marie Canal, and recommends that Her Majesty's Minister at Washington be communicated with, with the view of ascertaining whether the Government of the United States will endeavour to procure for those vessels the use of their canals, according to the above-mentioned Article of the Treaty of Washington.

I have hardly thought that I should be justified in charging the United States' Government with having failed to carry out the stipulation contained in that Article, because I know that a communication on the subject was addressed by the President soon after the signature of the Treaty to the Governor of the State of New York, within which the principal canals referred to are situated. I had the honour to inclose a copy of the Governor's answer in my despatch to your Lordship of the 28th of April last.

But I have this day addressed a note to Mr. Fish, copy of which is inclosed, pointing out that United States' vessels are allowed to navigate the Canadian canals, whilst Canadian vessels are entirely excluded from those in the territory of the United States, and suggesting that a further representation upon the subject should be made to the Governor of the State of New York.

I also inclose copy of my answer to Lord Dufferin's despatch.

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

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Inclosure 1 in No. 5.

*The Earl of Dufferin to Sir E. Thornton.*

Sir,

*Government House, Ottawa, November 18, 1874.*

I HAVE the honour of inclosing, for your consideration, a copy of an approved Order of the Privy Council of the Dominion, in which my Government submit that the engagement entered into by Her Majesty's Government and that of the United States, for the mutual use of the canal system of both countries under the Treaty of Washington, have not been carried into effect by the Government of the United States,

while the Canadian Government has been faithfully acting upon the spirit of the Treaty for a period of over three years.

I am to request that you will be good enough to take such action in the matter as you may deem expedient.

I have, &c.  
(Signed) DUFFERIN.

Inclosure 2 in No. 5.

*Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, on the 12th November, 1874.*

THE Committee of the Privy Council have had under consideration a Memorandum, dated 11th November, 1874, from the Honourable the Minister of Customs, stating that he has recently learned that the engagements entered into between Her Majesty's Government and that of the United States in reference to the mutual use of the canals of both countries by the vessels of the United States and Canada respectively, as contained in the XXVIIth section of the Treaty of Washington, have not as yet, on the part of the United States, been carried into practical effect; but that while all the Canadian canals have been freely opened to their vessels on payment of the same tolls and charges as are exacted from British or Canadian vessels, the latter are still entirely excluded from the use of any and all of the canals within United States' territory, except the Sault Sainte Marie Canal.

That thus while barges and other vessels, with or without cargo, clearing from ports upon the Hudson River are allowed to pass through the Champlain Canal to the St. Lawrence, and thence from Montreal through the Lachine Canal, and through the canals on the Ottawa to the city of Ottawa, or any other destination, British or Canadian vessels loading at Ottawa, or at any other Canadian port, or even in ballast, are prohibited from passing Whitehall through the Champlain Canal to the Hudson River, in the State of New York; and that the same prohibitory policy obtains generally in reference to the use of the Erie, and other canals connecting navigable waters within the territory of the United States.

That considering that over three years have passed, during which period the Canadian Government has been faithfully acting upon the spirit of the Treaty, permitting the use of their numerous canals in as full and unrestricted a manner as that accorded to their own vessels; and this liberal policy having met with no reciprocity on the part of the Government of the United States, he recommends that the British Minister at Washington be communicated with, with the view of ascertaining whether the Government of the United States will endeavour to procure for British and Canadian vessels the use of their canals, according to the said XXVIIth section of the said Treaty of Washington.

The Committee of Council concur in the foregoing recommendation of the Minister of Customs, and submit the same for your Excellency's approval.

Certified,  
(Signed) W. A. HIMSWORTH,  
Clerk, Privy Council, Canada.

Inclosure 3 in No. 5.

*Sir E. Thornton to Mr. Fish.*

Sir,

*Washington, November 23, 1874.*

SINCE the signature of the Treaty of May 8th, 1871, between the United States and Great Britain, you have on several occasions been good enough to inform me that in conformity with the engagement contained in the XXVIIth Article of that Treaty the President had made a representation to the Governor of the State of New York, urging that the use of the canals in that State should be allowed to the subjects of Her Britannic Majesty on terms of equality with the inhabitants of the United States.

You also communicated to me the nature of his Excellency's reply to the effect that he believed that there were no laws of the State of New York which prohibited the equal use of the canals by British subjects and American citizens, and subsequently in compliance with my wish have had the kindness, on the 27th of April last,



to forward me a copy of the letter which the President had received upon the subject referred to from his Excellency Governor Hoffman.

I had much pleasure in transmitting a copy of his Excellency's letter to Her Majesty's Government, and to the Governor-General of Canada.

But I have just received a despatch from the Earl of Dufferin transmitting copy of a report of a Committee of the Privy Council of the Dominion of the 12th instant, in which it is stated that whilst all the Canadian canals have been freely opened to vessels of the United States on payment of the same tolls and charges as are exacted from British or Canadian vessels, the latter are entirely excluded from the use of any and all of the canals within United States' territory, except the Sault Sainte Marie Canal, and that thus while United States' barges and other vessels, with or without cargo, clearing from ports upon the Hudson River, are allowed to pass through the Chambly Canal to the St. Lawrence, and thence from Montreal through the Lachine Canal, and through the canals on the Ottawa to the city of Ottawa, or any other destination, British or Canadian vessels loading at Ottawa or any other Canadian port, or even in ballast, are prohibited from passing Whitehall through the Champlain Canal to the Hudson River, in the State of New York. The same prohibitory policy, as the report further states, obtains generally in reference to the use of the Erie and other canals connecting navigable waters within the territory of the United States.

As this policy seems to be entirely at variance with the opinion expressed by the Governor of the State of New York in his letter to the President, of December 4th, 1871, and considering that over three years have passed during which the Canadian Government has been faithfully acting upon the spirit of the Treaty, permitting the use of their numerous canals in as full and unrestricted a manner as that accorded to their own vessels, whilst the latter have enjoyed no reciprocity with regard to the canals in the United States, I have the honour to request that inquiries may be made as to the prohibition complained of, which seems so contrary to the spirit of the above-mentioned letter of the Government of the State of New York, and to suggest that further representations may be made with a view to the enjoyment by British and Canadian vessels of the use of the canals in accordance with the XXVIIIth Article of the Treaty of Washington.

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

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Inclosure 4 in No. 5.

*Sir E. Thornton to the Earl of Dufferin.*

My Lord,

*Washington, November 23, 1874.*

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 18th instant, and of its inclosure, relative to the XXVIIIth Article of the Treaty of Washington, by which the United States' Government engaged to urge upon the State Governments to secure to Her Majesty's subjects the use of the canals referred to therein.

There is no doubt that the United States' Government has urged the Government of the State of New York, within which the principal canals are situated, to throw them open to British subjects, and in my despatch to your Excellency, of the 28th of April last, I transmitted a copy of a letter, dated December 4, 1871, from the Governor of the State of New York to the President, in which he stated that those who were charged with the administration of the canals in that State knew of no restrictions upon the equal use of the canals by British subjects and American citizens. Mr. Fish has often referred to this letter, and has expressed his opinion that his Government lost no time in carrying out the engagement contained in the XXVIIIth Article of the Treaty.

I do not, therefore, feel justified in saying in an official note that the stipulation of the XXVIIIth Article has not been complied with, because I believe that the United States' Government really urged the Government of the State of New York to throw open its canals to British subjects, and wished that it should be done, though its representation seems to have produced no effect.

I am, however, addressing a note to Mr. Fish, stating that the canals of the State of New York have not been opened to British vessels, and have requested that a further representation may be made upon the subject to the Governor of that State.

I should be glad to be informed whether the United States' authorities have prevented Canadian vessels from passing through the St. Clair Flats Canal.

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

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No. 6.

*Lord Tenterden to Mr. Herbert.*

Sir,

*Foreign Office, December 10, 1874.*

I AM directed by the Earl of Derby to transmit to you a copy of a despatch from Sir E. Thornton,\* inclosing correspondence with the Governor-General of Canada and Mr. Fish on the subject of the exclusion of Canadian subjects from the canals in the State of New York, and I am to request you to state to the Earl of Carnarvon that Lord Derby proposes, with his concurrence, to approve the note which Sir E. Thornton addressed to Mr. Fish on the 23rd ultimo, calling his attention to the matter.

The inclosures marked Nos. 1, 2, and 4 in Sir E. Thornton's despatch are sent in original, to be returned, in case they should not yet have been received at the Colonial Office from Lord Dufferin.

I am, &c.  
(Signed) TENTERDEN.

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No. 7.

*Sir E. Thornton to the Earl of Derby.—(Received December 14.)*

My Lord,

*Washington, November 30, 1874.*

WITH reference to my despatch of the 23rd instant, I have the honour to inclose copy of a note which I have received from Mr. Fish in answer to mine, copy of which was inclosed in that despatch, relative to the navigation of certain of the canals of the United States by Canadian vessels. Your Lordship will perceive that Mr. Fish states that a further representation upon the subject has been made to the Governor of the State of New York.

I have forwarded a copy of this note to the Governor-General of Canada.

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

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Inclosure in No. 7.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, November 24, 1874.*

I HAVE the honour to acknowledge the receipt of your note of the 23rd instant, in reference to the engagement of the United States to urge upon the several State Governments to secure to subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes; and in which you state that you are in receipt of a despatch from the Earl of Dufferin, transmitting a copy of a Report of a Committee of the Privy Council of the Dominion of Canada, in which it is stated that whilst all the Canadian canals have been opened to vessels of the United States, that British subjects are entirely excluded from the use of any and all canals in the United States, except the Sault Sainte Marie Canal.

