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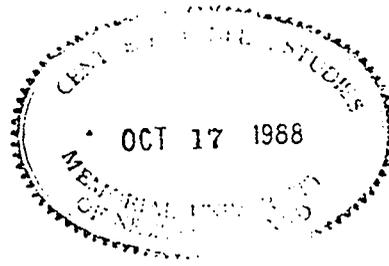
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1803

CORRESPONDENCE

RESPECTING THE

BRITISH NORTH AMERICAN FISHERIES.

1803-51.

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Correspondence respecting the British North American Fisheries:
1803 to 1851.

No. 1

Sir S. Cottrell to Mr. G. Hammond. — (Received-March 31)

*Office of Committee of Privy Council for Trade,
Whitehall, March 31, 1803.*

Sir,

THE Lords of the Committee of Council for Trade and Foreign Plantations having had under consideration a letter from Mr. Sullivan, transmitting, by directions of Lord Hobart, copies of two letters from Mr. George Leonard, His Majesty's Superintendent of Trade and Fisheries at Canso, suggesting measures which he conceives would materially benefit and increase the shipping and commerce of the British Colonies in America, and prevent the illegal traffic alluded to therein, as carried on by the vessels belonging to the United States, I am directed by their Lordships to transmit to you copies of the said letters; and I am to desire that you will be pleased to lay the same before Lord Hawkesbury, with the request of the Lords of this Committee to be favoured with his Lordship's opinion, how far the proposal contained in the said letters may be consistent with the Treaties and political relations subsisting between this country and the United States of America.

I am, &c.
(Signed) STEPH. COTTRELL.

Inclosure 1 in No. 1.

Mr. Sullivan to Mr. Fawkener.

Sir,

Downing Street, March 11, 1803.

I TRANSMIT to you, by Lord Hobart's direction, copies of two letters which I have received from Mr. Leonard, His Majesty's Superintendent of Trade and Fisheries at Canso, suggesting measures which he conceives would materially benefit and increase the shipping and commerce of the British Colonies in America, and prevent the illicit traffic carried on by vessels from the United States to the coasts thereof; I am to request you will lay these papers before the Lords of the Committee of Privy Council for Trade and Foreign Plantations, for their Lordships' information and consideration.

I am, &c.
(Signed) JOHN SULLIVAN.

Inclosure 2 in No. 1.

Mr. Leonard to Mr. Sullivan.

Sir,

St. John's, New Brunswick, November 10, 1802.

I BEG leave to request you will inform the Right Honourable Lord Hobart that, on the 19th of May last, I received an official letter from his Excellency Sir John Wentworth, Governor of Nova Scotia, recommending the cruizing of the "Union" in the Bay of Fundy and the shores near the entrance, where the principal part of the

contraband trade has been carried on within the district, and where the American vessels, who have hitherto refused to comply with the regulations of the ports in that quarter, generally resort, and as the "Lilly" sloop of war was, at the request of Sir John Wentworth, stationed for the season on the eastern part of Nova Scotia for the same purposes, and the "Pheasant" sloop of war guarded the coast from Halifax to the Bay of Passamaquady, I immediately complied with his Excellency's direction, and I have the satisfaction to inform his Lordship that our endeavours to prevent illicit trade, and to enforce a submission to the regulations of the acts of the Assembly of Nova Scotia, have, in a great measure, been successful, as an American vessel is seldom seen near the shores, and those that do appear come merely for the purpose of fishing agreeably to the Treaty of 1783, whereas, previous to the establishment of the Union, frequent disputes took place between His Majesty's subjects and those of the United States of America respecting the right of fishery in the Bays and harbours, to the great injury of the former and benefit of the latter; that such has been the benefit of the establishment, I have reason to think from the present disposition of the people of these provinces, that the House of Assembly will, by a grant, enable me to make usefulness more extensive than can be done by the sum allotted by Parliament.

I further beg leave to suggest to you for his Lordship's consideration, that it would be beneficial to the interests of His Majesty's subjects in the provinces of Nova Scotia and New Brunswick if an Act of Parliament should pass preventing the landing of plaster of Paris northward and eastward of Boston from British vessels, as that article has become valuable in the southern States for the production of grain and grass, and cannot be procured in any part of America but in His Majesty's Provinces. British vessels would then have the sole benefit of carrying it to the place of consumption, and it would furnish a good nursery for seamen of His Majesty's ships of war; at present most of this advantage is enjoyed by American subjects, as it is principally brought from the mines by small vessels owned in Nova Scotia and this Province, and landed at the boundary line in the Bay of Passamaquady, about 40 leagues from the mines; it is there re-shipped in American vessels and conveyed to the place of consumption, to the great injury of our carrying trade, as these Provinces can furnish any quantity of shipping necessary to supply the whole United States with that article; it would also remove the pretence for illegal traffic which has been hitherto carried on by American vessels at the boundary line who came under pretence of loading plaster of Paris, with contraband articles on board, which were clandestinely shipped in the small British vessels belonging to the small harbours and creeks in Nova Scotia and New Brunswick, who can easily elude the vigilance of cruisers or officers of the Customs, to the great injury of the revenue and fair trader. As no laws in the Colonies can be made to counteract this evil, I humbly conceive it must be by Act of Parliament.

I have, &c.
 (Signed) GEO. LEONARD,
Superintendent of Trade and Fishery.

No. 2.

Mr. Cooke to Mr. G. Hammond.—(Received January 12.)

Sir,

Downing Street, January 12, 1805.

I TRANSMIT by Lord Camden's direction the accompanying copy of a communication which his Lordship has received from Vice-Admiral Sir E. Gower, Governor of Newfoundland, respecting the fishery carried on by the subjects of the United States of America on the Coast of Labrador and the interruption given by them to the British fishermen; and I am to desire you will lay the same before Lord Mulgrave for his Lordship's information.

I am, &c.
 (Signed) E. COOKE.

Inclosure 1 in No. 2.

Vice-Admiral Sir E. Gower to Earl Camden.

My Lord,

St. John's, Newfoundland, October 25, 1804.

HAVING received information that the American fishermen had resorted in great numbers to the coast of Labrador this season, and had interrupted the British fishermen, I despatched Lieutenant Morrison, in His Majesty's hired cutter "Queen Charlotte," to that coast; who in the execution of my orders, had occasion to put into Quirpon on the Coast of Newfoundland, where he found many American vessels, two of which were in the act of curing their fish on the shore, contrary to the Treaty of Versailles. The Lieutenant therefore thought it his duty to seize all the American fish which he found on the shore, and sent it to St. John's (except a small part which could not conveniently be sent, and was therefore sold on the spot). On its arrival at St. John's I ordered it to be libelled in the Vice-Admiralty Court where it was condemned and accordingly sold at public auction by the officers of the Customs, in whose hands the proceeds remain.

I have the honour to transmit to your worship herewith a copy of Lieutenant Morrison's letter giving an account of this transaction also a copy of the information he obtained respecting the American fishery on the Coast of Labrador and in the Gulf of St. Lawrence.

I have, &c.
(Signed) E. GOWER.

Inclosure 2 in No. 2.

Lieutenant Morrison to Vice-Admiral Sir E. Gower.

Sir,

"Queen Charlotte," Quirpon Harbour, September 2, 1804.

I ARRIVED at Red Bay the 20th August, and proceeding to execute the orders you had honoured me with, I received a letter from the principal merchants, Richards, Cochy, and Dormer, and Codner and Company, signifying to me that the Americans, not content with infringing on the Treaties between Great Britain and the United States, in drying and curing their fish on the shores of Newfoundland, had enticed and carried away their men, who deserted six months before their time had expired, with a considerable property belonging to their masters to the said island, and were now employed catching fish there; requesting me, in order to check an example so fatal to their fishery, to secure and bring to justice the offenders. To enable me to proceed with all possible safety and dispatch, Mr. Dormer lent me the master of one of his ships for a pilot. Conceiving the time your Excellency had ordered me to return in, was sufficient to allow my proceeding agreeable to the merchants' request, I weighed the same evening and the following morning arrived there, when I received information that the deserters had left Grandsway a few days since, but ignorant of what place they had gone. I found here eleven sail of American fishermen all laden, two excepted, who had part of their cargoes drying on shore. I immediately seized their fish and employed an English schooner to carry it to St. John's to await your Excellency's pleasure; she has in about 1,100 quintals, the remainder 180 quintals not being cured and in a perishable state, it became absolutely necessary to dispose of it immediately to the planters.

I have, &c.
(Signed) J. H. MORRISON.

Inclosure 3 in No. 2.

Queries respecting the American Fishery on the Coast of Labrador, answered by Lieutenant Morrison, Commanding the "Queen Charlotte" Hired Cutter, in September 1804.

Q. DO the Americans carry on their fishery on wages or shares?—A. Generally on shares.

Q. From what ports in America do they generally fit out?—A. Cape Cod, Boston, and Plymouth.

Q. How are their vessels rigged, and what is their average burthen?—A. Mostly schooners, some few sloops, and forty-five tons average.

Q. At what periods do they arrive on the coast and depart?—A. Arrive the beginning of June, depart the 10th of September.

Q. Are they active and enterprising in their fishery? Are they remarked to be more successful in their fishing than our people?—A. Particularly so, always more active and successful than us.

Q. What seal fishery do they carry on?—A. None.

Q. What whale fishery do they carry on?—A. None.

Memorandum.—To get the best information you can from any Americans you may meet with, respecting their fishery on those parts of Labrador which you may not visit, inquiring if they have any fishery at the Magdalen Islands, and how far it extends up the Gulf of St. Lawrence?—A. At the Magdalen Islands they carry on very little fishery, they dry their fish there. They have no fishery of any consequence higher up than the Magdalen Islands.

Q. If you find an intelligent man, he may be able to give you much useful information respecting the American fisheries, as to the manner of carrying it on and the whole number of vessels and men employed in it, with the wages or shares generally paid; or whether the crews take up vessels from ship owners and fish on their own account, and what bounties they receive?—A. They generally sail in schooners from Boston, Plymouth, &c. The men generally receive shares to the amount of 280 or 300 dollars if they have a good voyage. They calculate the number of vessels in the Gulf and employed on the different banks at 1,360, and their fishermen at 10,600. The owners have generally one-third of the fish for their vessels, the rest is divided among the crew according to the sum they have laid in at their first fitting out.

Q. To what market do they generally carry their fish?—A. Salt fish to France and America; all their dry fish to the Mediterranean; some to the West Indies, which is generally their worst fish.

Q. To what ports on this coast do they generally resort?—A. The Americans when they come on the coast, do not fish at any particular place, but follow the fish sometimes 90 or 100 miles, and salt them at sea, then go into port and cure them; while their fish is drying, they send their boats out to catch fish, which they clean in their vessels, and heave the gully overboard, and which seems to be the general complaint along the coast, as by these means they effectually ruin the bait.

No. 3.

Mr. Morier to the Marquess Wellesley.—(Received January 14, 1811.)

My Lord,

Washington, December 3, 1810.

IN the event of another Commercial Treaty between Great Britain and this country, it is probable that one of the most interesting questions to be considered will be the propriety of allowing this country to continue in the enjoyment of two very essential branches of commerce which she has hitherto carried on (without an equivalent on her part) through the extreme indulgence of Great Britain, the fishery on the coast of British North America, and the trade in the East Indies.

With a view to obtain information on those subjects, I had, on my arrival in this country, addressed Circulars to His Majesty's Consuls at the different ports of the United States, desiring them to furnish me as accurate returns as could be procured of the tonnage, seamen, and capital employed by the merchants in the United States in those two branches of commerce; and I have the honour to inclose two reports with returns from Mr. Allen at Boston, the one on the fisheries, and the other on the India trade; and one from Mr. Gilpin at Rhode Island.

It would require more information than I am as yet in possession of to point out to your Lordship the advantages which those two branches of commerce afford to this country; but it would appear, at first sight, that our taking from them the fisheries would give employment to so many more of our seamen; and there is no doubt that, with regard to the India trade, although the profits to the merchants employed in it are not very great, they have been in the habit of underselling us in the different ports of Europe, and even of smuggling (tea in particular) to His Majesty's Colonies in North America. This, possibly, might for the present, be

prevented by laying on a small *ad valorem* duty of 5 or 6 per cent. on exports from British India in foreign bottoms. The smuggling of the tea can only be prevented by the vigilance of our own officers.

I have, &c.
(Signed) J. P. MORIER.

Inclosure 1 in No. 3.

Mr. Allen to Mr. Morier.

Sir,

Boston, November 5, 1810.

I HAVE the honour to inclose you a return of the fisheries of the United States, exclusively of the whale fishery, which did not appear to be comprised in your instructions to me.

The four Eastern States, which are in my district, furnish exclusively the vessels and men employed in this business.

I beg leave to refer you, Sir, to Mr. Merry's Circular of the 1st July, 1806, and to my answer of the 14th August, 1806, upon this subject.

I have, &c.
(Signed) ANDREW ALLEN, Jun.

Inclosure 2 in No. 3.

RETURN of the Fisheries of the United States, exclusive of Whale Fishery, estimated upon the Average of the last Seven Years.

Tonnage of the Four Eastern States.		American-caught Fish Imported.	British-caught Fish Imported.	Fish Exported.	Fish Consumed.	Value of Exports, American Caught.	Whither Exported.
Above 20 Tons.	Under 20 Tons.						
38,849	8,986	692,873 quintals dried fish 102,806 bbls. pickled	63,933 quintals dried fish 16,715 bbls. pickled	537,457 quintals dried fish 74,770 bbls. pickled	219,349 quintals dried fish 37,889 bbls. pickled	Dollars. 2,150,000 366,000 2,516,000	France, Spain, Portugal, Mediterranean, West Indies, South America, Coast of Africa.

REMARKS.

It is not possible to ascertain the quantities shipped to any given ports; but at least three-fifths of the whole go to the West Indies and the Spanish Main. All the British-caught dried fish is sent to Europe.

It is to be presumed that the fish imported in British vessels above 20 tons is caught in the British-American seas. The remainder (bearing a proportion to the whole of 8,986 to 47,835) is caught on the coasts of the United States.

The number of seamen employed cannot be ascertained. About one man to 15 tons is the general proportion.

November 5, 1810.

Inclosure 3 in No. 3.

Mr. Allen, Jun., to Mr. Bonar.

Sir,

Boston, November 21, 1810.

I HAVE the honour to inclose a return of all vessels cleared for the British East Indies since February 1803, specifying the time of clearance, the number of vessels, and the ports of departure and destination. I have comprehended in this return the departures from the whole United States, because it is probable you can have obtained from no other source, information so accurate.

It is to be observed that permission to clear for British ports was not given by the American Government until May 1809, and that Mr. Madison's Proclamation prohibiting intercourse with Great Britain and her dependencies, appeared in August, and continued in force till May 1810. The list, therefore, comprises about a year, and is in tolerable proportion with former years of uninterrupted commerce. Some of the vessels cleared for the Cape of Good Hope were, probably, slave-ships; but this, among many other circumstances, it is not possible to ascertain. There are some few others cleared for other ports which may be destined for British India.

The number of vessels sailed this year for India has been rather less than at former periods, but not in consequence of any diminution of the trade, but from the

adoption of a larger class of vessels calculated to carry much larger cargoes. The specie shipped to Calcutta since the repeal of the Non-Intercourse Act, amounts to something over 3,500,000 dollars. About 500,000 more will be shipped before the ensuing month of May, being the greatest exportation yet known to that place.

Besides specie, there is nothing now imported into India in American bottoms which merits notice. A little wine, which is principally re-exported, is almost the only article.

I have not yet been able to complete a return of the imports from British India. They consist chiefly of piece goods and sugar, and an estimated advance of 80 per cent. on the specie shipped, will amount to the value of the proceeds in these ports.

I have, &c.

(Signed) ANDREW ALLEN, Jun.

Inclosure 4 in No. 3.

RETURN of of Vessels Cleared for the British East Indies since February 1809.

Date of Clearance.	Names of Vessels.	Port of Destination.	Port of Departure.	Remarks.
1809				
March 25	Speculator ..	Cape of Good Hope ..	Norfolk. . . .	Probably a slave-ship.
28	Gulliver ..	Calcutta ..	Boston.	
April 22	Aulprimere ..	Cape of Good Hope ..	New York ..	Slave-ship.
24	Liberty ..	Ditto ..	Charleston ..	Ditto.
May 6	Fox ..	Calcutta ..	New York.	
13	Heart of Oak ..	Madras ..	Baltimore.	
13	Dolly ..	Ditto ..	Ditto.	
16	Galloway ..	Bombay ..	New York.	
16	Jane ..	Ditto ..	Philadelphia.	
16	Mary and Eliza ..	Calcutta ..	Salem.	
24	Atlas ..	Ditto ..	Philadelphia.	
24	Gleaner ..	Ditto ..	Ditto.	
29	China Packet ..	Ditto ..	Ditto.	
29	Superior ..	Cape of Good Hope ..	Ditto.	
29	Hannah ..	Calcutta ..	Boston.	
30	Catharine ..	Ditto ..	Ditto.	
30	Gipsy ..	Ditto ..	Ditto.	
30	Amenca ..	Ditto ..	Ditto.	
June 19	London Packet ..	Ditto ..	Baltimore.	
19	St. Cuthbert ..	Ditto ..	New York.	
22	Magdalen ..	Ditto ..	Ditto.	
July 8	Mary ..	Ditto ..	Salem.	
8	Reaper ..	Ditto ..	Boston.	
27	Euphrates ..	Ditto ..	New York.	
31	Mercury ..	Ditto ..	Philadelphia.	
Aug. 7	Richmond Packet ..	Cape of Good Hope ..	New York ..	Slave-ship.
19	Dolphin ..	Calcutta ..	Providence.	
21	Claussa ..	Ditto ..	Boston.	
1810				
May 7	Gipsy ..	Ditto ..	Ditto.	
10	Dorothea ..	Ditto ..	Philadelphia.	
10	Hermes ..	Bombay ..	Ditto.	
10	Superior ..	Calcutta ..	Ditto.	
22	Fair American ..	Ditto ..	Baltimore.	
23	Coromandel ..	Ditto ..	Philadelphia.	
24	Galloway ..	Bombay ..	New York.	
31	Gold Corner ..	Madras ..	Ditto.	
June 13	Caravan ..	Calcutta ..	Boston.	
13	Minerva ..	Cape of Good Hope ..	Ditto.	
July 2	Ann Williams ..	Calcutta ..	New York.	
10	Charon ..	Madras ..	Boston.	
24	Pilgrim ..	Teneriffe and Bombay	Salem.	
24	Catharine ..	Calcutta ..	Boston.	
Aug. 15	Atlas ..	Ditto ..	Philadelphia.	
	Monticello ..	Cape of Good Hope ..	New York.	
Oct. 10	Neptune ..	Calcutta ..	Philadelphia.	
	Truton ..	Ditto ..	New York.	
Oct. to 30	Francis ..	Ditto ..	Salem.	
	Union ..	Ditto ..	Ditto.	
	Leader ..	Ditto ..	Newport.	
Nov. 17	Vancouver ..	Madras ..	Boston.	