I am somewhat surprised at this general statement in the Report of the Committee; and it would, perhaps, be more satisfactory had some special instance of exclusion been reported, that the facts might have been represented. I have, however, transmitted a copy of your despatch to the Governor of the State of New York, and have requested information upon the question.

Although the Report of the Committee of the Privy Council states that all the canals of the United States are so closed, except the Sault Sainte Marie Canal, I beg to inform you that the Resolution of the Legislature of the State of Michigan, of March 23, 1872, opening the Sault Sainte Marie Canal, applied also to any canal connected with

the great lakes, or contiguous to the boundary line between the United States and the Dominion of Canada.

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

No. 8.

*Mr. Malcolm to Lord Tenterden.—(Received December 18.)*

Sir, *Downing Street, December 16, 1874.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 10th instant, inclosing a copy of a despatch from the British Minister at Washington, with copies of correspondence with the Governor-General of Canada, and the Secretary of State of the United States, on the subject of the exclusion of British subjects from the State canals, referred to in the XXVIIth Article of the Treaty of Washington, 1871.

Lord Carnarvon desires me to inform you that he concurs in the approval of Sir E. Thornton's note to Mr. Fish, which the Earl of Derby proposes to express to him.

The Inclosures Nos. 1, 2, and 4, to Sir E. Thornton's despatch are herewith returned, Nos. 1 and 2 having been received from the Governor-General of Canada in a despatch of which I am to inclose a copy, and a copy of No. 4 having been retained for record in this Department.

I am, &c.  
(Signed) W. R. MALCOLM.

Inclosure in No. 8.

*The Earl of Dufferin to the Earl of Carnarvon.*

My Lord, *Government House, Ottawa, November 19, 1874.*

I HAVE the honour to transmit herewith, for your Lordship's information, a copy of a despatch which I have addressed to Her Majesty's Minister at Washington, inclosing a copy of an approved Minute of the Privy Council of the Dominion, on the subject of the mutual use of the canals of the United States and Canada, by the shipping of both countries under the Treaty of Washington.

I have, &c.  
(Signed) DUFFERIN.

No. 9.

*Lord Tenterden to Mr. Herbert.*

Sir, *Foreign Office, December 18, 1874.*

WITH reference to my letter of the 10th instant, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a further despatch from Sir E. Thornton, respecting the non-admission of Canadian vessels to the free use of certain canals in the United States.\*

I am, &c.  
(Signed) TENTERDEN.

No. 10.

*Sir E. Thornton to the Earl of Derby.—(Received December 27.)*

My Lord, *Washington, December 14, 1874.*

WITH reference to my despatch of the 30th ultimo, I have the honour to transmit herewith copies of a note which I have received from Mr. Fish, and of its inclosures, relating to the navigation of the canals in the State of New York by British and Canadian vessels.

Your Lordship will perceive that the Governor of that State, to whom the matter was referred, asserts positively that British and Canadian vessels are not prohibited from navigating the canals on the same terms as American vessels; and the Auditor of the Canal Department declares that he is not aware of any instance in which a Canadian vessel has been prevented from entering the canals.

I have forwarded copies of Mr. Fish's note, and of its inclosures, to the Governor-General of Canada.

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

Inclosure 1 in No. 10.

*Mr. Fish to Sir E. Thornton.*

Sir, *Department of State, Washington, December 8, 1874.*

IN your note of the 23rd of November last, you informed me that you had received a despatch from the Earl of Dufferin, transmitting a copy of a Report of a Committee of the Privy Council of the Dominion of Canada, in which it is stated that, whilst all the Canadian canals have been opened to vessels of the United States, Canadian vessels are entirely excluded from all the canals of the United States, and particular reference was made to the canals of New York. A copy of your note was transmitted to the Governor of the State of New York, and his attention called to the complaint.

I herewith inclose to you a copy of the reply of the Governor of New York, and of the reports and correspondence which accompanied it.

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

Inclosure 2 in No. 10.

*State of New York Executive Chamber, Albany,  
December 4, 1874.*

Sir, ON the receipt of your communication of the 24th ultimo, I referred it, with the accompanying documents, to the Auditor of the Canal Department for a report. I inclose a copy of his letter to me, a copy of a letter from him to the Canal Collector at Whitehall, and the reply (original) of the latter, also a copy of a telegraphic despatch of the Auditor to the Collector, and an original telegraphic despatch from the latter in reply. It appears by these papers that British steamships are allowed to navigate our canals on terms of equality with citizens of the United States, and that the Canadian Authorities have been misinformed in regard to the exclusion of British or Canadian vessels from the Champlain Canal at Whitehall.

In his annual message in January, 1872, Governor Hoffman called the attention of the Legislature to the subject in pursuance of the request of the President of the United States, and submitted the XXVIIth Article of the Treaty of the 8th May, 1871, between the United States and Great Britain, recommending the prompt passage of any laws which might be necessary for the fulfilment of the agreement on the part of the Federal Government. No laws were passed, for the reason that there were no restrictions to be removed.

I have, &c.  
(Signed) JOHN A. DIX.

Hon. Hamilton Fish, Secretary of State.

*Telegram, dated Albany, November 30, 1874.*

Collector Canal Tolls, Whitehall,

Have British or Canadian boats, loading at any Canadian port or in ballast, ever been prohibited by you from passing Whitehall through the Champlain Canal to the Hudson River?

(Signed) FRANCIS S. THAYER, *Auditor.*

Telegram, dated Whitehall, November 30, 1874.—(Received at Albany, November 30.)

To Francis S. Thayer, Auditor,  
No, Sir. J. W. Ingall, 1st Clerk, Collector absent.

*State of New York, Canal Department, Albany,  
November 30, 1874.*

My dear Sir,

I am in receipt, through you, of communications from the Department of State at Washington referring our State Government to alleged violations of Article XXVII of the Treaty of Washington.

The laws of the State and canal regulations give to American citizens and British subjects equal rights and privileges in navigating all our canals, and this Department has not, to my knowledge, before been advised of any violation of said Article. The charges made are general, and for this reason difficult of investigation; hence I beg leave to suggest that the Canadian Government be respectfully asked to cite some particular case of grievance, giving date, name of boat, master, &c.; and should the matter again be referred to this Department, I assure your Excellency that it will receive prompt and faithful attention.

With, &c.

(Signed) FRANCIS S. THAYER,  
*Auditor of the Canal Department.*

To His Excellency John A. Dix, Governor, \*  
&c. &c. &c.

*State of New York, Canal Department, Albany,  
November 30, 1874.*

Dear Sir,

It is alleged by Authorities of Canada that, since the spring of 1871, the citizens of the Dominion have been denied the right to navigate the Champlain Canal with their boats. There never has been a statute or regulation of this State which would exclude the citizens of Canada, or any other State or Government, from the use of our canals upon equal terms with our own citizens, and no specific complaint has been made to this Department by any citizens of Canada that they have been denied the use of our canals. But the Government of Canada complain to our Government at Washington that boats owned and loaded in Canada, upon arrival at Whitehall, and desiring to proceed through the Champlain Canal, have been refused clearance. Has any such case occurred during your term of office, and if so under what authority were such boats excluded? Washington J. Smith and Samuel L. Dwight were collectors in 1871, 1872, and 1873. I wish you would consult with them and ascertain whether any Canada boats were denied clearances during their terms, and if so upon what grounds and by what authority. Please reply promptly and fully.

Yours truly,

(Signed) FRANCIS S. THAYER, *Auditor.*

W. A. Wilkins, Esq., Canal Collector,  
Whitehall, New York.

Dear Sir,

*Whitehall, New York, December 1, 1874.*

In reply to yours of November 30th, I would say that, during my term of office, no Canadian boat has made application for a clearance. Mr. Dwight, my predecessor, informs me that no boat ever applied for a clearance during his term hailing from Canada. W. J. Smith, who preceded Mr. Dwight, is at St. Louis, but his head clerk has no recollection of any Canada boat ever making application for a clearance. Had any applied we should have granted them a clearance if they had conformed with the law.

Yours, &c.

(Signed) W. A. WILKINS, *Collector.*

Hon. Francis S. Thayer.

No. 11.

*Mr. Bourke to Mr. Herbert.*

Sir,

*Foreign Office, January 5, 1875.*

WITH reference to Lord Tenterden's letter of the 18th ultimo, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a despatch from Sir E. Thornton,\* inclosing correspondence, from which it appears that the United States' authorities assert that Canadian vessels have not been excluded from the use of the canals in the United States.

I am, &c.  
(Signed) ROBERT BOURKE.

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No. 12.

*Mr. Malcolm to Mr. Bourke.—(Received January 29.)*

Sir,

*Downing Street, January 28, 1875.*

IN reply to your letter of the 5th instant, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Earl of Derby, a copy of a despatch which has been addressed to the Governor-General of Canada with regard to the denial by the United States' authorities of the statement of the Canadian Government that Canadian vessels are excluded from the canals in the United States.

I am, &c.  
(Signed) W. R. MALCOLM.

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Inclosure in No. 12.

*The Earl of Carnarvon to the Earl of Dufferin.*

My Lord.

*Downing Street, January 12, 1875.*

I HAVE the honour to inform you, with reference to your despatch of the 19th of November, that I have received, through the Foreign Office, copies of the two notes which the United States' Secretary of State has addressed to the British Minister at Washington, a reply to the representation made by your Government on the subject of the exclusion of British subjects from the State canals referred to in the XXVIIth Article of the Treaty of Washington.

From the latter of these notes, copies of which appear to have been communicated to you by Sir E. Thornton, I learn that the Governor of the State of New York asserts positively that British and Canadian vessels are not prohibited from navigating the canals on the same terms as American vessels; and that the Auditor of the Canal Department declares that he is not aware of any instance in which a Canadian vessel has been prevented from entering the canals.

I should be glad if your Lordship would furnish me with some information as to the grounds on which your Government founded their representation, and intimate to me whether they continue to be of opinion that there was cause for it.

I have, &c.  
(Signed) CARNARVON.

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No. 13.

*Mr. Malcolm to Lord Tenterden.—(Received March 12.)*

Sir,

*Downing Street, March 11, 1875.*

WITH reference to my letter of the 28th of January, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Earl of Derby, a copy of a despatch from the Governor-General of Canada, inclosing a Minute of the Canadian Privy Council, stating the grounds on which the representation that British subjects were excluded from the canals in the United States was founded.

I am, &c.  
(Signed) W. R. MALCOLM.

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## Inclosure 1 in No. 13.

*The Earl of Dufferin to the Earl of Carnarvon.*

My Lord,

*Government House, Ottawa, February 19, 1875.*

THE Privy Council of the Dominion have had under consideration your Lordship's despatch of the 12th ultimo, having reference to the representations made by my Government to Her Majesty's Minister at Washington on the subject of the exclusion of British subjects from the State canals referred to in the Treaty of Washington, and I have now the honour of submitting a Minute of Council, which states the grounds on which the Canadian Government founded the representations alluded to.

I have, &amp;c.

(Signed) DUFFERIN.

## Inclosure 2 in No. 13.

*Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on the 18th February, 1875.*

THE Committee have had under consideration the despatch dated 12th January, 1875, from the Right Honourable Her Majesty's Secretary of State for the Colonies, stating that he has received, through the Foreign Office, copies of the two notes which the United States' Secretary of State has addressed to the British Minister at Washington in reply to the representation made by the Canadian Government on the subject of the exclusion of British subjects from the State canals, referred to in the 27th Article of the Treaty of Washington, and that from the latter of these notes he learns that the Governor of the State of New York asserts positively that British and Canadian vessels are not prohibited from navigating the canals on the same terms as American vessels, and that the Auditor of the Canal Department declares that he is not aware of any instance in which a Canadian vessel has been prevented from entering the canals.

Her Majesty's Minister adds that he should be glad if your Excellency would furnish him with some information as to the grounds on which your Government founded their representation, and intimate to him whether they continue to be of opinion that there was cause for it.

The Honourable the Minister of Marine and Fisheries, to whom this despatch has been referred, reports that the grounds on which the Canadian Government founded the representation alluded to, were statements made by two of its officers, viz., the Collector of Customs at St. Johns, Province of Quebec, and the Collector of Customs at Fort Erie, Ontario, near Buffalo, United States, both officers residing at ports on the frontier, and being intimately acquainted with the canal trade between Canada and State of New York, to the effect that Canadian vessels were not allowed to carry cargoes from Canada through the canals of that State, and that in this statement they were supported by some of the principal Canadian forwarders and owners of canal boats, who all agreed that Canadian canal boats were practically prohibited from navigating the canals of the State of New York on the same terms as American canal boats; that on making further inquiry, however, as to whether any particular case could be cited in which the owner, master or agent of a Canadian canal boat had applied for permission to carry cargo through the canals of New York, and had been refused such permission, he cannot ascertain that any such case has occurred since 1871, the date of the Treaty, although cases have been reported to him where Canadian canal boats with cargoes from Canada to the United States were refused permission to navigate these canals, and were detained at Whitehall, State of New York, by the canal authorities, although built expressly for that trade.

That he has also been informed by some Canadian canal boat drovers and forwarders that the probable reason why no case can be cited of Canadian vessels having been refused permission since 1871 to navigate these canals, is, that the persons engaged in this trade on both sides of the line were so convinced that no change had taken place in the policy of the authorities of the State of New York in this respect, since the seizure of the Canal boats alluded to some years previous to 1871, that they made no attempt to test the question since 1871, as the canal boats usually employed by Canadian forwarders are too large to navigate the New York canals, and they could

not afford to build canal boats specially adapted for such canals until they were assured that they would be allowed to navigate them.

That it appears also that in 1871, when the Governor of the State of New York was urged by the United States' Government to take the necessary action to carry into effect the object of the Article of the Treaty on this subject, he informed the United States' Secretary of State that he had consulted the legal advisers of the State, who did not appear to think there was any law of that State which prohibited British subjects from navigating its canals on terms of equality with citizens of the United States, but that he would, with great pleasure, call the attention of the Legislature to the subject, and recommend them to pass such laws as they may find to be necessary to carry into effect at once the agreement made in the XXVIIth Article of the Treaty; and that, as he, the Minister of Marine and Fisheries, has never been able to learn that any such laws were passed by the Legislature of that State, it is probable that this has also tended to prevent Canadian canal boat owners from building vessels suitable for these canals, and testing the question as to whether they would be permitted to navigate them.

That, as the Governor of the State of New York asserts positively that Canadian vessels are not prohibited from navigating these canals on terms of equality with American vessels, he, the Minister, recommends that Her Majesty's Secretary of State for the Colonies be informed that the Canadian Government no longer continues to be of opinion that Canadian vessels are excluded from the canals of the State of New York, and will take the necessary steps to promulgate officially this important information, in order that Canadian canal boat owners and forwarders may be enabled to take advantage of the privilege referred to.

The Committee concur in the foregoing recommendation, and submit the same for your Excellency's approval.

Certified,  
(Signed) W. A. HIMSWORTH,  
Clerk, Privy Council, Canada.

No. 14.

*The Earl of Derby to Sir E. Thornton.*

Sir, *Foreign Office, March 13, 1875.*  
I REFERRED to Her Majesty's Secretary of State for the Colonies your despatch of the 14th of December, relative to the supposed exclusion of British subjects from the United States' canals, and I now transmit to you herewith, for your information, a copy of a letter, with its inclosures, which has been received in reply.\*

I am, &c.  
(Signed) DERBY.

No. 15.

*Sir E. Thornton to the Earl of Derby.—(Received September 19.)*

My Lord, *Washington, September 6, 1875.*  
I HAVE the honour to inclose copy of a despatch which I have received from the Administrator of the Government of Canada, from which your Lordship will perceive that the United States' Government virtually refuses to allow vessels carrying the British flag to navigate the canals of this country, by so interpreting a law as to make it impossible for British vessels to carry goods in bond through those canals. If the proper interpretation has been given to this law, it is opposed to the provisions of the XXVIIth Article of the Treaty of Washington; and as the Treaty is posterior to the law, the provisions of the former ought to overrule the enactments of the law.

I have, therefore, addressed a note to the Acting Secretary of State, copy of which is inclosed, embodying the contents of the Report of the Committee of the Privy Council of Canada, a copy of which is inclosed in Sir William Haly's despatch.

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



## Inclosure 1 in No. 15.

*Sir W. Haly to Sir E. Thornton.*

Sir,

*Halifax, Nova Scotia, August 30, 1875.*

I HAVE the honour to inclose herewith a copy of a Report of my Privy Council, which has received my approval, relative to the imposition upon Canadian vessels of certain restrictions in the use of the Champlain Canal.

I shall feel much obliged if, in accordance with the wishes of my Privy Council, you will make this matter the subject of such representations to the Government of the United States as you may deem expedient.

I have, &c.  
(Signed) W. O. G. HALY.

## Inclosure 2 in No. 15.

*Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government on the 27th August, 1875.*

THE Committee of the Privy Council have had under consideration the Report hereunto annexed from the Honourable the Minister of Customs, having reference to certain restrictions placed upon the use of the Champlain Canal by Canadian vessels, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof be transmitted to Her Majesty's Minister at Washington, with a view to the matter complained of being represented to the Government of the United States.

Certified,  
(Signed) W. A. HIMSWORTH,  
*Clerk Privy Council, Canada.*

The undersigned Minister of Customs has the honour to submit for the consideration of his Excellency the Administrator of the Government in Council the following information respecting certain restrictions placed upon the use of the Champlain Canal by Canadian vessels, and to request that it be made the subject of the communication to Her Majesty's Minister at Washington.

From the result of former correspondence upon a similar subject it was ascertained that an Act of the Legislature of the State of New York secured the mutual use of the canals of Canada and the United States to the vessels of each country, respectively, on equal terms, as per Article XXVII of the Treaty of Washington; but, from documents herewith submitted, it appears that there are still certain difficulties placed in the way of Canadian vessels availing themselves of the right to navigate the Champlain Canal, which the people of this Dominion feel was secured to them by said Treaty.