On an average of 300 tons each, 15,000 tons.

Inclosure 5 in No. 3.

Mr. Gilpin to Mr. Morier.

Sir,

Newport, November 9, 1810.

I BEG your pardon for not answering yours of the 19th September sooner, but the truth is, I did not, till within this day or two, procure the information I wanted from Connecticut.

Respecting the trade to the British Possessions in India, I know of no vessel at present employed in this district, and I believe there is not any.

With regard to the fisheries, there are but very few in this State—Rhode Island—not exceeding a tonnage of 300 tons, in 10 or 12 small vessels, employing about 60 men; and in Connecticut the average tonnage is about 1,000, in perhaps 25 vessels, of about 40 tons each, with 9 or 10 men.

The dried fish is chiefly re-exported to the West Indies, but some is used in home consumption; but the American trade has been so much deranged by the late Embargo Acts, &c., that no accurate judgment can be formed from its present state of what both the East India trade and the fisheries would amount to should it return into its regular channel.

I beg leave also to observe that no correct opinion can be formed from the Custom-house Return of licensed fishing-vessels, as many in this district have a license which, I know, are not employed on British ground. And I farther wish to remark that, since this Government has withdrawn the bounty to fishing-vessels, it has not been so profitable an employment, and, of course, not pursued with so much avidity; and I have reason to believe there is in Connecticut a considerable quantity of dried fish, the produce of last season, still on hand.

I have, &c.
(Signed) J. B. GILPIN.

No. 4.

Memorial.

To the Right Honourable the Earl of Liverpool, His Majesty's Prime Minister, &c.

The Memorial of the Committee of Merchants trading from London and the different ports of the Kingdom with the Island of Newfoundland and its Dependencies.

Humbly sheweth:—

THAT your Lordship's Memorialists, in consequence of a prevalent idea that a negotiation for peace is now pending, beg leave to submit to your Lordship their views of the vast importance of the fisheries carried on at Newfoundland, the islands adjacent, along the coast of Labrador, and in the Gulf of St. Lawrence; fisheries which have very considerably increased since the exclusion, by war, of other nations from a participation therein, and which it is fair to believe are only now in a state of comparative infancy if such exclusion be continued.

In the first instance, your Memorialists beg to point out the immense extent of the American fisheries when the existing dispute with the United States commenced; a trade, as Lord Sheffield very justly observes, which has been computed at one-third, or near one-half of the amount of value of the remittances from the New England States, and which they will continue to enjoy in proportion to the neglect or encouragement of our own fisheries. To this part of their commerce the Government of the United States has given the greatest encouragement by bounties on the tonnage of vessels employed therein, and by a heavy duty on all fish, not of their own catch, imported even for exportation. That in the year 1811, the Americans employed about 1,500 sail of vessels from 50 to 100 tons burthen each, in the Gulf of St. Lawrence and along the coast of Labrador only, navigated on an average with ten men; a nursery in that part of their fisheries alone equal to an increase of 3,000 new seamen annually; the whole number of men so employed being estimated at the least at 15,000. That the quantity of fish exported from the American States exceeded the British export during the preceding years of 1810 and 1811 full one-third each year, the American

export being above 900,000 quintals, the principal part of which was transhipped for the European markets and West India Islands on board of vessels of a much larger class than those employed in the catch thereof, thereby adding to the number of seamen employed in that trade. That the fishery of America—fostered and encouraged as it has been by the Government—has increased since the Commercial Treaty with that country, from an export of about 300,000 quintals to nearly 1,000,000, with fish, oil, and other the produce of the sea, in proportion. In fine, your Memorialists are firmly convinced that the fishery of the Americans carried on along the coasts and shores of the British Dominions, in the Gulf of St. Lawrence and at Labrador, is of more importance to the United States than any other trade or fishery they possess, or even than the annexation to America of Canada would prove to them: a fishery which, if renewed and carried on as it was before the existing hostilities commenced, must and will gradually destroy the British fisheries, now in a state of rapid and certain improvement. That, in addition to the advantages above stated to be enjoyed by the Americans, your Lordship's Memorialists beg to represent the serious injury this country sustained by the facility afforded to the emigration of persons employed in the British fisheries, and of which the Americans too successfully availed themselves whenever they had an opportunity, and also by their interference contrary to the express terms of the Commercial Treaty with the planters, settled and carrying on the fishery along the coasts hereinbefore mentioned.

Your Memorialists, in the next place, beg to solicit your Lordship's attention to the fisheries carried on by the French. This Government has ever been impressed with the same feeling as to the importance and value of this portion of their trade; and, as well under the old régime as during the short peace concluded at Amiens, have given such bounties per quintal, and afforded such other advantages, as to enable their subjects engaged therein to undersell the British fisherman at all those places wherever they came in competition. That the value of that part of the Island of Newfoundland ceded to the French by the Treaty of Utrecht, and confirmed by subsequent Treaties with little variation, is nearly equal to that occupied by the British; indeed, fish has been lately found in much greater abundance along what is termed the French Shore than on any other part of the coast of Newfoundland; and notwithstanding the present war in its effect, has tended to annihilate nearly the fishery on the banks of Newfoundland, the general British fishery has largely increased by the formation of establishments along the French Shore, where, for these two years last past, a larger quantity of fish has been taken than ever was caught on the banks within a similar period of time. That the catch by the French was generally estimated, at the least, at 300,000 quintals, but from the exertions making in France subsequent to the Peace of Amiens, it clearly appeared that the French fisheries would soon be superior to those carried on by His Majesty's subjects.

Your Memorialists having thus submitted to your Lordship's consideration the foregoing observations relative to the French and American Fisheries, are naturally led to a statement of their own, which (in consequence of the war, the country has been, and still continues engaged in with France and the United States of America) have increased equal to the most sanguine expectations which had been formed; the export of dried cod fish alone for the year ending the 5th day of November last, amounted to 946,102 quintals, exceeding the shipment of the preceding year, by nearly 300,000 quintals, or one-third of the catch of the whole fishery with a proportionate increase in cod oil, seal skins, sea oil, salmon, &c., amounting in value to above 1,500,000*l.* sterling, employing in its transport to the different markets at least 75,000 tons of British shipping and 5,000 seamen, independent of the persons actually employed in catching and curing the fish, and returning to England upwards of 2,000,000*l.* sterling, contributing thereby very considerably to promote the balance of trade in favour of this country.

Your Memorialists have stated to your Lordship that the catch of fish by the Americans amounted to 900,000 quintals, of the French to 300,000 quintals, and the fishery of His Majesty's subjects to 600,000 quintals, making a total of 1,800,000 quintals, exclusive of oil and other produce, for the whole of which, it is evident, there are foreign markets open to the British merchant; they feel themselves therefore fully justified in representing to your Lordship that, if the French are excluded from Newfoundland, and the French and Americans from catching fish on the shores of that island, the islands adjacent from the Gulf of St. Lawrence, and thence northward from the Coast of Labrador, the Newfoundland trade must continue rapidly to increase, as that portion of the fishery, which has hitherto been carried on by foreigners, will become the exclusive privilege of British subjects, and consequently the advantages which this country at present derives from the above trade will be doubled, without

the aid of any bounty, requiring only a sufficient number of ships of war on the station to prevent the French or Americans from disturbing in any way the person employed in carrying it on. The quantity of British shipping, which at present amounts to 75,000 tons would be increased to 200,000 tons, and augment at the same time the valuable nursery this fishery has always proved for British seamen; and the consumption of British manufactures, of Irish provisions, and the produce from the West India Islands would be increased in an equal proportion.

Your Memorialists therefore most earnestly entreat your Lordship's attention to this statement, and in the event of any negotiation for peace, they hope that the fishery carried on along the coast of Newfoundland, on the shores of the adjacent islands, in the Gulf of St. Lawrence, and at Labrador, may be exclusively secured to British subjects, as the only means of securing to them a continuation of those fisheries, an increased vent for British manufactures, a valuable nursery for seamen, and prove the only means of putting an end to those disagreements which have constantly occurred by the unjust interference of those persons employed in the French and American fisheries.

And your Memorialists as in duty bound will ever pray, &c.

(Signed)

HENRY HUNT.
B. L. LESTER.
CHRISTR. SPURRIER.
MOKE HART.
THO. H. HUNT.
J. HILL.
THOS. E. DAWSON
JNO. PRESTON.
JOHN HATT NOBLE.

London, January 11, 1814.

No. 5.

Mr. Goulburn to Mr. Hamilton.—(Received March 25.)

Sir,

Downing Street, March 25, 1814.

I AM directed by Lord Bathurst to transmit to you, for the information of Viscount Castlereagh, the extract of a despatch from Admiral Sir Richard G. Keats, dated Torbay, 18th December, 1813, together with a memorial of the merchants and principal inhabitants of St. John's, dated 8th November, 1813, stating the importance of Newfoundland, and the advantages of not admitting other nations at a peace to a participation in the fishery.

I am, &c.

(Signed)

HENRY GOULBURN.

Inclosure 1 in No. 5.

Sir R. Keats to Earl Bathurst.

(Extract.)

December 18, 1813.

I HAVE the honour, at the request of the merchants and principal resident inhabitants interested in the trade of Newfoundland, to transmit your Lordship a memorial which I have received from them, calculated to call attention to the growing importance of the fisheries of Newfoundland, to afford some useful information on that interesting subject and praying, if circumstances should permit at the return of peace, that our present enemies may not be allowed to participate in that valuable fishery. The important advantages which would result to Great Britain and Newfoundland by excluding foreign Powers from any participation in the valuable fisheries of that island are too well known to your Lordship and His Majesty's Government to make it necessary for me to enter at all upon. I will delay your Lordship only to remark, that the quantity of fish taken this season exceeds that of any former year. That the number of vessels sent from Nova Scotia (of which no notice is taken in my returns) to take fish in the Straits of Belle-Isle, where fleets were employed by the Americans, have doubled that of the last year, and will probably next year greatly exceed that of the present. That from the spirit and reason with which preparations are already

making to pursue the fisheries (chiefly arising out of the American war), it is expected they will be very much increased next season. Connected with this subject Government will have the satisfaction of seeing by the Custom-house Returns, that the imports (provisions apart) from Great Britain have increased since the American war seemingly in a greater proportion than can be accounted for by any increase of the population, and that the *Gd.* per gallon duty on rum, has of itself this year produced upward of 10,000*l.* The re-admission of America to the privileges she enjoyed by former Treaties in the Gulf of St. Lawrence, on the coast of Labrador and Newfoundland, would infallibly be felt severely by the merchant, the planter and in the revenues, whilst the worst effects would be produced by communication with a people so inveterately hostile and depraved, and the most serious losses to our country would ensue by the valuable seamen and fishermen they would deprive us of.

Inclosure 2 in No. 5.

Memorial.

To Sir Richard Goodwin Keats, K.B., Governor and Commander-in-chief in and over the Island of Newfoundland, &c.

The Memorial of the Merchants and Principal Resident Inhabitants interested in the Trade and Fisheries of Newfoundland, assembled at the Merchants' Hall, in Saint John's, the 27th of October, 1813.

Humbly sheweth,

THE Merchants, Planters, and all other classes of His Majesty's subjects in this island have at all times manifested their loyalty to their King, and have never failed to express their indignation at the treacherous conduct of the enemies of their country. And conceiving that our existence as a great and independent nation must chiefly depend upon our preserving the sovereignty of the seas, the policy of excluding France and America from the advantages those nations have heretofore enjoyed in times of peace in this fishery must be evident to every man of observation engaged in this branch of commerce.

By former Treaties with France and the United States of America those Powers were allowed certain privileges on these shores, banks, coast of Labrador, and in the Gulf of Saint Lawrence, in the opinion of your Excellency's Memorialists highly impolitic, and which the wisdom of the British Government would never concede except under very peculiar circumstances.

By this concession to France and America a great national benefit was lost, and a door opened to illicit commerce to the injury of the revenue, as well as to His Majesty's subjects engaged in the trade of Newfoundland and the British American colonies. A facility was thereby afforded of introducing into Newfoundland and those colonies teas and other articles of contraband, and temptations held out to our fishermen to emigrate to the United States, and the superior numbers of their citizens who annually resorted to the shores of Labrador enabled them to control and overawe our people on that coast, except indeed when a ship of war happened to be within the reach of complaint. 1,500 American vessels have been known to be prosecuting the fishery at one time on the Labrador coast, bringing with them coffee, teas, spirits, and other articles of contraband. In their passage thither from their own country they generally stop in the Gut of Canso, where the narrowness of the navigation affords great facility to smuggling.

The intercourse of our fishermen with these secret enemies of Britain has an effect not less fatal to their moral character than to our fishery. The small planters and catchers of fish, which make the great body of the people on the coast of Labrador, under the influence of notions imbibed by their daily intercourse with men whose interests are at war with ours, become dissatisfied with their supplying merchants, who are unable to meet their foreign competitors on equal ground. The next step, as experience shows, is the neglect of the only means in their power to discharge their debts, disobedience and insubordination follow, and finally their minds become alienated from their own Government, and they emigrate to another to the great loss of their country.

In times of peace, besides, the citizens of the United States resort in great numbers to the banks, where they anchor in violation of express stipulations, to the

great annoyance of this valuable branch of the Newfoundland trade; nor is it possible that the strictest vigilance is often able to detect them in the breach of such stipulations.

The evils growing out of impolitic concessions to insidious friends are more extensive than your Excellency's Memorialists have yet stated; they accompany our commerce into the markets of Europe and the West Indies.

In the United States, men, provisions, and every other article of outfit, are procured upon much better terms than the nature of things will admit of with the British. These combined advantages enable them to undersell the British merchant in the foreign market, hence heavy losses have often by him been sustained, and must always be sustained under similar circumstances.

In proof of the great national advantages heretofore reaped by America from this fishery, your Excellency's Memorialists need only quote the language of Massachusetts in June last, in a remonstrance to their Government, "Keep your land, but give us a fishery."

The French, in time of tranquillity prosecuting the fishery at St. Pierre's and Miguelon, it is well known carried on an extensive illicit commerce with the British residing on the coast contiguous to those islands, although they pretended that such intercourse was contrary to a known law of their own country. Similar illicit traffic was at the same time carried on by the subjects of that nation with the English on the coast ceded to the former on the north part of this island. The entire range between Cape John northward to Cape Rea was yielded to France, and the British were prohibited by the French from ever fishing between those two Capes. Your Memorialists have learnt from good authority that France actually employed upon this north shore (with St. Pierre's and Miguelon) 20,000 men! Excellent harbours, hardly five miles asunder, skirt the coast from Cape John to the Straits of Belle Isle, affording security to ships and vessels in the worst weather, and the great resort of the cod fish to the very mouths of these harbours, beyond what is generally known upon the other shores of Newfoundland, evince the high advantages of the north shore fishery formerly possessed by France.

The fishery now prosecuted with vigour by the British upon the shores heretofore enjoyed by the French, is become very extensive, and employs a large proportion of our fishermen. The produce of their industry is brought hither, and carried to other parts of export coastways, in vessels owned by the employers and suppliers of the planters and fishermen. Dwelling-houses, substantial stages, and stores would soon rise up in that quarter of the island were it certain that the builders would at the return of peace be allowed to retain their property. That valuable parts of Newfoundland, fertile in everything for promoting a fishery, would in such an event form a populous district of great value to the mother country, not only as a fishery, but as it would cultivate a coasting navigation, at all times an important object with Government.

And, believing firmly, as your Excellency's Memorialists have reason to believe, and have already stated, that our existence as a great and independent nation, depends upon our dominion on the ocean, the wise policy of shutting out those nations now leagued in law against us from a future participation in so important a branch of our commerce can hardly be made a question.

The increased advantages, since the commencement of hostilities with America, derived to both our import and export trade, having now no competitors in the foreign markets, and what is of the last and highest importance, the increase of our means to make mariners, while those of our enemies must in the same proportion be crippled, show the wisdom of preserving the "vantage ground" we now stand upon. And your Excellency's Memorialists feel the more urgent in their present representation, as the prospects which happily have recently opened in Europe, may afford a well-grounded hope that the time is not very remote when negotiations may be opened for the return of permanent peace.

From the protection afforded to the trade of this island by your Excellency, as well as by his Excellency Sir John B. Warren, a great number of fishing vessels having gone to Labrador from Nova Scotia, the number of men employed on the Labrador shores this season has been double, and the absence of their former intruders has enabled them to fish unmolested. Your Excellency's Memorialists beg to press upon your serious consideration, which they cannot too often urge, the important policy, should fortunately the circumstances of Europe ultimately encourage such a hope, of wholly excluding foreigners from sharing again in the advantages of a fishery from which a large proportion of our best national defence will be derived.

From the proofs your Excellency has manifested, during your Excellency's short residence in Newfoundland, of solicitude for the prosperity of this trade, and from your Excellency's high character in a profession, the salvation and admiration of oppressed nations, and upon which alone we can rely for a continuance of that prosperity, your Excellency's Memorialists confidently hope that your Excellency will, on your return to England, lay this their humble representation before His Majesty's Government, and give it that support which the high importance of the case demands.

(Signed) J. MACBRAIN, *Chairman.*

St. John's Newfoundland, November 8, 1813.

No. 6.

Viscount Castlereagh to Admiral Lord Gambier, Mr. Craiburn, and Dr. Adams.

(No. 1.)

(Extract.)

Foreign Office, July 28, 1814.

THE Government of the United States of America having appointed Commissioners to treat directly for peace with Great Britain, the Prince Regent has thought fit to appoint Commissioners on the part of His Britannic Majesty for the like purpose; and I have the satisfaction to acquaint you that His Royal Highness has been pleased to intrust to you the service in question. It has been agreed that those discussions shall take place at Ghent, to which town you will repair with the least practicable delay. I inclose the necessary full powers, and am commanded by the Prince Regent to convey to you the following instruction for the directions of your conduct.

The inclosed Treaties will put you in possession of the relations, so far as they have been reduced into positive stipulations, which have subsisted between the two States since the independence of America was recognized by this country. You will observe that those instruments have ceased to be binding in consequence of the war.

* * * * *

But the point upon which you must be quite explicit from the outset of the negotiation, is the construction of the Treaty of 1783, with relation to the fisheries. You will observe that the IIIrd Article of that Treaty consists of two distinct branches. The first, which relates to the open sea fishery, we consider of permanent obligation, being a recognition of the general right which all nations have to frequent and take fish in the high seas.

The latter branch is, on the contrary, considered as a mere conventional arrangement between the two States, and as such to have been annulled by the war. This part of the Treaty has been found to be productive of so much inconvenience as to determine His Majesty's Government not to renew the provisions of it in their present form; nor do they feel themselves called upon to concede to the Americans any accommodation within the British sovereignty, except upon the principle of a reasonable equivalent, in frontier or otherwise; it being quite clear that, by the law of nations, the subjects of a foreign State can have no right to fish within the maritime jurisdiction, still less to land on the coasts, belonging to His Britannic Majesty, without an express permission to that effect.

No. 7.

Protocol of Conference, August 8, 1814.

THE British and American Commissioners having met, their full powers were respectively produced, which were found satisfactory, and copies thereof exchanged.

The British Commissioners stated the following subjects as those upon which it appeared to them that the discussions between themselves and the American Commissioners would be likely to turn.

1. The forcible seizures of mariners from on board merchant-vessels on the high seas and in connection with it the right of the King of Great Britain to the allegiance of all his native subjects.

2. That the peace be extended to the Indian allies of Great Britain, and that the boundary of their territory be definitively marked out as a permanent barrier between the dominions of Great Britain and the United States. An arrangement on this head to be a *sine-qua non* of a Treaty of Peace.

3. A revision of the boundary line between the British and American territories with the view to prevent future uncertainty and dispute.

The British Commissioners requested information whether the American Commissioners were entrusted to enter into negotiations on the above points, but before they desired any answer they felt it right to communicate the intentions of their Government as to the North American fisheries, viz., that the British Government did not intend to grant to the United States gratuitously the privileges formerly granted by Treaty to them of fishing within the limits of the British Sovereignty, and of using the shores of the British territories for purposes connected with the fisheries.

The meeting was adjourned to Tuesday the 9th August, on which day the Commissioners met again.

The American Commissioners at this meeting stated that upon the first and third points proposed by the British Commissioners they were provided with instructions from their Government, and that the second and fourth of these points were not provided for in their instructions. That, in relation to an Indian pacification, they knew that the Government of the United States had appointed Commissioners to treat of peace with the Indians, and that it was not improbable that peace had been made with them.

The American Commissioners presented as further subjects considered by the Government of the United States as suitable for discussion—

1. A definition of blockade, and, as far as may be agreed of, other neutral and belligerent rights.

2. Certain claims of indemnity to individuals for captures and seizures preceding and subsequent to the war.

3. They further stated that there were various other points to which their instructions extended which might with propriety be objects of discussion either in the negotiation of the peace or in that of a Treaty of Commerce which, in the case of a propitious termination of the present Conferences, they were likewise authorized to conclude. That for the purpose of facilitating the first and most essential object of peace, they had discarded every subject which was not considered as peculiarly connected with that, and presented only those points which appeared to be immediately relevant to this negotiation.

The American Commissioners expressed their wish to receive from the British Commissioners a statement of the views and objects of Great Britain upon all the points, and their willingness to discuss them all.

They (the American Commissioners) were asked whether if those of Great Britain should enter further upon this discussion, particularly respecting the Indian boundary, the American Commissioners would expect that it would terminate by some provisional arrangement which they could conclude subject to the ratification of their Government.

They answered that, as any arrangement to which they could agree upon the subject, must be without specific authority from their Government, it was not possible for them, previous to discussion, to decide whether an Article on the subject could be formed which would be mutually satisfactory, and to which they should think themselves under their discretionary powers authorized in according.

The meeting was adjourned to Wednesday, the 10th of August.

No. 8.

Lord Gambier and Messrs. Goulburn and Adams to Viscount Castlereagh.—
(Received August 12.)

(No. 1.)

My Lord,

Ghent, August 9, 1814.

WE have the honour to acquaint your Lordship that we arrived in this city on the 6th instant. We lost no time in communicating our arrival to the American Commissioners, and in proposing a Conference, with a view to that preliminary information which we were directed by our instructions to obtain.

The first Conference took place yesterday, when the full powers on each side were produced, and the copies of them respectively exchanged. The copy received from the American Commissioners we beg leave to inclose. The Conference was opened by us with an expression of the anxiety of His Majesty's Government, by arrangements of a permanent kind, to restore the relations of peace between the two nations upon terms advantageous and honourable to both—an anxiety unabated by any events which had

recently happened in Europe. We stated our own desire to give effect to the wishes of our Government by conducting the negotiation in the most frank and conciliatory manner. After some few observations of this nature we proceeded to state the points upon which we considered it probable that our future discussions might turn, viz. :—

1. The forcible seizure of mariners from on board merchant-ships on the high seas; and, as in necessary connection with it, the allegiance due to the King of Great Britain from all his native subjects.

In submitting this as the first topic, we stated that we had no intention of offering any specific proposition on the subject. We did it because the subject had been put forward by the American Government in such a manner as led us to suppose that they would make it a principal topic of discussion.

2. The engagements of alliance which Great Britain had entered into with the Indian nations during the war rendered it incumbent upon her to provide for their permanent tranquillity and security by including them in any Treaty of Peace made between Great Britain and America; and their permanent peace and security could not be provided for unless the limits of their territories were strictly defined. We added that Great Britain considered a satisfactory arrangement on this head, as the *sine qua non* of any Treaty of Peace.

3. A revision of the boundary between His Majesty's territories in America and those of the United States—not upon any principle of conquest or acquisition, but upon that of mutual advantage and security.

In throwing out these as the topics of discussion which had suggested themselves to us, and in requesting to be informed whether the American Commissioners were instructed to enter upon them, we expressed our willingness to receive from them any other topics for discussion which they might consider material; and should they consider as immaterial any of the topics so thrown out by us, their statement to that effect might possibly tend to prevent fruitless discussions. We then communicated to them the intention of His Majesty's Government not to renew the privileges derived under the Treaty of 1783 with respect to the North American fisheries, not as necessarily forming a topic of discussion, but as a point upon which we in candour thought it proper to afford them information in this early stage of our proceedings.

The American Commissioners having requested time for consultation together as to the answer to be returned to our inquiries, the Conference was accordingly adjourned to this day. It began by a distinct communication from them that upon two of the points suggested by us as topics for discussion, viz., the 1st and 3rd, they were prepared with ample instructions from their Government; but that with respect to the 2nd, viz., a defined boundary to the Indian territories, they had no instructions whatever; that they were equally uninstructed on the subject of the fisheries; and that there were other points not specified by us which the Government of the United States considered it material to discuss, and upon which they had received authority and instructions to conclude an arrangement.

These points were :—

1. The law of blockade, and some definition of blockade; and also the general subject of belligerent and neutral rights.

2. The claims which the United States had against Great Britain, on the ground of captures made previous to the commencement of the war, and as to captures, or some particular captures, made during its continuance.

3. The regulation of the commerce of the two countries.

Upon this statement it appeared to us material to ascertain how far the American Commissioners, although not specially instructed as to the question of Indian boundary, felt themselves at liberty, under any general discretion, to conclude a provisional Article on this important point: our inquiries were therefore directed to this object. The American Commissioners expressed a willingness to enter into the discussion of this topic, and a particular anxiety to ascertain the full extent of the views with which the British Government had made it a *sine qua non* of a Treaty. Nothing fell from them which induced us to believe that they considered it practicable to conclude any provisional arrangement which would be satisfactory to their Government. One of them, Mr. Clay, stated his opinion that none could be framed. It appeared to us; and we so stated it to the American Commissioners, that a proposal to discuss without a prospect of some arrangement, at least of a provisional kind, would be fruitless. They appeared to wish to go into the discussion, on the ground that they should be able to show that the objects of the British Government might be attained without making this point the *sine qua non* of a Treaty. We gave no particular encouragement to the notion of the utility of the discussions in this point of view. Under these circum-

stances it would be satisfactory to us to be furnished with instructions of the most specific kind how far His Majesty's Government would be disposed to accept of a provisional Article as to an Indian boundary, subject to the very dubious contingency of its ratification by the President of the United States. And also whether His Majesty's Government would wish the negotiations to proceed upon any and what points in the event of no provisional Article of this kind being agreed to; which latter contingency, unless specific instructions are received from the United States, appears to us by no means unlikely to happen.

On the subject of the fisheries, the American Commissioners stated nothing of the nature of a claim to take fish within the limits of British sovereignty, or to use any British territory for purposes connected with the fisheries.

As to regulations for commerce, we informed them that we had no instructions on this head; but we did not mean to preclude them from proposing regulations of that kind, which we would transmit to our Government for future consideration.

The Conference closed with mutual acknowledgments that the discussions had been opened with frankness and candour. The American Commissioners particularly requested that their sense of the conciliatory manner in which the Conferences had been hitherto conducted should be made known by us to His Majesty's Government.

We have, &c.
(Signed) GAMBIER.
HENRY GOULBURN.
WILLIAM ADAMS.

Inclosure 1 in No. 8.

Full Power for Mr. Gallatin to Negotiate and Conclude a Treaty of Peace with Great Britain jointly and severally with the other Commissioners.

James Madison, President of the United States of America, to all whom these presents shall concern, greeting:

REPOSING especial trust and confidence in the integrity, prudence, and ability of Albert Gallatin, late Secretary of the Treasury of the United States, I have nominated, and by and with the advice and consent of the Senate, appointed him jointly and severally with John Quincy Adams, James A. Bayard, Henry Clay, and Jonathan Russell, Minister Plenipotentiary and Extraordinary of the United States, with authority to meet a Minister, or Ministers, having like authority from the Government of Great Britain, and with him, or them, to negotiate and conclude a settlement of the subsisting differences, and a lasting peace and friendship between the United States and that Power, transmitting the Treaty or Convention, so to be concluded, for the ratification of the President of the United States, by and with the advice and consent of the Senate of the United States.

In testimony whereof I have caused the seal of the United States to be hereunto affixed. Given under my hand at the city of Washington the 9th day of February, A.D. 1840, and of the independence of the United States the thirty-eighth.

(Signed) JAMES MADISON.
By the President,
(Signed) JAMES MONROE, *Secretary of State.*

Inclosure 2 in No. 8.

Full Power for Messrs. Adams, Bayard, Clay, and Russell to Negotiate and Conclude a Treaty of Peace with Great Britain.

James Madison, President of the United States of America, to all whom these presents concern, greeting

REPOSING especial trust and confidence in the integrity, prudence, and ability of John Quincy Adams, at present the Minister Plenipotentiary of the United States at the Court of His Imperial Majesty the Emperor of all the Russias, James A. Bayard, late a Senator of the United States; Henry Clay, Speaker of the House of Representatives of the United States; and Jonathan Russell, one of their distinguished citizens; I have

nominated, and by and with the advice and consent of the Senate, appointed them, jointly and severally, Ministers Plenipotentiary and Extraordinary of the United States, with authority to meet a Minister, or Ministers, having like authority from the Government of Great Britain, and with him, or them, to negotiate and conclude a settlement of the subsiding differences, and a lasting peace and friendship between the United States and that Power; transmitting the Treaty or Convention so to be concluded, for the ratification by the President of the United States, by and with the advice and consent of the Senate of the United States.

In testimony whereof I have caused the seal of the United States to be hereunto affixed. Given under my hand at the city of Washington the 18th day of January, A.D. 1814, and of the independence of the United States the thirty-eight.

(Signed) JAMES MADISON.

By the President,
(Signed) JAMES MONROE, *Secretary of State.*

No. 9.

Earl Bathurst to Admiral Lord Gambier, Mr. Goulburn, and Dr. Adams.

(No. 3.)
(Extract.)

Foreign Office, August 14, 1814.

YOUR despatch, with its inclosures of the 9th from Ghent, has been received and laid before the Prince Regent.

It appears from the communications you have had with the American Commissioners that, upon two out of the four points referred to in your instructions, namely, upon the second and fourth, the American Negotiators have received no instructions from their Government, and that they have on their part suggested three additional topics for discussion.

Upon the point of the fisheries it does not clearly appear whether, in the absence of instructions, they consider themselves authorized, supposing all other questions arranged, to sign a Treaty of Peace upon the distinct understanding that the right of fishing and drying within the British jurisdiction does not thereby as of right revive. Their mode of receiving your remarks on this head seems to countenance such an interpretation of their meaning, but you will feel the importance of not leaving this matter in doubt.

No. 10.

Mr. Lack to Mr. Hamilton.—(Received August 18.)

*Office of Committee of Privy Council for Trade,
Whitehall, August 18, 1814.*

Sir,

THE Lords of the Committee of Council for Trade and Foreign Plantations having had under consideration a Memorial of the Committee of Merchants interested in the trade, navigation, and fisheries of the Island of Newfoundland, the Gulf of St. Lawrence, and on the coast of Labrador, praying the entire exclusion of the Americans from fishing on or near the British coasts and shores of His Majesty's possessions in North America and Labrador, as being absolutely necessary for preserving the trade and fisheries thereof to this country, I am directed to transmit to you a copy of the said Memorial for the consideration of the Secretary of State, and I am at the same time to signify to you that it appears to the Lords of the Committee to be of vast importance that the representations of the Memorialists should be attended to in the approaching discussions with America, if not inconsistent with those views of general policy which may direct the conduct of that negotiation.

Their Lordships, however, cannot but observe that, whilst the exclusion of the Americans from the fishery in question is of much more importance than the exclusion of the French, it appears at the same time to be a point of more easy attainment. But if the Americans, as well as the French, should be admitted freely into the said fishery, the Lords of the Committee are apprehensive that the most serious consequences would ensue, involving possibly the ruin of a branch of trade, highly

important to this kingdom in its commercial relations, and intimately connected with its maritime strength.

I am, &c.
(Signed) THOMAS LACK.

Inclosure I in No. 10.

Memorial.

To the Right Honourable the Lords of His Majesty's Most Honourable Privy Council for Trade.

The Memorial of the Committee of Merchants interested in the Treaty, Navigation, and Fisheries of the Island of Newfoundland, the Gulf of St. Lawrence and on the Coast of Labrador.

Humbly sheweth,

THAT your Lordship's Petitioners presented to the Right Honourable the Earls of Liverpool and Bathurst early in the present year, a Memorial on the subject of the fisheries carried on at Newfoundland, on the coast of Labrador and in the Gulf of St. Lawrence, a copy of which they have the honour to annex, submitting to His Majesty's Ministers a statement in regard to those fisheries, and most earnestly entreating them in the event of any Treaties of Peace being made, to preserve to British subjects on their own coasts and shores the valuable exclusive fishery which they then enjoyed.

Anxious once more to draw the attention of His Majesty's Government to the fisheries in question, particularly since those carried on by the French are replaced on the advantageous footing of 1792, your Lordship's Memorialists humbly submit the following observations to show the injustice and impolicy of readmitting the citizens of the United States to any participation in the fisheries of Newfoundland, of the Gulf of St. Lawrence and along the Labrador shore.

Your Memorialists feel that the readmission of the French must materially affect the British fisheries, but if the Americans are permitted to regain the advantages they have heretofore enjoyed, your Memorialists have no hesitation in asserting to your Lordship that the British trade and fisheries of those places mentioned, must at no remote period be inevitably lost to this country.

The inhabitants of the United States possessed great advantages over the British. The IIIrd Article of the Treaty of Peace of 1763 gave them the right of fishing, not only on the Grand Bank, on all other banks of Newfoundland, and in the Gulf of St. Lawrence, but at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish, and even the liberty to take fish, on the coasts, bays, and creeks of His Britannic Majesty's Dominions in America including Newfoundland and the coast of Labrador, wherever British fishermen shall use, and to dry and cure fish in any of the unsettled bays, harbours and creeks of Labrador, Nova Scotia, and the Magdalen Islands. The advantages possessed by the French were enjoyed in the ten-fold degree by the Americans, for it may be safely affirmed that the outfit of their vessels and their whole equipment did not amount to one-half of the expense incurred in British shipping, more particularly in the article of provisions: they have not only open to them, equally with British subjects, the ports of Spain, Portugal, and Italy, but they have been even afforded markets for nearly 200,000 quintals of fish in the British Islands and Settlements in the West Indies; added to which they possess the still more important advantage, that of proximity to their fisheries, which, in 1791, Mr. Jefferson brought forward measures to render more extensively useful, and to which, in 1812, the State of Massachusetts, in their address to Congress ascribe the principal source of the wealth of the United States.