These documents consist, 1st, of a letter from J. W. McRae, Esq., President of the Ottawa and Rideau Forwarding Company, of the 28th of May, 1875, addressed to the Minister of Marine and Fisheries, in which he complains that "lumber cannot be bonded in Canadian vessels going through the United States' canals;" 2nd, a letter from J. Parmenter, Esq., Collector of Customs, Plattsburgh, New York, dated 28th June, 1875, confirmatory of Mr. McRae's assertion, and giving as a reason the provisions of sec. 2,771 Revised Statutes of the United States, which reads as follows:—"Vessels which are not vessels of the United States shall be admitted to unlade only at ports of entry established by law, and no such vessel shall be admitted to make entry in any other district than in the one in which she shall be admitted to unlade." The third is the affidavit of one Orrin Judson Belden, of Fort Ann, Washington County, New York, dated 14th August, 1875, detailing the particulars of a case in which he was refused by the Collector of the United States' Customs at Rouse's Point, during the present summer, to load a cargo of lumber which he had shipped in the barge "H. F. Burrill," at the Port of Brockville, Canada, for the Port of New York, United States, on the ground that she was a British bottom, and therefore not entitled to the privilege.

The principal question for consideration is whether the law quoted by the Collector of Plattsburgh will properly bear the interpretation which he alleges is given to it by the Treasury Department of the United States, which is, in effect, that

a British vessel cannot take a cargo in bond through a canal belonging to the United States to a port in another Customs' district.

That interpretation being based upon the following words: "and no such vessel shall be admitted to make entry in any other district than the one in which she shall be admitted to unlade," it is submitted that the mere act of the master of the vessel reporting and giving bond at an intermediate port to secure the ultimate payment of duty upon, or properly accounting for, his cargo at his port of destination (when the said cargo must necessarily be subjected to full examination as well as entry) cannot be the description of entry to which the terms of the Act apply, but is only adopted as a means of preventing any violation of the Customs' laws *en route*. It must be remembered that a vessel bound from a Canadian port to the Port of New York must of necessity pass through the Champlain Canal to complete her voyage, and the entry proper of such vessel and cargo should take place at the termination of such voyage; any forms essential for the security of the revenue at intervening ports cannot be properly termed entries in the sense of the law.

The principal value of the free navigation of the Champlain Canal to Canadian vessels consists in the right to carry cargoes by that route to the Port of New York; and if the Act quoted is construed as stated in Mr. Parmerter's letter, it renders the provisions of the Washington Treaty, so far as the navigation of that canal is concerned, practically useless to Canada.

With reference to the affidavit of Captain Belden it<sup>a</sup> will be observed that he claims not only to be a citizen of the United States, but that his vessel also is in fact an American bottom, as, although she virtually changed hands in Canadian waters, her certificate of American registry was never surrendered, nor was she ever registered in Canada. The point, however, of interest in the present question is that she was refused the privilege of taking cargo through the canal in bond, on the sole ground of her being a British vessel, and is here presented as corroborative of the fact that the prohibition is enforced by the United States' Customs Office.

The undersigned Minister of Customs recommends that his Excellency will make this matter the subject of a despatch to Her Britannic Majesty's Minister at Washington, with a view to his calling the attention of the United States' Government thereto, with a hope that an order may issue which will have the effect to remove the restrictions complained of.

(Signed) ISAAC BURPEE.

*Customs Department, Ottawa, October 18, 1875.*

Inclosure 3 in No. 15.

*Ottawa and Rideau Forwarding Company,  
Ottawa, Ontario, May 28, 1875.*

Sir,

WE are notified by the United States' Customs officials at Rouse's Point, New York, that lumber cannot be bonded in Canadian vessels going through United States' canals. As this will be a serious drawback to Canadian forwarders, I would most respectfully submit it for your consideration. As to its legality, I cannot understand how they can have such a law, while their vessels are allowed the free use of our dominion canals on the same footing as Canadian vessels.

Yours, &c.

(Signed) J. McRAE.

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

*Mr. Parmerter to Captain L. Jones, Montreal.*

*Custom-House, Plattsburgh, New York,  
Collector's Office, June 28, 1875.*

Sir,

I have the honour to acknowledge the receipt of your letter of the 1st instant, wherein you ask for the following information, viz.:—Whether Canada barges will be allowed to pass from Rouse's Point to New York with foreign merchandize in bond. In reply, I beg to inform you that the United States' laws, as construed by the Treasury Department, prohibit the trade in question, so far as British vessels are concerned. Section 2771 Revised Statutes United States reads as follows:—"Vessels

which are not vessels of the United States shall be admitted to unlade only at ports of entry established by law, and no such vessel shall be admitted to make entry in any other district than in the one in which she shall be admitted to unlade."

Respectfully, &c.  
(Signed) J. PARMERTER,  
Collector of Customs.

County of Carleton.

I, Orrin Judson Belden, of the town of Fort Ann, Washington County, in the State of New York, boat captain, make oath and say,—

1. That barge "H. F. Berrill," of Hordford, New York, was wrecked one or two years ago in the harbour of Montreal, and taken by the parties who damaged her, they being Canadians (the vessel had the American register, which appears to have been lost at the time of damaging); the said barge was never registered as a British vessel; after being repaired, was sold to Davil Rice, of Fort Ann aforesaid, lumber merchant, who again sold her in the spring of this year to me the said Belden.

2. I took with her the said vessel a load of coal from the city of Roundout, in the said State of New York, to the city of Montreal, passing through Hudson River, Champlain Canal, Champlain Lake, Resheben and St. Lawrence Rivers, and from thence to Brockville, in the province of Ontario, light for a load of lumber, which said lumber was consigned to New York city, which said lumber I expected to bond from Rouse's Point, in the State of New York, to the said port, New York.

3. On arrival at United States' Customs-house at Rouse's Point, in the district of Champlain, in the said State of New York, I was informed that my said cargo of lumber could not be bonded to the said city of New York, it being contrary to the laws of the United States of America for lumber to be bonded in British bottoms only to unload in the same district in which she entered; and as the cargo of lumber of the said barge was for a different district, I was obliged to unload the said lumber upon another boat, which said boat, being an American bottom, took my said cargo through in bond to the said city of New York.

That the United States authorities or officers in connection with the said Customs-house at Rouse's Point refused to permit the said barge "Berrill" to carry the said lumber in bond to the said city of New York, and that the reason of the same was that she was considered by them a British bottom.

(Signed) ORRIN J. BELDEN.

Sworn before me, at Ottawa, in the county of Carleton, in the province of Ontario, this 14th day of August, 1875,

(Signed) GEO. HAY, J.P.

Inclosure 4 in No. 15.

*Sir E. Thornton to Mr. Hunter.*

Sir,

*Washington, September 3, 1875.*

AT the request of the Administrator of the Government of Canada, I have the honour to submit for your consideration information which he has received respecting certain restrictions placed upon the use of the Champlain Canal by Canadian vessels.

I have understood, from previous correspondence with the Secretary of State, that the State of New York allows the use of its canals to British vessels, in accordance with the provisions of Article XXVII of the Treaty of Washington; but from documents, copies of which I have the honour to inclose, it appears that there are still certain difficulties placed in the way of Canadian vessels availing themselves of the right to navigate the Champlain Canal.

These documents consist, firstly, of a letter from Mr. J. W. McRae, President of the Ottawa and Rideau Forwarding Company, of 20th May, 1875, addressed to the Canadian Minister of Marine and Fisheries, in which he states that "lumber cannot be bonded in Canadian vessels going through the United States' canals." Secondly, a letter from J. Parmeter, Esq., Collector of Customs, Plattsburgh, New York, dated 28th June, 1875, confirming Mr. McRae's assertion, and giving as a reason the provisions of Section 2771 of the Revised Statutes, which reads as follows:—  
"Vessels which are not vessels of the United States shall be admitted to unlade only at

ports of entry established by law, and no such vessel shall be admitted to make entry in any other district than in the one in which she shall be admitted to unlade." The third is the affidavit of one Owen Judson Belden, of Fort Ann, Washington County, New York, dated 14th August, 1875, detailing the particulars of a case in which he was refused by the Collector of the United States' Customs at Rouse's Point, during the present summer, to bond a cargo of lumber which he had shipped in the barge "H. F. Burrill," at the port of Brockville, Canada, for the port of New York, on the ground that she was a British bottom, and therefore not entitled to the privilege.

The principal question for consideration is whether the law quoted by the Collector at Plattsburgh will properly bear the interpretation which he alleges is given to it by the Treasury Department of the United States, and which is, in effect, that a British vessel cannot take a cargo in bond through a canal belonging to the United States to a port in another Customs district.

The interpretation being based upon the following words, "And no such vessel shall be admitted to make entry in any other district than the one in which she shall be admitted to unlade," it is submitted that the mere act of the master of the vessel reporting and giving bond at an intermediate port, to secure the ultimate payment of duty upon, or properly accounting for, his cargo at his port of destination (where the said cargo must necessarily be subjected to full examination, as well as entry), cannot be the description of entry to which the terms of the Act apply, but is only adopted as a means of preventing any violation of the Customs laws during the voyage. A vessel bound from a Canadian port to the port of New York must pass through the Champlain Canal to complete her voyage, and the entry proper of such vessel and cargo should take place at the termination of such voyage; any forms essential for the security of the revenue at the intervening ports cannot be properly termed entries in the sense of the law.

With reference to the affidavit of Captain Belden, it will be seen that his vessel was refused the privilege of taking cargo through the canal in bond on the sole ground of being a British bottom.