To enter somewhat more into detail of the American fisheries your Memorialists beg to state that, from the causes above-mentioned, they have increased with a rapidity beyond example.

That, in 1791, according to the official statement, the American export of dry and green fish amounted to about 390,000 quintals, and its value including oil to 1,656,480 dollars.

That, in 1803, the same official document gives the export at 490,000 quintals and the value to have exceeded 2,600,000 dollars.

That, in 1807, the export was stated to have reached 520,000, and the value above 3,400,000 dollars, and from the best information your Memorialists have been able to obtain of the state of the American fishery since that year, they believe they are fully warranted in stating that above 2,000 sail of schooners were of late sent into the Gulf of St. Lawrence, 1,400 of which caught and cured their fish on the coast of Labrador, employing above 15,000 seamen and fishermen therein, and returning to the United States about 6,000,000 of dollars.

That the increase of shipping in seven of the principal ports of the New England States would seem to confirm the above, the official documents stating the increase at above 100,000 tons in ten years, from 1794 to 1804, from 158,964 tons to 259,180 tons, and that it has continued to increase in an equal proportion, on a comparison with the whole of the shipping of the United States.

That the American Government has ever been particularly jealous of their own waters, from which British shipping were always excluded, and, as the present war has annulled the Treaty of Peace of 1783; that it will be neither just nor politic to grant to the subjects of the United States in any future Treaty a renewal of the right to catch or cure fish on or near the coasts of any of the possessions of His Britannic Majesty in North America; that they ought not on any account hereafter to be permitted to enter or pass through the Gulf of St. Lawrence, and be excluded altogether from the British Islands and Colonies in the West Indies.

Your Memorialists have no need to mention the vexatious conduct which has too often characterized the Americans in the Gulf of St. Lawrence and along the Labrador shore, as they believe such has already been ably exposed to your Lordships; but they beg to state that they must expect a continuance thereof, unless the Americans are entirely precluded from all interference in the fisheries bordering on the British possessions, and are confined to their own extensive and valuable shores.

When your Memorialists addressed themselves to Lord Liverpool in January last, submitting to his Lordship from the information they had been able to collect, their ideas of the value of the British fisheries, they had no opportunity of seeing the official statement of last year's trade; they now find they had considerably underrated the same, and beg to state their opinion that the actual value of the exports, exceeding 2,700,000*l.*, all taken from the sea, that the quantity of shipping employed amounted to nearly 80,000 tons, and the number of seamen and fishermen above 16,000, being an increase beyond all expectation, and arising entirely from the exclusion of the Americans from any participation therein.

That, in 1809, the number of British vessels was 438, amounting to tons; that the quantity of fish exported was 540,050 quintals, and about 2,400 tons of oil. That, in 1813, the number of ships had increased to 566, equal to 77,768 tons; the export of fish amounted to 863,097 quintals, and that the shipment of oil was above 5,900 tons, exclusive of nearly 80,000 quintals of fish, an adequate proportion of oil, and a requisite quantity of tonnage for the export thereof from the district of Fortune Bay and the coast of Labrador, from which no returns for last year appear to have been received, increasing the total export of fish to near 1,000,000 of quintals, and employing above 80,000 tons of shipping.

That, from the increased exertions made during the present season there is every reason to believe that the fishery will be very considerably extended, above 3,000 youngsters or freshmen having been sent from Waterford alone to Newfoundland, and a great increase from this country.

That your Memorialists have every right to expect this rapid improvement will continue, and that a favourable turn will also be given to the settlers in Nova Scotia and in Prince Edward Island, provided the Americans are confined in their fisheries to their own coasts and shores, while, on the contrary, if the subjects of the United States are permitted to resume their fishery, by virtue of any Treaty containing an Article as disgraceful as the IIIrd Article of the Treaty of 1783, your Memorialists have no hesitation in assuring your Lordships that the decrease of the British fisheries and the ruin of those persons engaged therein will be more rapid than has been the increase and the benefits this country has derived from them.

Your Memorialists therefore humbly pray your Lordships will be pleased to take their case into your early consideration, and they hope that your Lordships, sensible of the great advantages which are derived from the British fisheries, will strenuously recommend to His Majesty's Government the entire exclusion of the Americans from fishing on or near the British coasts and shores of His Majesty's possessions in North America

and Labrador, as being absolutely necessary for preserving the trade and fisheries thereof to this country.

And your Memorialists, as in duty bound, will ever pray, &c.

(Signed) HENRY HUNT, *Chairman.*

London, July 29, 1814.

Inclosure 2 in No. 10.

Memorial.

To the Right Honourable the Earl of Liverpool, His Majesty's Prime Minister, &c., &c., &c.

The Memorial of the Committee of Merchants trading from London and the different Ports of the Kingdom, with the Island of Newfoundland and its Dependencies.

Humbly sheweth,

THAT your Memorialists, in consequence of a prevalent idea that a negotiation for a peace is now pending, beg leave to submit to your Lordship their views of the vast importance of the fisheries carried on at Newfoundland and the islands adjacent, along the coast of Labrador, and in the Gulf of St. Lawrence, fisheries which have very considerably increased since the exclusion by war of other nations from a participation therein, and which it is fair to believe are only now in a state of comparative infancy, if such exclusion be continued.

In the first instance your Memorialists beg to point out the immense extent of the American fisheries when the existing dispute with the United States commenced, a trade, as Lord Sheffield very justly observes, which has been computed at one-third, or nearly one-half of the amount of value of the remittances from New England States, and which they will continue to enjoy in proportion to the neglect or encouragement of our own fisheries.

To this part of their commerce the Government of the United States has given the greatest encouragement by bounties on the tonnage of vessels employed therein, and by a heavy duty on all fish not of their own catch imported even for exportation.

That, in the year 1811, the Americans employed 1,500 sail of vessels from 50 to 100 tons burthen each in the Gulf of St. Lawrence and along the coast of Labrador only, navigated on an average with ten men, a nursery in that part of their fisheries alone equal to the increase of 3,000 new seamen annually, the whole number of men employed being estimated at the least at 15,000.

That the quantity of fish exported from the American States, exceeded the British export during the preceding years of 1810 and 1811 full one-third each year, the American export being above 900,000 quintals, the principal part of which was transhipped for the European markets and West India Islands, on board of vessels of a much larger class than those employed in the catch thereof, thereby adding to the number of seamen employed in that trade.

That the fishery of America, fostered and encouraged as it has been by the Government, has increased since the Commercial Treaty with that country, from an export of about 300,000 quintals to nearly 1,000,000, with fish oil and other produce of the sea in proportion. In fine, your Memorialists are firmly convinced that the fishery of the Americans carried on along the coast and shores of the British dominions in the Gulf of St. Lawrence and at Labrador, is of more importance to the United States than any other trade or fishery they possess, or even than the annexation to America of Canada would prove to them, a fishery which, if renewed and carried on as it was before the existing hostilities commenced, must and will gradually destroy the British fisheries, now in a state of rapid and certain improvement.

That, in addition to the advantages above stated to be enjoyed by the Americans, your Lordship's Memorialists beg to represent the serious injury this country sustained by the facility afforded to the emigration of persons employed in the British fisheries, and of which the Americans too successfully availed themselves whenever they had an opportunity, and also by their interference, contrary to the express terms of the Commercial Treaty, with the planters settled and carrying on the fishery along the coasts hereinbefore mentioned.

Your Memorialists, in the next place, beg to solicit your Lordship's attention to the fisheries carried on by the French. This Government has ever been impressed with the same ideas as to the importance and value of this part of their trade, and, as well under the old regime as during the short peace concluded at Amiens, have given such bounties per quintal, and afforded such other advantages as to enable their subjects engaged therein to undersell the British fishermen at all those places wherever they come in competition.

That the value of that part of the Island of Newfoundland, ceded to the French by the Treaty of Utrecht, and confirmed by subsequent Treaties with little variation, is nearly equal to that occupied by the British; indeed, fish has been lately found in much greater abundance along what is termed the French Shore than on any other part of the coast of Newfoundland, and, notwithstanding the present war, in its effect, has tended nearly to annihilate the fishery on the banks of Newfoundland; the general British fishery has largely increased, by the formation of establishments along the French Shore, where, for the two years last past, a larger quantity of fish has been taken than ever was caught on the banks within a similar period of time.

That the catch by the French was generally estimated, at the least, 300,000 quintals; but from the exertions making in France, subsequent to the Peace of Amiens, it clearly appeared that the French fisheries would soon be superior to those carried on by His Majesty's subjects.

Your Memorialists having thus submitted to your Lordship's consideration the foregoing observations relative to the French and American fisheries, are naturally led to a statement of their own, which, in consequence of the war, this country has been, and still continues, engaged in with France and the United States of America, have increased equal to the most sanguine expectations which had been formed. The export of dried cod fish alone, for the year ending the 5th day of November last, amounted to 916,102 quintals, exceeding the shipment of the preceding year by nearly 300,000 quintals, or one-third of the catch of the whole fishery, with a proportionate increase in cod oil, seal skins, seal oil, salmon, &c., amounting in value to about 1,500,000*l.* sterling, employing in its transport to different markets at least 75,000 tons of British shipping, and 5,000 seamen, independent of the persons actually employed in catching and curing the fish, and returning to England upwards of 2,000,000*l.* sterling, contributing thereby very considerably to promote the balance of trade in favour of this country.

Your Memorialists have stated to your Lordship that the catch of fish by the Americans amounted to 900,000 quintals; of the French to 300,000 quintals, and the fishery of His Majesty's subjects to 600,000 quintals, making a total of 1,800,000 quintals, exclusive of oil and other produce, for the whole of which it is evident there are foreign markets open to the British merchant; they feel themselves, therefore, fully justified in representing to your Lordship that, if the French are excluded from Newfoundland, and the French and Americans from catching fish on the shores of that island, the islands adjacent, and thence northward from the coast of Labrador, the Newfoundland trade must continue rapidly to increase, as that portion of the fishery which has hitherto been carried on by foreigners, will become the exclusive privilege of British subjects, and consequently the advantages which this country at present derives from the above trade will be doubled without the aid of any bounty, requiring only sufficient number of ships of war on the station to prevent the Americans or French from disturbing in any way the persons employed in carrying it on.

The quantity of British shipping, which at present amounts to 75,000 tons, would be increased to 200,000 tons, and augment at the same time the valuable nursery this fishery has always proved for British seamen; and the consumption of British manufactures, of Irish provisions, and the produce of the West India Islands would be increased in an equal proportion.

Your Memorialists, therefore, most earnestly intreat your Lordship's attention to this statement, and, in the event of any negotiations for peace, they hope that the fishery carried on along the the coasts of Newfoundland, on the shores of the adjacent islands, in the Gulf of St. Lawrence, and at Labrador, may be exclusively secured to British subjects as the only means of securing to them a continuation of those fisheries, an increased vent for British manufactures, a valuable nursery for seamen, and prove the only means of putting an end to those disagreements which have constantly occurred by the unjust interference of those persons employed in the French and American fisheries.

(Signed)

HENRY HUNT, *Chairman.*

London, January 11, 1814.

No. 11.

Earl Bathurst to Admiral Lord Gambier, Mr. Goulburn and Dr. Adams.

(No. 8.)
(Extract.)

Foreign Office, October 18, 1814.

SECONDLY, the Fisheries. You will state that Great Britain admits the right of the United States to fish on the high seas, without the maritime jurisdiction of the territorial possessions of Great Britain in North America. That the extent of the maritime jurisdiction of the two Contracting Parties must be reciprocal; that Great Britain is ready to enter into an arrangement on that point, and that until any arrangement shall be made to the contrary the usual maritime jurisdiction of one league shall be common to both the Contracting Parties. But they cannot agree to renew the privilege granted in the Treaty of 1783 of allowing the Americans to land and dry their fish on the unsettled shores belonging to His Britannic Majesty, such privilege having been annulled by the war, and it being the undoubted right of the British Government to refuse to renew it.

No. 12.

The British Plenipotentiaries to the American Plenipotentiaries.

THE Undersigned have had the honour of receiving the note of the American Plenipotentiaries of the 13th instant, communicating their acceptance of the Article which the Undersigned had proposed on the subject of the pacification and rights of the Indian nations.

The Undersigned are happy in being thus relieved from the necessity of recurring to several topics which, though they arose in the course of their discussions, have only an incidental connection with the differences remaining to be adjusted between the two countries.

With a view to this adjustment, the Undersigned, preferring in the present stage of the negotiation a general statement to the formal arrangement of Articles, are willing so far to comply with the request of the American Plenipotentiaries contained in their last note as to waive the advantage to which they think they were fairly entitled, of requiring from them the first projet of a Treaty.

The Undersigned having stated at the first Conference the points upon which His Majesty's Government considered the discussions between the two countries as likely to turn, cannot better satisfy the request of the American Plenipotentiaries than by referring them to that Conference for a statement of the points which, in the opinion of His Majesty's Government, yet remain to be adjusted.

With respect to the forcible seizure of mariners from on board merchant vessels on the high seas, and the right of the King of Great Britain to the allegiance of all his native subjects, and with respect to the maritime rights of the British Empire, the Undersigned conceive that, after the pretensions asserted by the Government of the United States, a more satisfactory proof of the conciliatory spirit of His Majesty's Government cannot be given than by not requiring any stipulation on those subjects, which, though most important in themselves, no longer, in consequence of the maritime pacification of Europe, produce the same practical results.

On the subject of the fisheries, the Undersigned expressed with so much frankness at the Conference already referred to the views of their Government, that they consider any further observations on that topic as unnecessary at the present time.

On the question of the boundary between the dominions of His Majesty and those of the United States, the Undersigned are led to expect from the discussion which this subject has already undergone, that the north-western boundary from the Lake of the Woods to the Mississippi (the intended arrangement of 1803) will be admitted without objection.

In regard to other boundaries, the American Plenipotentiaries, in their note of August 24, appeared in some measure to object to the propositions then made by the Undersigned, as not being on the basis of *uti possidetis*. The Undersigned are willing to treat on that basis subject to such modifications as mutual convenience may be found to require, and they trust that the American Plenipotentiaries will show by their ready acceptance of this basis that they duly appreciate the moderation of His Majesty's

Government in so far consulting the honour and fair pretensions of the United States as in the relative situation of the two countries to authorize such a proposition.

The Undersigned, &c.

(Signed)

GAMBIER.

HENRY GOULBURN.

WILLIAM ADAMS.

Ghent, October 21, 1814.

No. 13.

The American Plenipotentiaries to the British Plenipotentiaries.

THE Undersigned have the honour to acknowledge the receipt of the note of the British Plenipotentiaries of the 21st instant.

Amongst the general observations which the Undersigned, in their note of August 21, made on the propositions then brought forward on the part of the British Government, they remarked that those propositions were founded neither on the basis of *uti possidetis* nor on that of *status ante bellum*. But so far were they from suggesting the *uti possidetis* as the basis on which they were disposed to treat, that in the same note they expressly stated that they had been instructed to conclude a peace on the principle of both parties restoring whatever territory they might have taken. The Undersigned also declared in that note that they had no authority to cede any part of the territory of the United States, and that to no stipulation to that effect would they subscribe. And in their note of the 9th of September, after having shown that the basis of *uti possidetis*, such as it was known to exist at the commencement of this negotiation, gave no claim to His Britannic Majesty to cessions of territory founded upon the right of conquest, they added that, even if the chances of war should give to the British arms a momentary possession of other parts of the territory of the United States, such events would not alter their views with regard to the terms of peace to which they would give their consent.

The Undersigned can now only repeat those declarations, and decline treating upon the basis of *uti possidetis*, or upon any other principle involving a cession of any part of the territory of the United States. As they have uniformly stated, they can treat only upon the principle of a mutual restoration of whatever territory may have been taken by either party. From this principle they cannot recede, and the Undersigned, after the repeated declarations of the British Plenipotentiaries that Great Britain had no view to acquisition of territory in this negotiation, deem it necessary to add that the utility of its continuance depends on their adherence to this principle.

The Undersigned having declared, in their note of the 21th of August, that although instructed and prepared to enter into an amicable discussion of all the points on which differences or uncertainty had existed, and which might hereafter tend to interrupt the harmony of the two countries, they would not make the conclusion of the peace at all depend upon a successful result of the discussion, and having since agreed to the preliminary Article proposed by the British Government, had believed that the negotiations, already so long protracted, could not be brought to an early conclusion otherwise than by the communication of a projet embracing all the other specific propositions which Great Britain intended to offer. They repeat their request in that respect, and will have no objection to a simultaneous exchange of the projets of both parties. This course will bring fairly into discussion the other topics embraced in the last note of the British Plenipotentiaries, to which the Undersigned have thought it unnecessary to advert at the present time.

The Undersigned, &c.

(Signed)

JOHN QUINCY ADAMS.

J. A. BAYARD.

H. CLAY.

JONN. RUSSELL.

ALBERT GALLATIN.

Ghent, October 24, 1814.

No. 14.

The American Plenipotentiaries to the British Plenipotentiaries.

(Extract.)

Ghent, November 10, 1814.

THE British Plenipotentiaries stated in their last note that they had no other propositions to offer, nor other demands to make than those contained in their note of the 21st ultimo, which, with the reference to their former declaration respecting the fisheries, contains only two propositions, viz., that of fixing the boundary from the Lake of the Woods to the Mississippi, and that of adopting, with respect to the other boundaries, the basis of *uti possidetis*.

In answer to the declaration made by the British Plenipotentiaries respecting the fisheries, the Undersigned, referring to what passed in the Conference of the 9th August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the Treaty of 1783, by which they were recognized, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them.

No. 15.

*Lord Gambier and Messrs. Goulburn and Adams to Viscount Castlereagh.—**(Received December 4.)*

(No. 15.)

(Extract.)

Ghent, December 1, 1814.

THIS second objection was to that part of the VIIIth Article, which claims for the subjects of His Britannic Majesty the free navigation of the Mississippi, and thus access to that river. It was stated by the American Plenipotentiaries that they had always considered the Treaty of 1783 as differing from ordinary Treaties, in so far as it did not confer, but only recognized, the advantages enjoyed under it both by Great Britain and the United States, and therefore they did not conceive any stipulation to be necessary either to secure to the United States the full enjoyment of the fisheries, or to Great Britain the free navigation of the Mississippi as stipulated in that Treaty. If they were correct, they stated, in their construction of the Treaty (which, however, they knew to be at variance with that of Great Britain), the provision introduced into the VIIIth Article was altogether unnecessary. If, on the contrary, this judgment was incorrect, and the right of the United States to the fisheries, and that of Great Britain to the navigation of the Mississippi, had ceased in consequence of the war, they could not consent to give to Great Britain without an equivalent the advantage of that navigation. On this ground, therefore, they objected altogether to the part of the Article in question; but they stated that, if Great Britain was disposed to give to the United States the enjoyment of the fisheries as possessed by them under the former Treaty, that they were willing to accept it as an equivalent, or to discuss any other which Great Britain might be disposed to offer. Upon our stating that the true equivalent for the navigation of the Mississippi was to be found in the preceding part of the Article, which not only defined a boundary to the dominions of both nations in that quarter, but provided for a considerable accession of territory to the United States in a north-westerly direction, they at the same time that they declined to consider the definition of boundary to be an advantage, denied any accession of their territory to be the result of that Article. They, however, professed their readiness to omit that Article altogether. At the close of the discussion they delivered to us, as a Memorandum, the inclosed amendment to the VIIIth Article, founded upon the principle of their acceptance of the fisheries as an equivalent for yielding the navigation of the Mississippi, to which Memorandum, or to the substance of it they expressed themselves ready to subscribe. As the American Plenipotentiaries have through the whole course of the negotiation taken great pains to describe the Treaty of 1783, as in their view of the subject only recognizing, and not conferring, the privileges of using any territory within the British jurisdiction for purposes connected with the fisheries, we thought we saw an advantage in obtaining from them the offer to Great Britain of any equivalent for their enjoyment of this privilege, inasmuch as it afforded a proof that they considered it as purely of a conventional nature.

No. 16.

Memorandum of Amendment to Article VIII as proposed by the American Plenipotentiaries to be inserted after the words "Stony Mountains."

THE inhabitants of the United States shall continue to enjoy the liberty to take, dry, and cure fish in places within the exclusive jurisdiction of Great Britain, as secured by the former Treaty of Peace; and the navigation of the River Mississippi, within the exclusive jurisdiction of the United States, shall remain free and open to the subjects of Great Britain in the manner secured by said Treaty.

And it is further agreed the subjects of His Britannic Majesty shall at all times have access from such place as may be selected for that purpose in His Britannic Majesty's aforesaid territories, west, and within 300 miles of the Lake of the Woods, into the aforesaid territories of the United States to the River Mississippi, in order to enjoy the benefit of the navigation of that river, with their goods, effects, and merchandize; whose importation into the said States shall not be entirely prohibited, on the payment of the same duties as would be payable on the importation of the same into the Atlantic ports of the said States, and on conforming with the usual Custom-house regulations.

No. 17.

Earl Bathurst to Admiral Lord Gambier, Mr. Goulburn, and Dr. Adams.

(No. 15.)

(Extract.)

Foreign Office, December 6, 1814.

WITH respect to the proposition of considering the free access to, and free navigation of, the Mississippi as an equivalent to their liberty of taking, curing, and drying fish on our coasts, and the Memorandum of Amendment which the American Commissioners delivered in at the close of the Conference, you will remark to them that even if we were to admit that the privilege and liberty in question ought to be considered as equivalents, the manner in which they have, in that Memorandum, proposed to renew respectively the privilege and liberty heretofore enjoyed under the Treaty of 1783 confounds all principles of reciprocity.

For the American Commissioners propose a limited and restricted renewal of our former privilege in return for an unlimited and unrestricted renewal of their former liberty.

As the conditions on which the American Commissioners may be inclined to consent to a renewal of our former privilege, and the conditions on which we might be induced to renew the liberty the United States enjoyed, of taking, drying, and curing fish on our coast, may lead into long discussions, which would retard the conclusion of the negotiation, and as it is very desirable that not only the conclusion of the Treaty should not be delayed, but also that it should include in it an adjustment of all questions, likely otherwise to create misunderstandings, you will propose the two Articles contained in the Inclosure A.

By the first of these Articles the boundary is defined, as already proposed. By the second, the conditions on which we shall be ready to renew the liberty heretofore given to the United States of taking, curing, and drying fish, and the conditions on which the liberty heretofore enjoyed by us of a free access to, and free navigation of the River Mississippi shall be restored to us, are left for future negotiation.

After the declaration made by the American Commissioners that they were willing to receive the liberty of taking, curing, and drying fish on our coasts as an equivalent to some concession on their part, it cannot be expected that they will refuse this proposition.

If the American Commissioners decline these propositions, you will not consider yourselves as authorized to sign the Treaty with the omission of the amended project of the VIIIth Article altogether, and still less with the omission of the latter part of it.

Although the American Commissioners have in their conferences admitted in fact that the liberty which the United States heretofore enjoyed, of taking, drying, and curing fish on our coasts has ceased with the commencement of the war, by making the renewal of that liberty the subject of negotiation, yet it is very desirable that any point so calculated to produce altercation (unless previously understood by the two

Contracting Parties) should not be left in the state in which the signing of the Treaty with the omission of the VIIIth Article would still unavoidably leave it.

If, therefore, you shall not be able to bring this point to a satisfactory conclusion, either by acceding to this proposition or by otherwise making it clear by some written document, that they consider the stipulations of 1783, with respect to the liberty given them of taking, curing, and drying fish on our coasts as no longer in force, you will refer home for further instructions.

Inclosure in No. 17.

(A.)

Draft of two Articles to be substituted for the British Amended Projet of the VIIIth Article.

ARTICLE I.

IT is agreed that a line drawn due west from the Lake of the Woods along the 49th parallel of north latitude, shall be the line of demarcation between His Britannic Majesty's territories and those of the United States to the westward of the said lake, so far as the territories of the United States extend in that quarter, and the said line shall to that extent form the southern boundary of His Britannic Majesty's territories, and the northern boundary of the territories of the United States. It being always distinctly understood that nothing in the present Article shall be construed to extend to the north-west coast of America, or to territories belonging to, or claimed by either party on the continent of America westward of the Stony Mountains.

ARTICLE II.

To be substituted for the amended projet of the VIIIth Article.

His Britannic Majesty agrees to enter into negotiations with the United States of North America, respecting the terms, conditions, and regulations under which the inhabitants of the said United States shall have the liberty of taking fish on certain parts of the coast of Newfoundland, and other His Britannic Majesty's dominions in America; and of drying and curing fish in the unsettled bays, harbours, and creeks of Nova Scotia, Magdalen Islands, and Labrador, as stipulated in the latter part of the IIIrd Article of the Treaty of 1783, in consideration of a fair equivalent, to be agreed upon between His Majesty and the said United States, and granted by the said United States for such liberty as aforesaid.

The United States of North America agree to enter into negotiations with His Britannic Majesty, respecting the terms, conditions, and regulations under which the navigation of the River Mississippi, from its source to the ocean, shall remain free and open to the subjects of Great Britain, in consideration of a fair equivalent, to be agreed upon between His Majesty and the United States, and granted by His Majesty.

No. 18.

Lord Gambier and Messrs. Goulburn and Adams to Viscount Castlereagh.—
(Received December 14.)

(No. 17.)

(Extract.)

Ghent, December 10, 1814.

WITH respect to the VIIIth Article we stated that Great Britain considered the former part of that Article to afford to the United States advantages fully equivalent to those which Great Britain would derive from the free navigation of and access to the Mississippi, and much more valuable than that navigation under the restricted access proposed by the American Plenipotentiaries. They had, indeed, proposed to exchange for the unlimited enjoyment of a privilege by American subjects a limited enjoyment by British subjects of a privilege derived from the same Treaty, an exchange which could not but be regarded as altogether-unequal. Great Britain was, however, disposed to let the former part of the Article remain in the Treaty; and in so doing she yielded, in her estimation, a considerable portion of territory to the United States, without securing to herself what she had been willing to accept in the way of an equivalent. We further stated the readiness of Great Britain so far to accede to the proposition brought forward in the written proposal of the American Plenipotentiaries

as to enter into future negotiation with respect to the equivalents which it might be just for each nation respectively to receive, in return for the free navigation of the Mississippi on the one side and the enjoyment of the fisheries on the other.

We delivered to the American Plenipotentiaries the Article of which a copy is inclosed, which, with the exception of the words underlined, corresponds with that transmitted in your Lordship's despatch.

We further proposed to the American Plenipotentiaries the two inclosed Articles : the one intended to secure the continued exertions of both nations for the abolition of the African Slave Trade ; the other to provide for the right of the subjects of each nation freely to prosecute suits in the Courts of Justice of the other.

Upon the points thus submitted by us the American Plenipotentiaries requested time for deliberation, after which they intimated their intention of proposing a further Conference.

No. 19.

Protocol of Conference on December 10, 1814.

THE Protocol of the preceding Conference held on the 1st instant was settled.

The British Plenipotentiaries stated that their Government could not consent to omit the words in Article 1 "belonging to either party and taken by the other," unless some modification should be introduced, either by excepting from mutual restitution all those territories which are made by any Articles of the Treaty the subject of reference to Commissioners or by excepting the Passamaquoddy Islands alone.

Received by the American Plenipotentiaries for consideration.

The British Plenipotentiaries then stated that, with respect to the VIIIth Article, their Government offered in lieu of the American proposals to retain the amended Article as far as the words "Stony Mountains," and to insert the following stipulation :—

"His Britannic Majesty agrees to enter into negotiation with the United States of America respecting the terms, conditions, and regulations under which the inhabitants of the said United States shall have the liberty of taking fish on certain parts of the coast of Newfoundland, and other His Britannic Majesty's dominions in North America, and of drying and curing fish in the unsettled bays, harbours, and creeks of Nova Scotia, Magdalen Islands, and Labrador, as stipulated in the latter part of the IIIrd Article of the Treaty of 1783, in consideration of a fair equivalent to be agreed upon between His Majesty and the said United States, and granted by the said United States for such liberty as aforesaid.

"The United States of America agree to enter into negotiation with His Britannic Majesty respecting the terms, conditions, and regulations under which the navigation of the River Mississippi, from its source to the ocean, as stipulated in the VIIIth Article of the Treaty of 1783, shall remain free and open to the subjects of Great Britain in consideration of a fair equivalent to be agreed upon between His Majesty and the United States, and granted by His Majesty."

Received by the American Plenipotentiaries for consideration.

In the VIIth Article the British Plenipotentiaries proposed after the words "all grants of land made previous to," to omit the words "to that time," and insert "previous to the commencement of the war," so that the line would read "all grants of land made previous to the commencement of the war."

Agreed to.

The British Plenipotentiaries proposed the insertion of the following Article relative to the Slave Trade :—

"Whereas this traffic in slaves is irreconcilable with the principles of humanity and justice ; and whereas both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the Contracting Parties shall exert every means in their power to accomplish so desirable an object."

Received for consideration.

The British Plenipotentiaries proposed the following provision :—

"That the citizens or subjects of each of the Contracting Parties may reciprocally sue in the Courts of the other, and shall meet with no impediment to the recovery of all such estates, rights, properties, or securities as may be due to them by the laws of the country in whose Courts they shall sue."

Received for consideration.

The British Plenipotentiaries proposed in the preamble of the Treaty to omit the words "Admiral of the White," and insert "late Admiral of the White, now Admiral of the Red" in lieu of them.

Agreed to.

The American Plenipotentiaries stated that possibly doubts might arise as to the geographical accuracy of the words at the beginning of the VIIIth Article—"A line drawn due west from the Lake of the Woods along the forty-ninth parallel of north latitude."

It was agreed that an alteration should be made to guard against such possible inaccuracy.

The American Plenipotentiaries proposed the following alteration in the draft delivered to them by the British Plenipotentiaries relative to the manner of filling up the blanks in Article II.

"Extend the term of twelve days to fifty degrees north latitude, and to the thirty-sixth west longitude.

"Include the British and Irish Channels in the term of thirty days. Include the Baltic in the term of forty days.

"Instead of term of one hundred and fifty days, insert sixty days for Atlantic as far as latitude of Cape of Good Hope; ninety days for every other part of the world, south of the Equator; one hundred and twenty days for all other parts of the world."

The Conference then ended.

No. 20.

Lord Gambier and Messrs. Goulburn and Adams to Viscount Castlereagh.—
(Received December 16.)

(No. 19.)

(Extract.)

Ghent, December 13, 1814.

IN reference to the VIIIth Article, the American Plenipotentiaries stated that they were not authorized to admit the substitution proposed in the place of the latter clause of it. That they considered it as unnecessary; inasmuch as it did nothing but stipulate for a future negotiation which might equally take place without it, and it neither bound the parties to engage in it, nor precluded them from defeating it, if engaged in, by the extravagance of their demands. But they chiefly objected to the language of the substituted Article as conveying that their right to the fisheries depended solely on a provision in the Treaty of 1783, and that this Treaty had been annulled by the war—propositions against which they had repeatedly contended, and in which it would be hopeless to expect their acquiescence. That they had no objection to omit the last clause of the VIIIth Article, and to substitute another, if it were possible so to word one, as to make the fisheries and the Mississippi the subjects of future negotiation, without prejudice to either party as to the manner in which his rights were derived.

In reply we stated, that should they no longer press Great Britain to yield possession of the Passamaquoddy Islands, we should be willing to consider any determination of theirs to that effect, in conjunction with such an Article as they might frame in relation to the fisheries and Mississippi Navigation, provided such an Article was really worded so as in our judgment simply to refer those subjects to future negotiation, without tending to preclude either party from acting hereafter on his own view of those subjects. That in making this proposition we went to the very limit of our instructions, if not somewhat beyond them. In justification of the manner in which our propositions had been brought forward, we remarked that it was neither unusual nor improper to refer certain subjects to future negotiation, the necessary details of which might tend to postpone the termination of hostilities; and that we considered all subjects involving equivalents as peculiarly liable to this inconvenience.

The most explicit declaration as to the failure of the present war to put an end to the operation of the Treaty of 1783 was made by Mr. Gallatin, but without any grounds of argument in support of it. He merely stated that the United States considered that Treaty to be of such a nature that all its provisions were permanent, and not liable to be, nor capable of being annulled by a subsequent war, and, consequently, that no fresh stipulations were required on either side to put the parties in possession of the advantages derivable from its provisions. This declaration has been noticed, because it appears somewhat at variance with the note of the American Plenipotentiaries of the 10th ultimo, which derives the right of the United States to the advan-

tages of the Treaty, as well from the nature of the advantages themselves as from the peculiar character of the Treaty by which they were recognized—a term certainly intended to imply that the right to possess them existed before. So little consistency appears in the grounds upon which doctrines of this nature are likely at any time to be rested, that one of the American Plenipotentiaries admitted that the right of the United States to the fisheries, so far as it depended on the Treaty of 1783, was put an end to by the war. Though this admission was evidently intended to convey the notion of a pre-existing right to these advantages, yet it is altogether at variance with the declaration that rests them on the peculiar character of that Treaty alone.

We made no scruple on this and on other occasions of stating explicitly that, in our view of the subject, all the right which the United States had or could have to the fisheries was derived from the Treaty of 1783 alone; that we could conceive no other source whence they could derive it, nor on what possible grounds it could be contended that the provisions of that Treaty were not put an end to by the present war.

No. 21.

Earl Bathurst to Lord Gumbier, Mr. Goulburn, and Dr. Adams.

(No. 17.)

My Lord and Gentlemen,

Foreign Office, December 19, 1814.

I HAD this morning the honour of receiving your despatch of the 14th, inclosing the note presented on that day by the Commissioners of the United States, and desiring instructions thereupon.

With regard to the alteration proposed in the 1st Article, whereby the occupation of the islands in Passamaquoddy Bay may be reserved to us, there is no objection to the proposition contained in the American note, except so far as relates to the surrender of such islands to the United States, if no decision shall have been agreed upon within a given number of years. This stipulation might give to the United States an interest to postpone any decision on the subject.

There would be no objection to a stipulation, by which it should be provided that the right to the islands in Passamaquoddy Bay should be that point of reference, on which the Commissioners should be required first to consider and decide.

With respect to the discussion which has grown out of the latter part of the VIIIth Article, the Prince Regent regrets to find that there does not appear any prospect of being able to arrive at such an arrangement with regard to the fisheries as would have the effect of coming to a full and satisfactory explanation on that subject.

As this appears, however, now to be the only remaining point on which any difficulty exists, he is unwilling to protract by a prolongation of the discussion, the period when the war between Her Majesty and the United States may be happily terminated.

You will therefore present a note, in which, after referring to the language held by you on this subject from the very commencement of the negotiation, in which you stated explicitly that the British Commissioners did not intend to grant gratuitously to the United States the privileges formerly granted by Treaty to them of fishing within the limits of the British Sovereignty, and of using the shores of the British territories for purposes connected with the fisheries, you will state that, as there does not appear any prospect of agreeing upon an Article wherein that question may be satisfactorily adjusted, you are authorized to accept the proposition which the Commissioners of the United States proposed in the Protocol of the 9th December, wherein they expressed their readiness to omit the VIIIth Article altogether.