As no such restrictions are placed upon United States' vessels in their navigation through the Canadian canals, I venture to hope that the question will receive the favourable consideration of the Secretary of the Treasury, and that he will not insist upon the interpretation given by the Collector of Customs at Plattsburgh to Section 2771 of the Revised Statutes.

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

No. 16.

*Mr. Lister to Mr. Herbert.*

Sir,

*Foreign Office, September 21, 1875.*

I AM directed by the Earl of Derby to transmit to you a despatch and its inclosures from Her Majesty's Minister at Washington\* relative to the virtual exclusion of vessels under the British flag from the canals of the United States by a law which has been so interpreted as to prevent their carrying goods in bond through the canals; and I am to request that, in laying this despatch before the Earl of Carnarvon, you will state to his Lordship that Lord Derby proposes, with his concurrence, to approve the representation which Sir E. Thornton has addressed to the United States' Government on the subject.

I am, &c.  
(Signed) T. V. LISTER.

No. 17.

*Sir E. Thornton to the Earl of Derby.—(Received October 3.)*

(Extract.)

*Washington, September 20, 1875.*

WITH reference to my despatch of the 6th instant, in which I inclosed copy of a note which I had addressed to the Acting Secretary of State relative to the navigation of the United States' canals by Canadian vessels, I have the honour to

state that Mr. Hunter's answer reached me on the 14th instant, and I have the honour to inclose copies of it, and of its inclosure. Mr. Hunter merely transmits, without any comment, a letter from the Secretary of the Treasury, in which the latter limits himself to stating that the question had been already considered, and that it had been decided that Canadian vessels could not transport cargo from any port in the United States through the Champlain Canal to any other port of the United States.

I therefore, on the 15th instant, addressed another note to Mr. Hunter, copy of which I have the honour to inclose. In this note I pointed out to him in the first place that, in my previous communication, I had not referred to the transport of goods by Canadian vessels from one port in the United States to another, but from a port in Canada to a port in the United States, through the canals of the latter. I then proceeded to show that the prohibition of such navigation by Her Majesty's subjects on terms of equality with citizens of the United States was an infraction of the above-mentioned Article of the Treaty of Washington.

Mr. Fish returned to Washington on the 16th instant, and answered my note on the 18th instant, merely acknowledging its receipt, and stating that a copy of it had been submitted for the consideration of the Secretary of the Treasury. A copy of Mr. Fish's answer is also inclosed. Your Lordship will notice the observation he makes, that it appears from my note that the privilege is claimed under the XXVIIIth Article of the Treaty of Washington.

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Inclosure 1 in No. 17.

*Mr. Hunter to Sir E. Thornton.*

Sir, *Department of State, Washington, September 13, 1875.*

REFERRING to your note of the 3rd instant in relation to the use of the Champlain Canal by Canadian vessels, I have the honour to transmit herewith a copy of a letter upon the subject, dated the 10th instant, which has been received from the Secretary of the Treasury, to whom the matter was referred.

I have, &c.

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

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Inclosure 2 in No. 17.

*Mr. Bristow to Mr. Fish.*

Sir, *Treasury Department, Washington, D.C.,  
September 10, 1875.*

I HAVE the honour to acknowledge the receipt of your letter of the 7th instant, submitting for my consideration a copy of a communication from the British Minister, relating to the use of the Champlain Canal by Canadian vessels.

I reply that the question presented has been considered by this Department, heretofore, and that it was decided that such vessels could not legally transport cargo from any port in the United States, through said Canal to any port of the United States.

I have, &c.

(Signed) B. H. BRISTOW, *Secretary.*

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Inclosure 3 in No. 17.

*Sir E. Thornton to Mr. Hunter.*

Sir, *Washington, September 15, 1875.*

I HAVE the honour to acknowledge the receipt of your note of the 13th instant, inclosing copy of a letter from the Honourable Secretary of the Treasury, relating to the use of the Champlain Canal by Canadian vessels. In this letter, the Secretary states that the question presented has been considered by his Department heretofore, and that it was decided that such vessels could not legally transport cargo from any port in the United States, through said canal, to any other port of the United States.

In my note of the 3rd instant, I did not mean to allude to the transport of goods in Canadian vessels from one port in the United States to another, through the United States' canals. I referred to the transport of goods in British vessels, from a port in Canada, through the United States' canals, to a port in the United States.

The Government of the United States, engaged by the XXVIIth Article of the Treaty of Washington to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes and rivers traversed by, or contiguous to, the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States. The State of New York, in reply to a representation made to it by the President, declared that there was no law which prohibited the free navigation by Canadian vessels of the canals within that State. It cannot be supposed that the United States' Government, after urging the State Governments to secure that Navigation to British subjects, should itself prohibit it by means of a law of the United States.

The representation submitted in my note of the 3rd instant, was that Canadian vessels should be allowed to carry from a port in Canada cargo in bond through the United States' canals to a port in the United States. United States' vessels have this privilege in their own canals, as well as in those of Canada. By the XXVIIth Article of the Treaty, Her Majesty's subjects are placed in this respect on terms of equality with the inhabitants of the United States.

The Secretary of the Treasury does not state on what ground the decision has been arrived at by his Department, but if it is intended that British vessels are not to have in the canals of the United States described in the above-mentioned Article the same privileges as citizens of the United States, it certainly appears to be in contravention of that Article.

The Act of Congress of March 2nd, 1799, the correctness of the interpretation of which I ought, perhaps, to have abstained from discussing in my note of the 3rd instant, is, however, if so interpreted, in conflict with the provisions of the XXVIIth Article of the Treaty; but as its date is long anterior to that of the Treaty, I apprehend that its provisions, so far as they may be in conflict with those of the Treaty, have been superseded, with regard to British vessels, by the stipulations of that international engagement, which received the sanction of the Senate of the United States.

I venture to hope, therefore, that the subject may receive the consideration of the Government of the United States, and that such measures may be taken as will secure to Her Majesty's subjects the free navigation of the canals described in Article XXVII of the Treaty of Washington, on terms of equality with the inhabitants of the United States.

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

Inclosure 4 in No. 17.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, September 18, 1875.*

I HAVE the honour to acknowledge the receipt of your note of the 15th instant, in further relation to the use of the Champlain Canal by Canadian vessels, by which it appears that the privilege is claimed under the XXVIIth Article of the Treaty of Washington.

In reply, I have to inform you that a transcript of your note has been submitted for the consideration of the Secretary of the Treasury.

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

## No. 18.

*Mr. Lister to Mr. Herbert.*

Sir,

*Foreign Office, October 6, 1875.*

WITH reference to my letter of the 21st ultimo, I am directed by the Earl of Derby to transmit to you a further despatch from Her Majesty's Minister at Washington\* relative to the restrictions on the navigation of the United States' canals by Canadian vessels; and I am to request that, in laying this despatch before the Earl of Carnarvon, you will state to his Lordship that Lord Derby proposes, with his concurrence, to approve the course pursued by Sir E. Thornton in the matter.

I am, &c.  
(Signed) T. V. LISTER.

## No. 19.

*Mr. Herbert to Mr. Lister.—(Received October 7.)*

Sir,

*Downing Street, October 6, 1875.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 21st of September, inclosing a copy of a despatch from Sir E. Thornton, with its inclosures, relating to the imposition by the United States' law of certain restrictions upon Canadian vessels in the use of the United States' canals.

Lord Carnarvon desires me to request that you will inform the Earl of Derby that his Lordship concurs in the approval proposed to be conveyed to Sir E. Thornton of the representation which he has addressed in regard to this matter to the United States' Government.

I am, &c.  
(Signed) ROBERT G. W. HERBERT.

## No. 20.

*Sir E. Thornton to the Earl of Derby.—(Received October 10.)*

My Lord,

*Washington, September 27, 1875.*

DURING my visit to Mr. Fish at the State Department on the 23rd instant, I referred to my note to Mr. Hunter of the 15th instant, relative to the navigation of the United States' canals by Canadian vessels, and expressed my hope that the Government of the United States would take a liberal view of the question, and would secure to Canadian vessels the enjoyment of all privileges in the canals which were open to United States' vessels. I could not suppose that, after the United States' Government had obtained from the State of New York the assurance that there was no law of that State which could prevent British vessels from using those canals, the Federal Government would interpose its power, either by law or regulations, to render nugatory the permission given by the State.

Mr. Fish replied that it was far from the intention of his Government to do so, and that he had already been urging upon the Secretary of the Treasury to treat the question with as much liberality as possible. But, whilst he could not speak officially on the subject until the question was decided by the Treasury Department, it seemed to him that the Revenue Laws of the United States would prevent the use of the entire navigation of the canals by Canadian vessels. The law of the United States provided that a vessel arriving in the United States with a cargo from abroad should enter and discharge her cargo at the first port of entry she met. In entering the United States through the Champlain Canal, the first port of entry would be Whitehall, at the northern extremity of the Whitehall Canal. There a vessel arriving with a foreign cargo, whether she were American or foreign, would be obliged to discharge her cargo. If a Canadian vessel had a fancy for navigating the canals further on, she could certainly do so, and go as far as Albany; but neither she nor an American vessel could carry a cargo there direct from a foreign port, because Albany would not be the first port of entry, nor, indeed, is it a port of entry at all.

Mr. Fish added that he supposed that the idea and the object of the Canadian Government were that the Canadian boats should be enabled to bring cargo from Canada, through the canals and down the Hudson, to New York. This, he said, was impossible, by reason of the above-mentioned provision of the law with regard to the first port of entry, and because neither by the Treaty of Washington, nor by any other Treaty, had the navigation of the River Hudson been allowed to British or other foreign vessels.