It will not be necessary for you to insist on the Article intitled an Article relative to the right of preventing suits in the Courts of Justice, as we rely on the Courts of Justice being open in the United States, by which the just claims of British subjects may be fairly prosecuted.

I am, &c.
(Signed) BATHURST.

The British Plenipotentiaries to the American Plenipotentiaries.

THE Undersigned have had the honour to receive the note of the American Plenipotentiaries, dated on the 11th instant, stating their consent to except the Passamaquoddy Islands from the mutual restitution of territory captured during the war, provided the claim of the United States shall not be in any manner affected thereby.

To the Article proposed by the American Plenipotentiaries, so far as it is adapted to this object, the Undersigned are willing to agree, but they object, as before intimated by them, to that part of the proposed Article which would make it imperative on the Commissioners to decide the question within any fixed time; trusting that on this head the American Plenipotentiaries will be satisfied with their declaration, that it is the intention of His Majesty's Government to do all that belongs to them to obtain a decision without loss of time. The project of the Article subjoined will be found to omit the clause intended to enforce a decision within some limited time, and to contain a slight alteration in the third clause, by substituting in the place of the words "intermediate possession" the words "as to such possession."

So far as regards the substitution proposed by the Undersigned for the last clause of the VIIIth Article, as it was offered solely with the hope of attaining the object of the amendment tendered by the American Plenipotentiaries at the Conference of the 1st instant, no difficulty will be made in withdrawing it.

The Undersigned, referring to the declaration made by them at the Conference of the 8th August, that the privilege of fishing within the limits of the British sovereignty and of using the British territories for purposes connected with the fisheries, were what Great Britain did not intend to part without equivalent, are not desirous of introducing any Article upon the subject. With a view of removing what they consider as the only objection to the immediate conclusion of the Treaty, the Undersigned agree to adopt the proposal made by the American Plenipotentiaries at the Conference of the 1st instant and repeated in their last note, of omitting the VIIIth Article altogether.

The Undersigned, &c.

(Signed)

GAMBIER.

HENRY GOULBURN.

WILLIAM ADAMS.

Ghent, December 22, 1814.

Earl Bathurst to Governor Keats.

Sir,

Downing Street, June 17, 1815.

AS the Treaty of Peace lately concluded with the United States contains no provision with respect to the fisheries which the subjects of the United States enjoyed under the IIIrd Article of the Peace of 1783, His Majesty's Government consider it not unnecessary that you should be informed as to the extent to which those privileges are affected by the omission of any stipulation in the present Treaty, and of the line of conduct which it is, in consequence, advisable for you to adopt.

You cannot but be aware that the IIIrd Article of the Treaty of Peace of 1783 contained two distinct stipulations; the one recognizing the rights which the United States had to take fish upon the high seas, and the other granting to the United States the privilege of fishing within the British jurisdiction, and of using, under certain conditions, the shores and territory of His Majesty for purposes connected with the fishery; of these, the former, being considered permanent, cannot be altered or affected by any change of the relative situation of the two countries; but the other, being a privilege derived from the Treaty of 1783 alone, was, as to its duration, necessarily limited to the duration of the Treaty itself. On the declaration of war by the American Government, and the consequent abrogation of the then existing Treaties, the United States forfeited, with respect to the fisheries, those privileges which are purely conventional, and (as they have not been renewed by a stipulation in the present Treaty) the subjects of the United States can have no pretence to any right to fish within the British jurisdiction, or to use the British territory for purposes connected with the fishery.

Such being the view taken of the question of the fisheries as far as relates to the

United States, I am commanded by His Royal Highness the Prince Regent to instruct you to abstain most carefully from any interference with the fishery in which the subjects of the United States may be engaged, either on the Grand Bank of Newfoundland, the Gulf of St. Lawrence, or other places in the sea. At the same time you will prevent them, except under the circumstances hereinafter mentioned, from using the British territory for purposes connected with the fishery, and will exclude their fishing-vessels from the bays, harbours, rivers, creeks, and inlets of all His Majesty's possessions. In case, however, it should have happened that the fishermen of the United States through ignorance of the circumstances which affect this question, should, previous to your arrival, have already commenced a fishery similar to that carried on by them previous to the late war, and should have occupied the British harbours and former establishments on the British territory which could not be suddenly abandoned without very considerable loss, His Royal Highness the Prince Regent, willing to give every indulgence to the citizens of the United States which is compatible with His Majesty's rights, has commanded me to instruct you to abstain from molesting such fishermen or impeding the progress of their fishing during the present year, unless they should, by attempts to carry on a contraband trade, render themselves unworthy of protection or indulgence. You will, however, not fail to communicate to them the tenor of the instructions which you have received and the view which His Majesty's Government take of the question of the fishery, and you will, above all, be careful to explain to them that they are not in any future season to expect a continuance of the same indulgence.

I have, &c.

(Signed) BATHURST.

No. 24.

The Secretary to the Admiralty to Mr. Hamilton.—(Received August 1.)

Sir,

Admiralty Office, August 1, 1815.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Secretary of State, the accompanying copies of a letter and its inclosure from Rear-Admiral Griffith, dated Halifax 4th ultimo, reporting his proceedings towards preventing American fishing vessels from interfering with our fisheries on the coasts of those provinces.

I am, &c.

(Signed) JOHN BARROW.

Inclosure 1 in No. 24.

Rear-Admiral Griffith to Mr. Croker.

Sir,

"Akbar," Halifax, July 4, 1815.

MY letter of the 16th of June will have informed their Lordships of the orders under which the "Espoir" had been sent to the coast of Labrador, and the "Jaseur" to cruise on the coast of this province, to warn off any American fishermen they might find fishing there, and to detain and send in such as they might find in the different harbours and ports of these provinces; and I now inclose, for their Lordships' information, a copy of a letter I have received from Captain Lock of the "Jaseur," reporting the seizure of nine vessels belonging to subjects of America, and communicating intelligence he had obtained relative to the conduct of these, and other vessels of a similar description, on our coasts.

I have thought it advisable, under existing circumstances, to order the release of the vessels detained, directing Captain Lock previously to indorse on the back of each register—"This vessel is warned off from fishing on the coasts of His Majesty's North American provinces, and from entering the harbours and waters thereof for the purpose of taking or drying fish." He at the same time informed their masters that, as it was possible they might have been ignorant of the right to fish on our coasts having been cancelled by the war, and that no provision having been made in the late Treaty for the renewal of it, they were no longer entitled to the indulgence, he was induced to permit their returning to their own ports, assuring them that should they be found again fishing on our coasts they would certainly be confiscated.

Be pleased to inform their Lordships that I have again ordered the "Jaseur" to

sea with instructions to warn off in a similar manner all American vessels of the above description, and to prevent by means as little hostile as possible their interfering with our fisheries; but to refrain from committing any real act of hostility by detaining them or otherwise.

Until I receive instructions on this subject, I think it necessary to proceed thus far in order to assert our exclusive right to the taking of fish on our own coasts; for, if the Americans were permitted to fish unmolested on these shores, they would undoubtedly consider it a tacit acknowledgment of their right to do so.

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

Inclosure 2 in No. 24.

Commander Lock to Rear-Admiral Griffith.

Sir,

"Juseur," Halifax, June 29, 1815.

IN executing the orders I received from you on the 17th instant, for proceeding along the coasts of these provinces to warn off any American fishing vessels I might find fishing, and to detain and send to this port for adjudication such as might be found in any of the ports or harbours thereof, several circumstances relative to the conduct of these vessels have come to my knowledge, which I think it my duty to communicate to you. In the first place, however, I beg to report my proceedings since I sailed. I put into Liverpool for a pilot and to obtain information on the 22nd instant. I here learnt from Mr. Newton, the collector, that many American fishermen were on the coast, and he informed me that these vessels were in the habit of anchoring in the harbours along shore, and of fixing their nets one to the other, until they had one sufficiently large to spread completely across the mouth of the harbours, by which means they not only supplied their own vessels with bait, but completely prevented our own fishermen from obtaining the supplies they require for days together. Not succeeding in obtaining a pilot there, I proceeded to Shelburne, where I learnt that the vessels I was in search of were to be found among the Ragged Islands; and ascertaining that they usually fished throughout the week and entered Lock's Harbour on the Saturday evening, where they remained till Monday morning catching bait, and cleansing the fish taken on the Saturday, I deemed it prudent to proceed to Lock's Harbour on the morning of Sunday the 25th instant, where, as I expected, I found nine schooner-rigged vessels, all with fish in but one. The crews of these vessels, which were composed of from eight to five men each, were all on shore but one ship-keeper in each craft. Among them was one vessel, the "Lucy," which I had previously warned off from the coast, and had offered water to if she had needed any.

I have the honour to inclose a list of the vessels I have detained, and another of those I have warned off, and close my Report with stating that several English fishermen made it known to me that the mischief done to them by these American vessels was incalculable; that they not only suffered from their being outnumbered by them, but that their fishing in shore was greatly injured by the food the Americans supplied the fish with, in throwing overboard within their harbour all the entrails of the fish caught by them at the close of the week. One of the Americans informed me that a Mr. Lock, of Lock's Harbour, whom I understand to be an officer of the Customs, had given them permission to fish for bait in the manner I have described.

I have, &c.
(Signed) NAGLE LOCK.

No. 25.

Mr. Baker to Viscount Castlereagh.—(Received September 1.)

(No. 24.)

My Lord,

Washington, July 19, 1815.

MR. MONROE having requested an interview with me at the Department of State, I accordingly waited upon him at the time appointed.

He stated that he was desirous of speaking to me upon one or two points, the first of which related to the establishment which the United States had possessed before the war on the Pacific Ocean at the mouth of the Columbia River, but which had been

broken up by a naval force sent by the British Government for that purpose. He conceived that it fell within the meaning of the 1st Article of the Treaty of Ghent, and ought to be restored, for otherwise it would have been particularly excepted in the Treaty, as had been the case with the Passamaquoddy Islands, and requested to know whether I agreed in that opinion.

I replied that I had not considered the subject which was unexpected by me; that in fact I did not immediately call to mind what was the result of the expedition to which he alluded, and was not aware that any persons whatsoever had been left upon the spot who could effect the restoration required should the case be thought to come under the Treaty, but that I was ignorant of any transaction between the two Governments which recognized the claim of the United States to any part of the Coast of the Pacific Ocean.

He did not state the foundation on which the claim to this territory rested, insisted merely upon the fact of its having been captured from the United States during the war which brought it within the Treaty. He then proceeded to observe that he had a complaint to make respecting the interruption which had been given to several American vessels fishing off the coast of the British North American Provinces, which had been ordered away by one of His Majesty's ships of war, and warned by a notice endorsed on their papers not to return. This he said was a violation of a clear right which the United States possessed under the Treaty of 1783, and which the American Government conceived to be still in force, owing to the peculiar character of that Treaty.

In my answer I reminded him of the firm and decided language which had been held by Great Britain throughout the negotiations at Ghent with respect to the supposed continuance of the right of the United States to catch and dry fish within His Majesty's jurisdiction in North America; that this privilege had been distinctly and repeatedly stated to the American Commissioners to have been purely of a conventional nature, to have therefore ceased on the war; and that as it had not been renewed by the late Treaty of Peace, it could not be considered at present in existence. I remarked that the doctrine which had been advanced by the American Commissioners was judged equally novel and extraordinary, and that no satisfactory reason had ever been adduced in support of it.

Mr. Monroe did not press the subject further, and led me to expect that he would make a written communication respecting it, and likewise relative to the restoration of the settlement on the Columbia River. In some conversation which afterwards ensued he complained of the want of reciprocity which existed in the commercial intercourse between the United States and the British Colonies, and thought that the former would be justified in placing the same restrictions upon the navigation and trade with the Colonies which were enforced against the United States. Although these remarks were merely thrown out in the course of conversation, with no apparent view to any result, I have thought it right to mention them, as tending to show the present tone of this Government.

I received this morning the note respecting the interruption to the fishery, a copy of which is inclosed. It does not, it will be perceived embrace the wide subject of the alleged right, as I had reason to believe would have been the case from what had passed, but is confined to much narrower ground. It states the instance of one vessel fishing in longitude 65° 20', latitude 42° 41', and said to have been distant about 45 miles from Cape Sable, which was ordered away by His Majesty's brig "Jaseur," as well as the other American vessels in sight, and warned by an endorsement on her papers not to come within 60 miles of the coast. Mr. Monroe states this measure to be altogether incompatible with the rights of the United States, and therefore presumed it has not been authorized by His Majesty's Government. Both the distances mentioned, it will be observed, are without His Majesty's maritime jurisdiction. I have sent copies of the note and inclosure to Rear-Admiral Griffiths, the Naval Commander-in-chief at Halifax, requesting information as to the facts alleged, as likewise an explanation respecting the grounds on which he had fixed upon the precise distance of 60 miles should the statement on this point be correct.

I had received a letter from the Rear-Admiral by the last mail acquainting me with the measures which he had adopted for preventing the citizens of the United States from taking and drying fish within His Majesty's jurisdiction, and expressing a desire that I would communicate to him any information which I could furnish relative to the sentiments of His Majesty's Government on this head. I have the honour to inclose a copy of this letter and of the answer which I have returned, in which I have been careful strictly to conform to the language of the instructions given to

the Commissioners at Ghent, which I have taken for the guidance of my conduct on this subject.

I have, &c.
(Signed) ANTHONY ST. JNO. BAKER.

P.S.—Since writing the above I have received Mr. Monroe's letter relative to the restoration of the settlement on Columbia River, a copy of which I beg leave to inclose. It is my intention, in my reply, to refer him to Rear-Admiral Dixon, who commands in those seas.

A. ST. J. B.

Inclosure 1 in No. 25.

Mr. Monroe to Mr. Baker.

Sir,

Department of State, July 18, 1815.

I HAVE the honour to communicate to you a copy of a letter from the Collector of the Customs at Barnstable to the Secretary of the Treasury, by which it appears that an American vessel engaged in the cod fishery, in longitude $65^{\circ} 20'$, latitude $42^{\circ} 41'$, was warned off by the Commander of the British sloop of war "Jaseur," and ordered not to approach within 60 miles of the coast, with which order the master of the American vessel immediately complied. It appears also that a similar warning had been given by the Commander of the "Jaseur" to all the other American vessels which were then in sight.

This extraordinary measure has excited no small degree of surprise. Being altogether incompatible with the rights of the United States, it is presumed that it has not been authorized by your Government. I invite your attention to it in the hope that, as you have been charged by your Government with the execution of the late Treaty of Peace, and are acquainted with its views on all questions connected with it, you will consider yourself authorized to interpose to prevent the progress of an evil which will be so extensively and deeply felt by the citizens of the United States.

I have, &c.
(Signed) JAMES MONROE.

Inclosure 2 in No. 25.

Mr. Green to Mr. Dallas.

Sir,

Collector's Office, Barnstable, July 3, 1815.

I THINK it my duty to inform you that the captain of a vessel regularly licensed for the cod fishery has just reported to his office that, on the 19th day of June last, being in longitude $65^{\circ} 20'$ north, latitude $42^{\circ} 41'$, about 45 miles distant from Cape Sable, he fell in with Her Britannic Majesty's sloop of war "Jaseur," N. Lock, Commander, who warned him off, and endorsed his enrolment and license in the words following:—

"Warned off the coast by His Majesty's sloop "Jaseur," not to come within 60 miles.

(Signed) "N. LOCK, Commander.

"June 19, 1815."

In consequence of which the fisherman immediately left the fishing ground and returned home without completing his fare.

The captain of the fisherman further states that all the fishing vessels then in sight were warned off in the same manner by the said Captain Lock.

I am, &c.
(Signed) ISAIAH L. GREEN, *Collector.*

Inclosure 3 in No. 25.

Rear-Admiral Griffith to Mr. Baker.

Sir,

Halifax, June 18, 1815.

I HAVE the honour to acknowledge the receipt of your letter of the instant from Philadelphia informing me of the arrival of the French frigate "Hermione" at New York. Since which I have learnt that a second frigate of inferior force had arrived at the same place from Europe. I hold here in momentary readiness for sea a sufficient force to meet these ships, and whenever I hear of hostilities between Great Britain and France having commenced, this force will proceed off that port without delay.

The subjects of the United States having already assumed to themselves the right to fish on the coasts of these provinces, and the Admiralty not having furnished me with instructions how to act towards them, I should be obliged, if you happen to be in possession of the sentiments and views of His Majesty's Government, if you would favour me with your opinion as to the most prudent line of conduct which, under existing circumstances, you conceive it would be advisable to pursue. In consequence of information that a great number of American fishing vessels have lately passed the Gut of Canso on their way to fish on the coast of Labrador, I have ordered a sloop of war there to watch over their conduct, and to warn them off under pain of seizure and confiscation, and, in case of finding any of them in harbour, to send them here for adjudication, unless they should have put in in distress. Another sloop of war is cruising on this coast under similar orders. The right to take and dry fish having been virtually abrogated, as I conceive, by the war, and not renewed by the Treaty of Peace can no longer be claimed by the subjects of the United States; therefore, there can arise no inconvenience, I should suppose, from a claim being laid in as early as possible to the exclusive rights to the fisheries on the coasts, and in the waters of these provinces. I have cautioned the captains against using violence towards any American fishing vessels, except such as are found in our harbours, from whence by law all foreign vessels are excluded. Excuse the haste with which this letter is written; but my secretary happens to be out of the way, and I am allowed but a few minutes to write it.

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

Inclosure 4 in No. 25.

Mr. Baker to Rear-Admiral Griffith.

Sir,

Washington, July 19, 1815.

I HAVE had the honour to receive your Excellency's letter of the 18th ultimo.

Having heard the report, which appears to have reached Halifax, of the arrival of another French frigate at New York, I wrote to the agent at that place for information on the subject, who acquainted me, on the 17th ultimo, that there was no other French ship of war in that port than the "Hermione," which was making active preparation for sea. She was still there by the last accounts, and I have no information of her having been joined by any other French ship of war since the date of the Agent's letter.

I have not received any communication from His Majesty's Government in relation to the measures to be adopted for preventing the citizens of the United States from taking and drying fish within our jurisdiction, as practised before the war. The former privilege in this respect, being purely of a conventional nature, was unquestionably annulled by the war, and has not been renewed by the late Treaty. The right, however, of the United States under the law of nations to fish on the high seas without our maritime jurisdiction in North America, cannot be disputed and has been admitted by Great Britain. The maritime jurisdiction, you are of course aware, extends to all gulfs, bays, &c., which are land-locked, and the shores of which belong to us; and likewise in the absence of any particular stipulation to the distance of a cannon-shot or the marine league from all parts of the coast.

It is certainly in the highest degree advisable that the greatest moderation and forbearance, consistent with the object in view, should be practised towards the American vessels found fishing within our jurisdiction.

I have this morning received a representation from the American Government (a copy of which and of its inclosure I have herewith the honour to transmit) on the subject of His Majesty's brig "Jaseur" having warned off an American vessel engaged in the cod fishery in longitude 65° 20', latitude 42° 41', and stated to be distant about 45 miles from Cape Sable, and ordered her and the other American fishing-vessels in sight not to approach within 60 miles of the coast. I beg leave to request your Excellency's earliest attention to these papers, and that you would favour me, in the event of such orders having been given to the "Jaseur," with any information which may have induced you to fix upon that precise distance from the coast, as I shall not reply to the note of the American Secretary of State until I am in possession of your Excellency's answer.

I have, &c.
(Signed) ANTHONY ST. JNO. BAKER

No. 26.

Earl Bathurst to Mr. Baker.

Sir,

Foreign Office, September 7, 1815.

YOUR several despatches to No. 25 inclusive have been received and laid before the Prince Regent.

The necessity of immediately dispatching this messenger with my preceding numbers prevents my replying to the various topics which your more recent communications embrace. I shall therefore confine myself to conveying to you the sentiments of His Majesty's Government on the one requiring the most immediate explanation with the Government of the United States, namely, the fisheries, premising the instructions I have to give to you on the subject, with informing you that the line which you have taken in the discussion on that point, as explained in your No. 24, has met with the approbation of His Majesty's Government.

You will take an early opportunity of assuring Mr. Monroe that, as, on the one hand, the British Government cannot acknowledge the right of the United States to use the British territory for the purpose connected with the fishery, and that their fishing vessels will be excluded from the bays, harbours, rivers, creeks, and inlets of all His Majesty's possessions; so, on the other hand, the British Government does not pretend to interfere with the fishery in which the subjects of the United States may be engaged, either on the Grand Bank of Newfoundland, the Gulf of St. Lawrence, or other places in the sea, without the jurisdiction of the maritime league from the coasts under the dominion of Great Britain.

Upon these principles, therefore, the case against which the American Government has remonstrated, if well founded, was not authorized by His Majesty's Government.

I am, &c.

(Signed) BATHURST.

No. 27.

Mr. Adams to Earl Bathurst.—(Received September 27.)

My Lord,

25, Charles Street, Westminster, September 25, 1815.

IN the conference with your Lordship with which I was honoured on the 14th instant, I represented to you, conformably to the instructions which I had received from the Government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters incompatible, not only with those amicable relations which it is the earnest desire of the American Government to restore and to cultivate, but even with the condition of peace, which had been restored between the two countries by the Treaty of Ghent.

It was with the highest satisfaction that I understood your Lordship, in the name of the British Government, to disavow the proceedings of all those officers of which it had been my duty to complain, and that I received from you the assurance that orders had long since been given for the restoration of the Port of Michillimakinac to the United States; that instructions had been given to promote by all suitable means the restoration of peace between the Indians and the United States; and particularly that Colonel Nicolls, in pretending to conclude a Treaty Offensive and Defensive with

certain Indians belonging within the jurisdiction of the United States, had not only acted without the authority, but incurred the disapprobation of His Majesty's Government.

It was also highly satisfactory to be informed that the conduct of Captain Lock, commander of the sloop-of-war "Jaseur," in warning American fishing vessels not to come within sixty miles of the coast of His Majesty's possessions in North America was unauthorized, and that the instructions to the British officers on that station, far from warranting such a procedure, had directed them not ever to molest the American fishing vessels which might be found pursuing that occupation during the present year.

In offering a just tribute of acknowledgment to the fairness and liberality of these instructions issued from your Lordship's office, there only remained the regret that the execution had been so different from them in spirit, so opposite to them in effect.

The consequences of the detention of the Port of Michillimackinac, of the unfriendly and unwarranted tampering of Colonel Nicolls and others to investigate Indian hostilities against the United States, and of the forcible expulsion of peaceable American fishermen from the whole fisheries of the coast, have been in an eminent degree injurious to the United States, and, having been in direct contravention to the orders of the British Government, I cannot permit myself to entertain a doubt that their sense of justice will lead to a suitable animadversion upon the officers who have thus transcended their instructions, and to an ample reparation of the wrong done in their name, but so directly contrary to their instructions.

But in disavowing the particular act of the officer who has presumed to forbid American fishing vessels from approaching within 60 miles of the American coast, and in assuring me that it had been the intention of this Government and the instructions given by your Lordship not even to deprive the American fishermen of any of their accustomed liberties during the present year, your Lordship did also express it as the intention of the British Government to exclude the fishing vessels of the United States hereafter from the liberty of fishing within one marine league of the shores of all the British territories in North America, and from that of drying and curing their fish on the unsettled parts of those territories, and with the consent of the inhabitants on these parts, which have become settled since the Peace of 1783.

I then expressed to your Lordship my earnest hope that this determination had not been irrevocably taken, and stated the instructions I had received to present to the consideration of His Majesty's Government the grounds upon which the United States conceive those liberties to stand, and upon which they deem that such exclusion cannot be effected without an infraction of the rights of the American people.

In adverting to the origin of these liberties, it will be admitted, I presume without question, that from the time of the settlements in North America, which now constitute the United States, until their separation from Great Britain, and their establishment as distinct sovereignties, these liberties of fishing and of drying and curing fish had been enjoyed by them in common with the other subjects of the British empire. In point of principle they were pre-eminently entitled to the enjoyment, and, in point of fact, they had enjoyed more of them than any other portion of the Empire; their settlement of the neighbouring country having naturally led to the discovery and improvement of these fisheries, and their proximity to the places where they are prosecuted and the necessities of their condition having led them to the discovery of the most advantageous fishing grounds, and given them facilities in the pursuit of their occupation in those regions which the remoter parts of the Empire could not possess. It might be added that they had contributed their full share, and more than their share, in securing the conquest from France of the provinces on the coasts of which these fisheries were situated.

It was doubtless upon considerations such as these that, in the Treaty of Peace between His Majesty and the United States of 1783, an express stipulation was inserted recognizing the rights and liberties which had always been enjoyed by the people of the United States in these fisheries, and declaring that they should continue to enjoy the right of fishing on the Grand Bank and other places of common jurisdiction, and have the liberty of fishing, and drying, and curing their fish within the exclusive British jurisdiction on the North American coasts, to which they had been accustomed while themselves forming a part of the British nation. This stipulation was a part of that Treaty by which His Majesty acknowledged the United States as free, sovereign, and independent States, and that he treated with them as such.

It cannot be necessary for me to prove, my Lord, that that Treaty is not in its

general provisions one of those which, by the common understanding and usage of civilized nations, is or can be considered as annulled by a subsequent war between the same parties. To suppose that it is would imply the inconsistency and absurdity of a sovereign and independent state liable to forfeit its right of sovereignty by the act of exercising it in a declaration of war. But the very words of the Treaty attest that the sovereignty and independence of the United States were not considered or understood as grants from His Majesty; they were taken and expressed as existing before the Treaty was made, and as then only first formally recognized and acknowledged by Great Britain.

Precisely of the same nature were the rights and liberties in the fisheries to which I now refer. They were in no respect grants from the King of Great Britain to the United States, but the acknowledgment of them as rights and liberties enjoyed before the separation of the two countries, and which it was mutually agreed should continue to be enjoyed under the new relations which were to subsist between them, constituted the essence of the Article concerning the fisheries. The very peculiarity of the stipulation is an evidence that it was not on either side understood or intended as a grant from one sovereign State to another. Had it been so understood, neither could the United States have claimed nor would Great Britain have granted gratuitously any such concession. There was nothing either in the state of things or in the disposition of the parties which could have led to such a stipulation as on the ground of a grant without an equivalent by Great Britain.

Yet such is the ground upon which it appears to have been contemplated as resting by the British Government when their Plenipotentiaries at Ghent communicated to those of the United States their "intentions as to the North American fisheries," viz. :—

"That the British Government did not intend to grant to the United States gratuitously the privileges formerly granted by Treaty to them of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the fisheries."

These are the words in which the notice given by them is recorded in the Protocol of Conference of the 8th of August, of 1814. To this notice the American Plenipotentiaries first answered on the 9th of August, that they had no instructions from their Government to negotiate upon the subject of the fisheries, and afterwards in their note of 10th November, 1814, they expressed themselves in the following terms :—

"In answer to the declaration made by the British Plenipotentiaries respecting the fisheries, the Undersigned, referring to what passed in the Conference of the 9th August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the Treaty of 1783, by which they were recognized, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them."

If the stipulation of the Treaty of 1783 was one of the conditions by which His Majesty acknowledged the sovereignty and independence of the United States—if it was the mere recognition of rights and liberties previously existing and enjoyed—it was neither a privilege gratuitously granted, nor liable to be forfeited by the mere existence of a subsequent war. If it was not forfeited by the war, neither could it be impaired by the declaration of Great Britain that she did not mean to renew the grant. Where there had been no gratuitous concession, there could be none to renew. The rights and liberties of the United States could not be cancelled by the declaration of Great Britain's intentions: nothing could abrogate them but the renunciation of them by the United States themselves.

Among the Articles of that same Treaty of 1783 there is one stipulating that the subjects and citizens of both nations shall enjoy for ever the right of navigating the River Mississippi from its source to the ocean. And although at the period of the negotiations of Ghent, Great Britain possessed no territory upon that river, yet the British Plenipotentiaries, in their first note, considered Great Britain as still entitled to claim the free navigation of it without offering for it any equivalent. And afterwards, when offering a boundary line which would have abandoned every pretension even to any future possession on that river, they still claimed not only its free navigation, but a right of access to it from the British Dominions in North America through the territories of the United States. The American Plenipotentiaries, to foreclose the danger of any subsequent misunderstanding and discussion upon either of these points, proposed an Article recognizing anew the liberties on both sides. In declining to

accept it, the British Plenipotentiaries proposed an Article engaging to negotiate in future for the renewal of both for equivalents to be mutually granted. This was refused by the American Plenipotentiaries, on the avowed principle that its acceptance would imply the admission on the part of the United States that their liberties in the fisheries, recognized by the Treaty of 1783, had been annulled, which they declared themselves in no manner authorized to concede.

Let it be supposed, my Lord, that the notice given by the British Plenipotentiaries in relation to the fisheries had been in reference to another Article of the same Treaty : that Great Britain had declared she did not intend to grant again gratuitously the grant in a former Treaty of Peace, acknowledging the United States as free, sovereign, and independent States ; or that she did not intend to grant gratuitously the same boundary line which she had granted in the former Treaty of Peace, is it not obvious that the answer would have been that the United States needed no new acknowledgment of their independence nor any new grant of a boundary line ? that if their independence was to be forfeited, or their boundary line curtailed, it could only be by their own acts of renunciation or of cession, and not by the declaration of the intentions of another Government. And if this reasoning be just, with regard to the other Articles of the Treaty of 1783, upon what principle can Great Britain select one Article, or a part of one Article, and say, this particular stipulation is liable to forfeiture by war, or by the declaration of her will, while she admits the rest of the Treaty to be permanent and irrevocable ? In the negotiation of Ghent, Great Britain did propose several variations of the boundary line ; but she never intimated that she considered the line of the Treaty of 1783 as forfeited by the war, or that its variation could be effected by the mere declaration of her intentions. She perfectly understood that no alteration of that line could be effected but by the express assent of the United States ; and when she finally determined to abide by the same line, neither the British nor the American Plenipotentiaries conceived that any new confirmation of it was necessary. The Treaty of Ghent, in every one of its essential Articles, refers to that of 1783 as being still in full force. The object of all its Articles relative to the boundary is to ascertain with more precision, and to carry into effect the provisions of that prior compact. The Treaty of 1783 is by a tacit understanding between the parties, and without any positive stipulation, constantly referred to, as the fundamental law of the relations between the two nations. Upon what ground, then, can Great Britain assume that one particular stipulation in that Treaty is no longer binding upon her ?

Upon this foundation, my Lord, the Government of the United States consider the people thereof as fully entitled of right to all the liberties in the North American fisheries which have always belonged to them, which in the Treaty of 1783 were by Great Britain recognized as belonging to them, and which they have never by any act of theirs consented to renounce. With these views, should Great Britain ultimately determine to deprive them of the enjoyment of these liberties by force, it is not for me to say whether, or for what length of time they would submit to the bereavement of that which they would still hold to be their unquestionable right. It is my duty to hope that such measures will not be deemed necessary to be resorted to on the part of Great Britain ; and to state that, if they should, they cannot impair the right of the people of the United States to the liberties in question, so long as no formal and express assent of theirs shall manifest their acquiescence in the privations.

In the interview with which your Lordship recently favoured me, I suggested several other considerations with the hope of convincing your Lordship. That, independent of the question of rigorous right, it would conduce to the substantial interests of Great Britain herself, as well as to the observance of those principles of benevolence and humanity which it is the highest glory of a great and powerful nation to respect, to leave to the American fishermen the participation of those benefits which the bounty of nature has thus spread before them ; which are so necessary to their comfort and subsistence ; which they have constantly enjoyed hitherto ; and which, far from operating as an injury to Great Britain, had the ultimate result of pouring into her lap a great portion of the profits of their hardy and laborious industry. That these fisheries afforded the means of subsistence to a numerous class of people in the United States whose habits of life had been fashioned to no other occupation, and whose fortunes had allotted them no other possession. That, to another, and perhaps equally numerous class of our citizens, they afforded the means of remittance and payment for the productions of British industry and ingenuity imported from the manufactures of this United Kingdom. That, by the common and received usages among civilized nations fishermen were among those classes of human society whose occupations, contributing to the general benefit and welfare of the species, were entitled to a more than ordinary

share of protection. That it was usual to spare and exempt them even from the most exaggerated conflicts of national hostility. That this nation had for ages permitted the fishermen of another country to frequent and fish upon the coasts of this island without interrupting them even in times of ordinary war. That the resort of American fishermen to the barren, uninhabited, and, for the great part, uninhabitable, rocks on the coasts of Nova Scotia, the Gulf of St. Lawrence, and Labrador, to use them occasionally for the only purposes of utility of which they are susceptible, if it must in its nature, subject British fishermen on the same coasts to the partial inconvenience of a fair competition, yet produces in its result advantages to other British interests equally entitled to the regard and fostering care of their Sovereign. By attributing to motives derived from such sources as these the recognition of these liberties by His Majesty's Government in the Treaty of 1783, it would be traced to an origin certainly more conformable to the fact, and surely more honourable to Great Britain, than by ascribing it to the improvident grant of an unrequited privilege, or to a concession extorted from the humiliating compliance of necessity. In repeating with earnestness all these suggestions, it is with the hope that from some or all of them His Majesty's Government will conclude the justice and expediency of leaving the North American fisheries in the state in which they have heretofore constantly existed, and the fishermen of the United States unmolested in the enjoyment of their liberties.

I pray, &c.
(Signed) JOHN QUINCY ADAMS.

No. 28.

Mr. Baker to Viscount Castlereagh.—(Received October 27.)

(No. 33.)

My Lord,

Philadelphia, September 15, 1815.

I HAVE the honour to transmit inclosed, for your Lordship's information, copies of a letter and its inclosures, which I received on the 30th ultimo from Rear-Admiral Griffith, in reply to the letter which I had written to him (a copy of which was forwarded in my despatch No. 24) relative to the orders which he had given not to suffer the American fishing-vessels to approach within 60 miles of the coast of Nova Scotia, and likewise of the letter which I addressed to the American Secretary of State, in answer to his note of July 19, inclosed in the despatch above mentioned complaining of this measure, as incompatible with the rights, and injurious to the interests, of the United States.

Your Lordship will perceive that, in my reply on this subject, I have simply informed Mr. Monroe that these orders were, as he presumed, unauthorized by His Majesty's Government, and that steps had been taken by the proper authorities to prevent the recurrence of any similar interruption to the American vessels engaged in fishing on the high seas.

I beg leave also to inclose a copy of a letter from Mr. Monroe, dated on the 17th ultimo, in answer to my note of July 31, respecting the seduction of British soldiers on the frontier of New Brunswick.

No reply has yet been returned to my note of the 3rd ultimo, relative to the offer of a pecuniary compensation to the widows and families of the sufferers in consequence of the unfortunate occurrence at Dartmoor Prison, but I have received a communication from the Acting Chief Clerk at the Department of State informing me that my letter had been forwarded to Mr. Monroe, and that an answer might be for some time delayed, owing to his absence at the Sulphur Springs in Virginia for the benefit of his health.

I have, &c.
(Signed) ANTHONY ST. JNO. BAKER.

Inclosure 1 in No. 28.