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

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No. 21.

*Mr. Lister to Mr. Herbert.*

Sir,

*Foreign Office, October 15, 1875.*

WITH reference to my letter of the 6th instant I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon for any observations which his Lordship may have to offer upon it, a copy of a despatch from Her Majesty's Minister at Washington, reporting a conversation with Mr. Fish, respecting the navigation by Canadian vessels of the United States' canals.\*

I am, &c.  
(Signed) T. V. LISTER.

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No. 22.

*Mr. Malcolm to Mr. Lister.—(Received October 15.)*

Sir,

*Downing Street, October 14, 1875.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 6th instant, and to state that his Lordship concurs in the approval which the Earl of Derby proposes to convey to Sir E. Thornton of the course taken by him in regard to the restrictions placed on the navigation of the United States' canals by Canadian vessels.

In returning herewith the inclosures which accompanied your letter, I am desired to request that copies may be furnished for the records of this Department.

I am, &c.  
(Signed) W. R. MALCOLM.

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No. 23.

*The Earl of Derby to Sir E. Thornton.*

Sir,

*Foreign Office, October 16, 1875.*

I HAVE had under my consideration, in communication with Her Majesty's Secretary of State for the Colonies, your despatch of the 6th ultimo, relating to the imposition, by the United States' law, of certain restrictions upon Canadian vessels in the use of the United States' canals, and I have to acquaint you that the representation which you addressed to Mr. Hunter on the subject is approved by Her Majesty's Government.

I am, &c.  
(Signed) DERBY.

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No. 24.

*The Earl of Derby to Sir E. Thornton.*

Sir,

*Foreign Office, October 21, 1875.*

I HAVE had under my consideration, in communication with Her Majesty's Secretary of State for the Colonies, your despatch of the 20th ultimo, together



with its inclosures, on the subject of the navigation of the United States' canals by Canadian vessels, and I have to convey to you the approval of Her Majesty's Government of the note addressed by you to the Acting Secretary of State, pointing out that the interpretation placed by the United States' Government on the United States' law, which was made to prevent Canadian vessels from carrying goods in bond through the canals, was in conflict with the XXVIIth Article of the Treaty of Washington.

I am, &c.  
(Signed) DERBY.

No. 25.

*Sir E. Thornton to the Earl of Derby.—(Received December 12.)*

(Extract.)

*Washington, November 29, 1875.*

IN my despatch of the 20th of September last I had the honour to forward to your Lordship copy of a note which I had addressed on the 15th of that month to Mr. Hunter, respecting the navigation of the canals in the State of New York by Canadian vessels.

I now inclose copy of a note, and of its inclosure, which I have received from Mr. Fish in answer to my note above-mentioned. Your Lordship will perceive from the contents of the inclosure, which is a letter from the Secretary to the Treasury to Mr. Fish, that the former insists that Canadian vessels coming into the canals in the State of New York must unload at the first port of entry. He seems, however, to admit that the use of the Champlain Canal could be granted to Canadian vessels destined with cargoes to the southern terminus of the Canal, or to ports or places on Lakes Erie or Ontario.

But the Secretary of the Treasury refuses to recognize the right of Canadian vessels to transport cargoes in bond from Canada to New York.

I have forwarded a copy of Mr. Fish's note, and of its inclosure, to his Excellency the Governor-General of Canada.

Inclosure 1 in No. 25.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, November 24, 1875.*

REFERRING to your note of the 15th September last, in further relation to the use of the Champlain Canal by Canadian vessels, I have now the honour to inclose herewith a copy of a letter on the subject, dated the 9th ultimo, from the Secretary of the Treasury, to whom a transcript of your note was transmitted.

The delay in forwarding a copy of this note has arisen from certain examinations which it was deemed necessary to make in reference to the question discussed.

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

Inclosure 2 in No. 25.

*Mr. Bristow to Mr. Fish.*

Sir,

*Treasury Department, Washington, D.C., October 9, 1875.*

I HAVE the honour to acknowledge the receipt of your communication of the 17th ultimo, submitting a transcript of a note from Sir Edward Thornton upon the subject of a decision of this Department of the 25th of June last, reaffirmed on the 10th ultimo, in which the privilege of certain Canadian vessels to use the Champlain Canal was supposed to have been denied.

In a communication addressed to this Department on the 4th of June last, by the Collector of Customs at Plattsburgh, the question was raised whether certain barges belonging to the Ottawa and Rideau Forwarding Company could pass from Ottawa to New York by way of Lake Champlain, the Champlain Canal, and the Hudson River.

Presuming, of course, that these barges were to be laden with Canadian goods, the Collector was informed that such barges were compelled, under Section 2771, Revised Statutes, to unlade at Plattsburgh.

Under the provisions of Section 3097, Revised Statutes, all vessels laden with cargo, arriving in the United States from contiguous territory on the northern frontier, are obliged to make entry, and, under Section 2771, all vessels not of the United States, which made entry, must unlade where they make entry.

That Canadian barges destined for New York, arriving at Plattsburgh, must there enter and unlade, was the decision alluded to in the Department's letter of the 10th ultimo, in response to the communication of the State Department of the 7th ultimo, inclosing the first note of Sir Edward Thornton.

In the letter of the Collector of Plattsburgh the use by Canadian barges of the Champlain Canal was not presented as a question pure and simple, but the question was complicated with another, namely, whether the navigation of navigable waters of the United States (to wit, Lake Champlain and the River Sorà), constituting the only accessible inlet to the Champlain Canal on the Canadian side, and other navigable waters of the United States (to wit, the Hudson River), forming the only accessible water communication between the Champlain Canal and the port of New York, were open to Canadian vessels with cargoes bonded to New York.

In view of the fact that the real question presented by the Collector was whether the navigable waters of the United States, contiguous to the northern frontier, were open to the navigation of Canadian vessels laden with cargoes in bond destined for New York, the Department could only reply that, under the provisions of Section 2771, Revised Statutes, such vessels must enter and unlade at the first port of entry at which they arrive in these waters.

But the Department might have gone further, and shown that under the first proviso of Section 4347, Revised Statutes, Congress had defined the limits within which British vessels could, under the Treaty of Washington of May 8, 1871, carry foreign merchandize from port to port within the United States, which limits are defined to be "upon the St. Lawrence, the great lakes, and the rivers connecting the same."

In his note of the 15th ultimo, the British Minister declares the purport of his previous note of the 3rd ultimo to have been to represent that Canadian vessels should be allowed to carry from a port in Canada cargoes in bond through the United States' canals to a port in the United States; that United States' vessels have this privilege in their own canals as well as in those of Canada; and that by the XXVIIIth Article of the Treaty, Her Majesty's subjects are placed in this respect on terms of equality with the inhabitants of the United States.

Though by the terms of that Article the subjects of Her Majesty are to have the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States, the purpose of the stipulation was, in my view, to grant the free use of such canals only in so far as they might facilitate communication between ports and places lying on the lakes and rivers in question, and not as the furnished communication between ports and places not lying on those lakes and rivers. The use of the Champlain Canal, in this view, could be granted to Canadian vessels destined with cargoes to the southern terminus of the canal, or to ports or places on Lakes Erie or Ontario, but not to Canadian vessels destined to ports and places lying remote from the waters of the northern lakes and rivers contiguous to the frontier between the two countries. The use of the Champlain Canal is to be given to Canadian vessels under the Treaty, in the same sense in which the use of the Welland Canal is granted to citizens of the United States, or the use of the St. Clair Flats' Canal to Her Majesty's subjects, namely, in furtherance of communication between ports and places lying, to use the language of the legislative construction given to the Treaty by Section 4347, Revised Statutes, "upon the St. Lawrence, the great lakes, and the rivers connecting the same."

In the face of the construction given to the Treaty by Congress, this Department does not feel authorized to recognize the right of Canadian vessels to transport cargoes in bond from Canada to New York.

I have, &c.

(Signed) B. H. BRISTOW, *Secretary*.

## No. 26.

*Lord Tenierden to Mr. Herbert.*

Sir,

*Foreign Office, December 16, 1875.*

WITH reference to Mr. Lister's letter of the 6th of October, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, for his Lordship's information, the accompanying copy of a further despatch from Her Majesty's Minister at Washington, together with its inclosures, relative to the restrictions on the navigation of canals in the United States by Canadian vessels.\*

I am, &c.  
(Signed) TENTERDEN.

## No. 27.

*Sir E. Thornton to the Earl of Derby.—(Received March 27.)*

(Eztract.)

*Washington, March 13, 1876.*

SOME days ago Sir Alexander T. Galt came from Canada to the United States, and paid me a visit at Washington. He took the opportunity of showing me, by the request of Mr. Mackenzie, as he said, a Memorandum giving the substance of the correspondence which has taken place relative to the navigation of the canals in the State of New York by Canadian vessels, and urged that I should renew my endeavours to induce the Government of the United States to ensure to British subjects the privilege stipulated by the Treaty of 1871.

In the above-mentioned Memorandum my attention was called to an Act of Congress of September 26th, 1850, which empowers the Secretary of the Treasury to permit vessels laden with the products of Canada to lade or unlade at any port or place within any collection district of the United States which he might designate. The substance of this Act is to be found in section 3129 of the "Revised Statutes of the United States." During my visit to the State Department, on the 9th instant, I called Mr. Fish's attention to the Act in question, again urging upon him that the stipulation of the XXVIIth Article of the Treaty of 1871 should not be rendered illusory by appealing to an Act of 1799 (see section 2771, "Revised Statutes of the United States"), which obliges vessels arriving from abroad to discharge at the first port of entry at which they touch. Mr. Fish seemed to be unaware of the existence of the Act of 1850, and said that he would consult with the Secretary of the Treasury upon the subject.

He has since told me that he has spoken to Mr. Bristow, and that the result of their conversation is that he will address a communication to him, suggesting that he should avail himself of the power granted by the Act of 1850, and should name Albany and Troy as two points at which vessels coming with produce from Canada might discharge their cargo, and take in a return cargo. These two places are, as it were, at the head of the tide-waters of the Hudson; and it appears to me that if Canadian vessels were allowed to reach them they would enjoy the navigation of the whole length of the canals in the State of New York.

Mr. Fish assured me that American vessels arriving with cargo from Canada were also now obliged to unload at the first port of entry at which they touched, and that if they were hereafter allowed to go on to Albany or Troy they would not be allowed to discharge at any intervening point. The same restriction would be imposed upon Canadian vessels; and, further, the latter would not be allowed to transport cargo from one port to another in the United States, which operation would be one of coasting trade, now reserved to American vessels.

## No. 28.

*Mr. Malcolm to Lord Tenterden.—(Received April 27.)*

My Lord,

*Downing Street, April 26, 1876.*

WITH reference to previous correspondence respecting the navigation of United States' canals by Canadian vessels, under the Treaty of Washington, I am directed by

the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, the inclosed copy of a despatch from the Governor-General of Canada, inclosing a copy of a Report of his Privy Council relating to this question.

Lord Carnarvon hopes that if, as would appear to be the case, the law cited by the Dominion Government removes any technical difficulty in complying with the reasonable demands of the Dominion, Sir E. Thornton may be instructed to press the United States' Government to carry out the engagements of the Treaty in a liberal spirit.

I am, &c.  
(Signed) W. R. MALCOLM.

Inclosure 1 in No. 28.

*The Earl of Dufferin to the Earl of Carnarvon.*

My Lord,

Ottawa, April 6, 1876.

I HAVE the honour to transmit herewith, for your Lordship's information, a copy of a report of my Privy Council, a duplicate of which I have this day communicated to Her Majesty's Minister at Washington, relative to the navigation by Canadian vessels of canals in the United States under the Treaty of Washington.

I have, &c.  
(Signed) DUFFERIN.

Inclosure 2 in No. 28.

*Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, on the 5th April, 1876.*

THE Committee of Council have had under consideration the report of the Honourable the Minister of Customs, to whom has been referred the correspondence with the Washington Government concerning the navigation of the United States' canals by Canadian vessels.

The Minister states that he has considered the representations made by Mr. Secretary Fish in his despatch of 27th September, 1875, in which he remarks: "The law of the United States provided that a vessel arriving in the United States with a cargo from abroad should enter and discharge her cargo at the first port of entry she met, and that he supposed that the idea and object of the Canadian Government were that the Canadian boats should be enabled to bring cargo from Canada through the canals and down the Hudson through to New York. That this is impossible by reason of the above provisions of the law with regard to the first port of entry, and because neither by the Treaty of Washington, nor by any other Treaty, had the navigation of the River Hudson been allowed to British or other foreign vessels."

The Minister further states that, in a subsequent despatch of Mr. Secretary Bristow, dated 9th October, 1875, after reciting the circumstances and quoting the several laws bearing upon the case, he concludes with the following definite statement:—

"In the face of the construction given to the Treaty by Congress, this Department does not feel authorized to recognize the right of Canadian vessels to transport cargoes in bond from Canada to New York."

The Minister observes that, in this decision, apart from Treaty obligations, the Secretary of the Treasury does not appear to have taken into consideration an Act of Congress passed on the 26th September, 1850, which is to be found in the Statutes at large page 469, and which has been re-enacted and confirmed in the revised Statutes of 1875, page 603, sec. 3, 129, intituled "An Act to authorize the Secretary of the Treasury to permit vessels from the British North American provinces to lade and unlade at such places in any collection district in the United States as he may designate."

That this Act provides that "the Secretary of the Treasury, with the approbation of the President of the United States, provided the latter shall be satisfied that similar privileges are extended to vessels of the United States in the Colonies hereinafter mentioned, is hereby authorized under such regulations as he may prescribe to protect the revenue from fraud, to permit vessels laden with the products of Canada, New

Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, or either of them, to lade or unlade at any port or place within any collection district which he may designate."

The Minister, therefore, recommends that your Excellency be requested to communicate with Sir Edward Thornton, Her Majesty's Minister at Washington, and request him to call the attention of the Government of the United States to the above recited Act, and to press upon that Government the making of such arrangements as will at once secure the same privileges to Canadian vessels in United States' canals as are accorded to United States' vessels in Canadian canals.

The Committee concur in the foregoing recommendation, and submit the same for your Excellency's approval.

Certified,  
(Signed) W. A. HIMSWORTH.

No. 29.

*Lord Tenterden to Mr. Herbert.*

Sir,

*Foreign Office, May 6, 1876.*

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 26th ultimo, inclosing copy of a despatch from the Governor-General of Canada, with a Minute of the Canadian Privy Council, calling attention to an Act of Congress of 1850, which authorizes the United States' Treasury to permit Canadian vessels to lade and unlade at certain parts of the United States' canals, and suggesting that Sir E. Thornton be instructed to press the United States' Government to carry out the engagements of the Treaty in a liberal spirit; and I am, in reply, to request that you will inform Lord Carnarvon that a copy of your above-mentioned letter will be sent to Sir Edward Thornton for his information.

I am, &c.  
(Signed) TENTERDEN.

No. 30.

*The Earl of Derby to Sir E. Thornton.*

Sir,

*Foreign Office, May 6, 1876.*

WITH reference to your despatch of the 13th of March, I transmit to you herewith, for your information, a copy of a letter from the Colonial Office,\* inclosing copy of a despatch from the Governor-General of Canada in regard to the navigation of United States' canals by Canadian vessels under the Treaty of Washington, and suggesting that you should be instructed to press the United States' Government to carry out the engagements of the Treaty in a liberal spirit.

I am, &c.  
(Signed) DERBY.

No. 31.

*Sir E. Thornton to the Earl of Derby.—(Received May 20,)*

My Lord,

*Washington, May 8, 1876.*

I HAVE the honour to inclose copy of a note and of its inclosure, which I have received from Mr. Fish relative to the navigation of the canals in the State of New York by Canadian vessels. In this note Mr. Fish transmits me copy of a communication from the Treasury Department, of which, though the language is obscure, the substance seems to be that Canadian vessels may pass to the southern terminus of the Champlain Canal.

During my interview with Mr. Fish on the 4th instant, I pointed out to him that I did not quite understand what the Champlain Canal signified, nor where was its southern terminus, and that I thought that if it was really intended to comply with the

terms of the Treaty of 1871, it would be desirable to express that intention in clearer words.

Mr. Fish replied that he considered that the Champlain Canal signified the Canal leading from the southern extremity of Lake Champlain, and connecting it with Troy and Albany, and that Albany was the southern terminus of that Canal. This Canal is generally called the Whitehall Canal.

I further asked whether Canadian vessels would be able to navigate the Erie Canal, which begins at Buffalo from Lake Erie, and the Oswego Canal, which enters from Lake Ontario at Oswego, and connects with the Erie Canal, and to proceed through those canals to Albany. Mr. Fish answered that he understood that Canadian vessels could certainly navigate those canals; but, upon my saying that I was not satisfied that this could be inferred from the contents of the communication from the Treasury Department, he suggested that I should address him a note expressing my views upon the subject.

In accordance with this suggestion, I addressed to Mr. Fish the note of which I have the honour to inclose a copy, but to which I have not as yet received an answer. I have also forwarded copies of the two notes to the Governor-General of Canada.

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

Inclosure 1 in No. 31.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, May 3, 1876.*

REFERRING to previous correspondence in reference to the privileges to be accorded to Canadian vessels in the use of the canals in the United States, and particularly in the State of New York, I have the honour to inform you that the attention of the Secretary of the Treasury having been called to the question, a reply was received from that officer upon the 5th of April, stating that a prior letter of October 10, but which is supposed to be an error for a letter of October 9, a copy of which was transmitted to you under date of November 24, 1875, concedes to Canadian vessels the privilege of passing to the southern terminus of the Champlain Canal, and that, if desired, instructions would be issued to the proper Custom's Officers to lend their aid thereto upon the same terms as are accorded to vessels of the United States, but suggesting that some further communication should be made on your part to that end.

I had supposed that this information had been communicated to you, but it appears that it was intended to confer with you on the question by reason of the suggestion that some further expression of your wishes should be made known.

I have now the honour to inclose you a copy of this letter of the Secretary of the Treasury, bearing date the 5th of April, and to express my regret that delay has occurred in conveying this information to you.

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

Inclosure 2 in No. 31.

*Mr. Corrant to Mr. Fish.*

Sir,

*Treasury Department, April 5, 1876.*

I HAVE the honour to acknowledge the receipt of your letter of the 11th ultimo, further in regard to the right, under the Treaty of Washington or existing United States' laws, of Canadian vessels to pass through the Champlain Canal laden with products of the Dominion of Canada, to the southern terminus of the Canal, or to points beyond.

Without considering the question now presented as to the applicability of section 3,129 of the Revised Statutes to the case, I have the honour to call your attention to the letter of this Department to you of the 10th of October last, in which the following language was used:—"The purpose of the stipulation (in Article XXVII of the Treaty of Washington) was, in my view, to grant the free use of such canals only in so far as they might facilitate communications between ports and places lying on the

lakes and rivers in question, and not as they furnished communication between ports and places not lying on those lakes and rivers. The use of the Champlain Canal, in this view, could be granted to Canadian vessels destined with cargoes to the southern terminus of the Canal, or to ports or places on Lakes Erie or Ontario."

In your letter of the 11th ultimo you state that you understand Sir Edward Thornton to say that it is not sought on the part of Canadian vessels to obtain the right to navigate the Hudson River, but only to pass to the terminus of the Canal at tide water.

It will be seen that the letter of this Department of October 10 concedes the right of Canadian vessels to pass to the southern terminus of the Champlain Canal, and if desired instructions will be given to the proper Customs officers to lend their aid thereto, upon the same terms as are now accorded to vessels of the United States.

The Department prefers to receive a further communication from Sir Edward Thornton upon the subject, before giving such instructions.

I have, &c.  
(Signed) CHAS. F. CORRANT, *Acting Secretary.*

Inclosure 3 in No. 31.

*Sir E. Thornton to Mr. Fish.*

Sir,

*Washington, May 4, 1876.*

I HAVE the honour to acknowledge the receipt of your note of yesterday's date, transmitting copy of a letter of the Secretary of the Treasury relative to the navigation of the canals of the State of New York by Canadian vessels. In this letter Mr. Bristowe states "that the letter of this department of October 10 concedes the right of Canadian vessels to pass to the southern terminus of the Champlain Canal, and, if desired, instructions will be given to the proper Customs' officers to lend their aid thereto, upon the same terms as are now accorded to vessels of the United States."

I presume that the city of Albany may be considered to be the "southern terminus of the Champlain Canal," and that Canadian vessels will be allowed to proceed to Albany by Lake Champlain and the Champlain Canal, on the same terms as are now accorded to vessels of the United States.

Neither can I doubt from the tenor of the letter of the 5th ultimo, addressed to you by the Secretary of the Treasury, that Canadian vessels may enter the Erie Canal at Buffalo, and the Oswego Canal at the place of that name, and proceed in like manner to Albany by those canals.

I shall feel much obliged if you will inform me whether the conclusions which I have arrived at are correct.

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

No. 32.

*Lord Tenterden to Mr. Herbert.*

Sir,

*Foreign Office, May 22, 1876.*

I AM directed by the Earl of Derby to transmit to you, with reference to my letter of the 6th instant, a copy of a despatch from Sir E. Thornton,\* inclosing copies of correspondence with Mr. Fish, in regard to the navigation of United States' canals by Canadian vessels; and I am to request that, in laying this despatch before the Earl of Carnarvon, you will inform him that Lord Derby proposes, with his Lordship's concurrence, to approve the course pursued by Sir E. Thornton in the matter.

I am, &c.  
(Signed) TENTERDEN

## No. 33.

*Mr. Malcolm to Lord Tenterden.—(Received June 2.)*

Sir,

*Downing Street, June 1, 1876.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 22nd ultimo, inclosing a despatch from Her Majesty's Minister at Washington forwarding a correspondence with Mr. Fish relating to the navigation of the United States' canals by Canadian vessels.

Lord Carnarvon concurs with Lord Derby in the proposed approval of the course pursued by Sir E. Thornton in this matter.

I am, &c.  
(Signed) W. R. MALCOLM.

## No. 34.

*The Earl of Derby to Sir E. Thornton.*

Sir,

*Foreign Office, June 6, 1876.*

I REFERRED to Her Majesty's Secretary of State for the Colonies your despatch of the 8th ultimo, together with its inclosures, relative to the navigation of the United States' canals by Canadian vessels, and I have to convey to you the approval of Her Majesty's Government of the course adopted by you in the matter.

I am, &c.  
(Signed) DERBY.

## No. 35.

*Sir E. Thornton to the Earl of Derby.—(Received June 25.)*

(Extract.)

*Washington, June 12, 1876.*

I HAVE the honour to inclose copy of a note which I have at length received from Mr. Fish, relative to the navigation of the canals of the State of New York by Canadian vessels. On its receipt, I at once sent a copy of it to the Governor-General of Canada, and at the same time telegraphed to his Excellency, informing him that I had received it; for, as this is the season when the produce of Canada is for the most part transported into the State of New York, I was aware that the Canadian Government would be anxious to be informed that the navigation of the canals of that State was open to Canadian vessels.

As far as I am able to judge, the terms of Mr. Fish's note are satisfactory, and Canadian vessels with cargoes may now proceed by Lake Champlain and the Whitehall and Erie Canals to Troy and Albany, or by the Erie Canal, entering either at Buffalo from Lake Erie, or at Oswego from Lake Ontario, to Albany and Troy. I hope, however, soon to receive from Lord Dufferin the acquiescence of the Canadian Government in the orders which have at length been given.

Inclosure in No. 35.

*Mr. Fish to Sir E. Thornton.*

Sir,

*Department of State, Washington, June 7, 1876.*

REFERRING to previous correspondence upon the subject of the navigation of the canals of the United States by Canadian vessels, under Article XXVII of the Treaty of Washington, I have now the honour to inform you that I am informed by the Secretary of the Treasury that instructions have been issued to the Collector of Customs at Plattsburgh, New York, to allow Canadian barges and other vessels laden with imported goods to pass that port, on a clearance to Albany, or to any port intermediate between Plattsburgh and Albany, under such conditions and regulations as would govern the navigation of American barges or vessels coming from Canada, under section 3,102 of the Revised Statutes, or under such regulations as would apply



to foreign vessels generally when importing foreign cargoes, under section 4,347 of the Revised Statutes, but without regard to the several provisions in this section which apply especially to imported goods transported in bond. I am further informed that the Collector has been instructed to allow free transit to all return cargoes shown by the manifests of Canadian vessels to be destined for Canada.

It is further stated that instructions, similar in tenour and object to those addressed to the Collector at Plattsburgh, will be given to the Collector of Customs at Buffalo and Oswego, New York, and Burlington, Vermont, and that the Surveyor of Customs at Albany, and the Deputy-Collector at Troy, New York, will be notified of these orders.

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

No. 36.

*Mr. Malcolm to Lord Tenterden.—(Received July 11.)*

(Extract.)

*Downing Street, July 11, 1876.*

WITH reference to previous correspondence relating to the navigation of United States canals by Canadian vessels, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Earl of Derby, a copy of a despatch received on the 28th ultimo from the Governor-General of Canada, together with such of its inclosures as are not already in the possession of the Foreign Office.

Inclosure 1 in No. 36.

*The Earl of Dufferin to the Earl of Carnarvon.*

My Lord,

*Government House, Ottawa, June 13, 1876.*

REFERRING to my despatch No. 92, April 6, and to previous correspondence relating to the navigation of United States' Canals by Canadian vessels under the Treaty of Washington, I have the honour to transmit herewith, for your Lordship's information, copies of further communications and inclosures which I have received from Her Majesty's Minister at Washington on this subject.

Your Lordship will observe, from the inclosure in Sir E. Thornton's last despatch, that Mr. Fish states that he has been informed by the Secretary of the Treasury that instructions have been issued by the United States' Customs' authorities to permit the free navigation of the canals of the State of New York to Canadian vessels on the same terms and conditions as are accorded to United States' vessels.

I have, &c.  
(Signed) DUFFERIN.

Inclosure 2 in No. 36.

*Sir E. Thornton to the Earl of Dufferin.*

My Lord,

*Washington, April 10, 1876.*

WITH reference to your Excellency's despatch of the 8th instant, I have the honour to inform you that about a month ago I called Mr. Fish's attention to the Act of Congress of September 26th, 1850, which empowers the Secretary of the Treasury to allow vessels laden with the products of Canada, &c., to lade or unlade at any port or place within any collection district which he may designate.

After consideration of this Act, I understand from Mr. Fish that he addressed a letter to the Secretary of the Treasury, suggesting to him to avail himself of the power granted by it, and to designate Albany and Troy as two places at which vessels coming from Canada might discharge cargo.

On the 6th instant I asked Mr. Fish whether he had received any answer to the above communication. He replied in the negative. Mr. Bristow is now absent from Washington in Kentucky.

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

## Inclosure 3 in No. 36.

*Sir E. Thornton to the Earl of Dufferin.*

My Lord,

*Washington, May 4, 1876.*

I HAVE the honour to inclose, for your Excellency's information, copy of a note and of its inclosure, which I received this morning from Mr. Fish, and of my answer to that note.

I shall of course communicate to your Excellency Mr. Fish's reply as soon as I shall receive it.

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

## Inclosure 4 in No. 36.

*Sir E. Thornton to the Earl of Dufferin.*

(Extract.)

*Washington, June 8, 1876.*

I HAVE the honour to inclose copy of a note which I have received from Mr. Fish, with regard to the navigation of the Canals in the State of New York by Canadian vessels.