Rear-Admiral Griffith to Mr. Baker.

Sir

Halifax, August 10, 1815.

I HAVE the honour to acknowledge the receipt of your letters of the 19th and 20th ultimo, with their inclosures.

I am glad to have had it in my power to forward the mail for England without delay by His Majesty's schooner "Vesta," which arrived here on the 3rd instant with despatches from the Lords Commissioners of the Admiralty.

In reply to your letter of the 19th ultimo, respecting the "Jaseur's" orders, and requesting to be favoured with any information which may have induced me to fix upon twenty leagues as the precise distance from the coast within which American vessels were to be prohibited from fishing, I have the honour to inform you that, on hearing from different quarters that the coasts of the province were swarming with American vessels, and that these vessels, by taking fish at a certain distance from the shore, and throwing their offal overboard, thereby attracting the fish from inshore, where our fishermen usually fish, into deep water, were injuring the vital interests of His Majesty's subjects concerned in the North American fisheries, I did conceive it to be my duty, although unfurnished with any instructions on the subject for my guidance, to interfere, as far as might be necessary, for the protection of those people's interests, and, in consequence, ordered two sloops of war to sea, one to the Gulf of St. Lawrence, the other (the "Jaseur") to cruise on this coast for the protection of its fisheries, and to prevent, by all peaceable means, any foreign vessels from fishing within twenty leagues from the land, or from drying fish on shore. My reason for fixing on twenty leagues as the distance within which they were to be prohibited from fishing was the persuasion that to secure to the people of this province the full benefit of the coast fisheries, it was absolutely necessary to exclude foreigners from taking fish within that distance. I was also induced to fix on this distance as I found in the Treaty of 1783 with the United States that twenty leagues from the shores of that country was the line by which their right to the islands on that coast was adjusted.

By the XIIth Article of the Treaty of Utrecht, France cedes to Great Britain Nova Scotia with all its ancient boundaries, and agrees that all French subjects shall thereafter be excluded from all kinds of fishing in the seas, bays, and on the coasts of Nova Scotia; towards the east within thirty leagues, beginning from the island commonly called Sable inclusive, and then stretching along towards the south-west. The Vth Article of the Treaty of Paris in 1763 gave to France a right of fishing within fifteen leagues of the coast of Cape Breton, but expressly left the right of fishing on the coast of Nova Scotia to remain on the footing of former Treaties. The Vth Article of the Treaty of Versailles in 1783 leaves the right of French fisheries on the Nova Scotian coast, as regulated by the Treaty of Utrecht.

Independent of these, I considered that the Government of the United States derived by the Treaty of 1783 the only right which they could have to participate in the British fisheries, even on the banks of Newfoundland, which, extending to fifty leagues from the land, must be considered on the high seas, and deeming this privilege just as much of a conventional nature as any other ceded to the inhabitants of the United States by that Treaty, I considered the whole as virtually abrogated by the war and thought we could not too early evince a determination to maintain the rights and immunities of the inhabitants of this province to the exclusion of an encroaching people, who had by violence, outrage, and chicanery, so scandalously abused the privileges conceded to them by the aforesaid Treaty.

The "Espoir" has returned from the Gulf of St. Lawrence, having warned off only one vessel, which she found at anchor in one of the harbours, I have at present no cruizers employed in this service.

Having received from Sir Richard Keats a copy of the instructions under which his cruizers are acting, I transmit it herewith. My future conduct will, of course, be governed by them. I also transmit you a Report which I have received from Mr. Lockwood, master of a sloop employed under my orders in surveying the coasts of this province. This, with Captain Locke's Report, which accompanied my letter of July 1, will satisfy you of the necessity of checking without delay the encroaching spirit of this people.

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

Inclosure 2 in No. 28.

General Memorandum.

“Salisbury,” at St. John’s, July 24, 1815.

ARTICLE 5 of General Instructions for the Newfoundland Station is cancelled, and the following Article is substituted in its place, viz:—

And whereas no foreign ships or vessels whatever have any right to fish at or about Newfoundland, the islands adjacent, or coast of Labrador, within the British jurisdiction, you are to take especial care to prevent the same, and if you shall find any foreign ships fishing at or about Newfoundland, the islands and coast as aforesaid, you are to oblige them to desist and to depart from off the coast.

As the Treaty of Peace lately concluded with the United States contains no provision with respect to the fisheries which the subjects of the United States enjoyed under the IIIrd Article of the Peace of 1783, but as that Article contains two distinct stipulations, the one recognizing the right which the United States had to take fish upon the high seas, and the other granting to the United States the privilege of fishing within the British jurisdiction, and of using under certain conditions the shores and territory of His Majesty for purposes connected with the fishery, the former being considered permanent, cannot be altered or affected by any change of the relative situation of the two countries. And you will therefore carefully abstain from any interference with the fishery in which the subjects of the United States may be found engaged, either on the Grand Bank of Newfoundland, the Gulf of St. Lawrence, or other places in the sea. But the other being a privilege purely conventional, derived from the Treaty of 1783, became abrogated on the declaration of war by the United States, with the then existing Treaties. And the United States forfeited with respect to the fisheries those privileges which are purely conventional, and as they have not been renewed by any stipulation in the present Treaty, the subjects of the United States can have no pretence to any right to fish within the British jurisdiction, or to use the British territory for purposes connected with the fisheries. And you will consider it your duty (except under the circumstances hereafter mentioned) to prevent them from using the British territory for purposes connected with the fishery, and will exclude their fishing-vessels from the bays, harbours, creeks, and inlets of all Her Majesty’s possessions.

In case, however, it shall appear that the fishermen of the United States, through ignorance of the circumstances which affect this question, should this season have commenced a fishery similar to that carried on by them previous to the late war, and should have occupied the British harbours, and formed establishments on the British territory which could not be suddenly abandoned without considerable loss, or that other vessels in ignorance of these circumstances should arrive from America this season, His Royal Highness the Prince Regent being willing to give every indulgence to the citizens of the United States which is compatible with His Majesty’s rights, you are therefore directed to abstain from molesting such fishermen or impeding the progress of their fishery during the present year, unless they should, by attempts to carry on a contraband trade, render themselves unworthy of protection or indulgence. You will, however, not fail to communicate to them the tenor of the instructions you have received, and the view which His Majesty’s Government take of the question of the fishery; and, above all, you will be careful to explain to them that they are not in any future season to expect a continuance of the same indulgence.

You will, on your return at the close of the season, report to me the names of the vessels and their masters to whom you may have made this communication.

Article 13.—The latter part of this Article to be omitted, commencing with the words “Warning them, &c.”

To the respective Captains and Commanders of
His Majesty’s Ships under my command.

Inclosure 3 in No. 28.

Mr. Lockwood to Rear-Admiral Griffith.

Sir,

“Examiner,” Halifax, August 15, 1815.

I HAVE the honour to acquaint you that Mr. Hains, Deputy Collector at Briars Island, represented to me that, in carrying into execution the instructions which he

had received relative to American fishermen, he was not only insulted by them, but his life endangered by a threat of throwing him overboard.

Mr. Sargent, of Barrington, a Member of the House of Assembly, and a magistrate of the Province, informed me of an American fisherman attempting to board a small coaster belonging to the place, and was prevented from doing so by the master pretending to call for the passengers below.

The fishermen along the Western Coast complain of having been driven from the outer banks by the Americans.

These circumstances induced me to make an example of one of the many boarded by His Majesty's sloop under my command by a few days' detention at Shelburne.

I have, &c.
(Signed) J. LOCKWOOD.

Inclosure 4 in No. 28.

Mr. Baker to Mr. Monroe.

Sir, *Philadelphia, August 31, 1815.*
I HAVE the honour to acknowledge the receipt of your letter of the 18th ultimo, together with its inclosures, relating to the warning off to the distance of 60 miles from the coast of Nova Scotia of some American fishing-vessels by His Majesty's brig "Jaseur."

This measure was, as you have justly presumed in your note, totally unauthorized by His Majesty's Government, and I have the satisfaction to acquaint you that orders have been given by the naval Commanders-in-chief on the Halifax and Newfoundland stations, which will effectually prevent the recurrence of any similar interruption to the vessels belonging to the United States engaged in fishing on the high seas.

I have, &c.
(Signed) ANTHONY ST. JNO. BAKER.

Inclosure 5 in No. 28.

Mr. Monroe to Mr. Baker.

Sir, *Department of State, August 17, 1815.*
I HAVE had the honour to receive your letter of the 31st of July, stating that the practice of desertion from the British service had extended to New Brunswick, and had been promoted by some of the officers of the United States, of which you give an example, which is illustrated by the papers communicated with your letter.

As the conduct ascribed to the American officer was unauthorized, and it is not perceived that he could have any motives of a personal nature to offer the sum stated, it is probable that the parties making the representation may have committed some mistake.

I shall, however, transmit your communication to the Secretary of War, that he may adopt the same measure in regard to New Brunswick and the British service generally that he has done with Canada. Orders will be given to prohibit a practice inconsistent with the interest and policy of the United States, as it is dishonourable to any officer who may engage in it. Any violation of those orders will hereafter be punished. The particular case stated in your communication will be inquired into.

I have, &c.
(Signed) JAMES MONROE.

No. 29.

Earl Bathurst to Mr. Adams.

Foreign Office, October 30, 1815.

THE Undersigned has the honour of receiving the letter of the Minister of the United States dated the 25th ultimo, containing the grounds upon which the

United States conceive themselves at the present time entitled to prosecute their fisheries within the limits of British sovereignty, and to use British territories for purposes connected with the fisheries.

A pretension of this kind was certainly intimated on a former occasion, but in a manner so obscure that His Majesty's Government was not enabled even to conjecture the grounds upon which it could be supported.

His Majesty's Government have not failed to give to the arguments contained in the letter of the 25th ultimo, a candid and deliberate consideration, and although they are compelled to resist the claim of the United States when thus brought forward as a question of right, they feel every disposition to afford to the citizens of those States all the liberties and privileges connected with the fisheries which can consist with the just rights and interests of Great Britain and secure Her Majesty's subjects from those undue molestations in their fishery which they have formerly experienced from citizens of the United States.

The Minister of the United States appears by his letter to be well aware that Great Britain has always considered the liberty formerly enjoyed by the United States, of fishing within British limits and using British territory, as derived from the IIIrd Article of the Treaty of 1783, and from that alone, and that the claim of an independent State to occupy and use at its discretion any portion of the territory of another, without compensation or corresponding indulgence, cannot rest on any other foundation than conventional stipulation. It is unnecessary to inquire into the motives which might originally have influenced Great Britain in conceding such liberties to the United States, or whether other Articles of the Treaty wherein these liberties are specified did or did not in fact afford an equivalent for them, because all the stipulations profess to be founded on reciprocal advantages and mutual convenience. If the United States derived from that Treaty privileges, from which other independent nations not admitted by Treaty were excluded, the duration of the privileges must depend on the duration of the instrument by which they were granted, and if the war abrogated the Treaty it determined the privileges.

It has been urged indeed on the part of the United States that the Treaty of 1783 was of a peculiar character, and that because it contained a recognition of American independence it could not be abrogated by a subsequent war between the Parties. To a position of this novel nature Great Britain cannot accede. She knows of no exception to the rule that all Treaties are put an end to by a subsequent war between the same parties. She cannot therefore consent to give to her diplomatic relations with one State a different degree of permanency from that, on which her connection with all other States depends. Nor can she consider any one State at liberty to assign to a Treaty, made with her, such a peculiarity of character, as shall make it as to duration an exception to all other Treaties, in order to found on a peculiarity, thus assumed, an irrevocable title to indulgencies, which have all the features of temporary concessions.

The Treaty of Ghent has been brought forward by the American Minister as supporting by its reference to the boundary line of the United States as fixed by the Treaty of 1783, the opinion that the Treaty of 1783 was not abrogated by the War. The Undersigned however cannot observe in any one of its Articles any express or implied reference to the Treaty of 1783 as still in force. It will not be denied that the main object of the Treaty of Ghent was the mutual restoration of all territory taken by either party from the other during the war. As a necessary consequence of such a stipulation each party reverted to their boundaries as before the war without reference to the title by which these possessions were acquired, or to the mode in which their boundaries had been previously fixed. In point of fact the United States had before acquired possession of territories asserted to depend on other titles than those which Great Britain would confer. The Treaty of Ghent indeed adverted, as a fact of possession, to certain boundaries of the United States which were specified in the Treaty of 1783, but surely it will not be contended that therefore the Treaty of 1783 was not considered at an end.

It is justly stated by the American Minister that the United States did not need a new grant of the boundary line. The war did not arise out of a contested boundary, and Great Britain therefore by the act of treating with the United States recognized that nation in its former dimensions, excepting so far as the *jus belli* had interfered with them; and it was the object of the Treaty of Ghent to cede such rights to territory as the *jus belli* had conferred.

Still less does the free navigation of the Mississippi as demanded by the British negotiators at Ghent in any manner express or imply the non-abrogation of the Treaty of 1783 by the subsequent war. It was brought forward by them as one of many

advantages which they were desirous of securing to Great Britain, and if in the first instance demanded without equivalent it left it open to the negotiators of the United States to claim for their Government in the course of the conferences a corresponding benefit. The American Minister will recollect that propositions of this nature were at one time under discussion, and that they were only abandoned at the time that Great Britain relinquished her demand to the navigation of the Mississippi. If then, the demand on the part of Great Britain can be supposed to have given any weight to the present argument of the United States, the abandonment of that demand must have effectually removed it.

It is by no means unusual for Treaties containing recognitions and acknowledgments of title in the nature of perpetual obligation, to contain likewise grants of privileges liable to revocation. The Treaty of 1783 like many others contained provisions of different characters, some in their own nature irrevocable and others of a temporary nature. If it be thence inferred that because some advantages specified in that Treaty would not be put an end to by the war therefore all the other advantages were intended to be equally permanent, it must first be shown that the advantages themselves are of the same, or at least of a similar character, for the character of one advantage recognized or conceded by Treaty can have no connection with the character of another though conceded by the same instrument, unless it arises out of a strict and necessary connection between the advantages themselves. But what necessary connection can there be between a right to independence and a liberty to fish within British jurisdiction or to use British territory? Liberties within British limits are as capable of being exercised by a dependent as by an independent State, and cannot therefore be the necessary consequence of independence.

The independence of a State is that which cannot be correctly said to be granted by a Treaty, but to be acknowledged by one. In the Treaty of 1783 the independence of the United States was certainly acknowledged, but it had been before acknowledged, not merely by the consent to make the Treaty, but by the previous consent to enter into the Provisional Articles executed in November 1782. The independence might have been acknowledged without either the Treaty or the Provisional Articles, but by whatever mode acknowledged, the acknowledgment is in its own nature irrevocable. A power of revoking, or even of modifying it, would be destructive of the thing itself, and therefore all such power is necessarily renounced when the acknowledgment is made. The war could not put an end to it, for the reason justly assigned by the American Minister, because a nation could not forfeit its sovereignty by the act of exercising it, and for the further reason, that Great Britain, when she declared war on her part against the United States, gave them by that very act a new recognition of their independence.

The nature of the liberty to fish within British limits, or to use British territory, is essentially different from the right to independence in all that can reasonably be supposed to regard its intended duration. The grant of this liberty has all the aspect of a policy temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places.

When, therefore, Great Britain, admitting the independence of the United States, denies their right to the liberties for which they now contend it is not that she selects from the Treaty Articles or parts of Articles, and says at her own will, this stipulation is liable to forfeiture by war, and that is irrevocable. But the principle of her reasoning is that such distinctions arise out of the provisions themselves, and are founded on the very nature of the grants.

But the rights acknowledged by the Treaty of 1783 are not only distinguishable from the liberties conceded by the same Treaty in the foundation upon which they stand, but they are carefully distinguished in the Treaty of 1783 itself.

The Undersigned begs to call the attention of the American Minister to the wording of the 1st and 11th Articles, to which he has often referred for the foundation of his arguments. In the 1st Article Great Britain acknowledges an independence already expressly recognized by other Powers of Europe, and by herself in her consent to enter into provisional Articles of November, 1782. In the 11th Article Great Britain acknowledges the *right* of the United States to take fish on the banks of Newfoundland and other places, from which Great Britain had no right to exclude an independent nation. But they are to have the *liberty* to take fish on the coasts of His Majesty's dominions in America, and *liberty* to cure and dry them in certain unsettled

places within His Majesty's territory. If these *liberties* thus granted were to be as perpetual and indefeasible as the *rights* previously recognized, it is difficult to conceive that the Plenipotentiaries of the United States would have admitted a variation of language so adapted to produce a different impression; and, above all, that they should have admitted so strange a restriction of a perpetual and indefeasible right as that with which the Article concludes, which leaves a right so practical and so beneficial as this is admitted to be dependent on the will of British subjects, in their character of inhabitants, proprietors, or possessors of the soil to prohibit its exercise altogether.

It is surely obvious that the word *right* is throughout the Treaty used as applicable to what the United States were to enjoy in virtue of a recognized independence, and the word *liberty* to what they were to enjoy as concessions strictly dependent on the Treaty itself.

The right of the United States has been asserted upon other arguments which appear to the Undersigned not altogether consistent with those that had been previously advanced. It has been agreed by the Minister of the United States that the Treaty of 1783 did not confer upon the United States the liberty of fishing within the British jurisdiction, and of using British territory, but merely recognized a right which they previously had, and it has been thence inferred, that the recognition of this right renders it as perpetual as that of their independence.

If the Treaty of 1783 did not confer the liberties in question the Undersigned cannot understand why, in their support, the point should have been so much pressed that the Treaty is in force notwithstanding the subsequent war.

If, as stated by the American Minister, the time of the settlement of North America, was the origin of the liberties of the United States in respect of the fisheries, and their independence, as recognized in 1783 was, as further argued by him, the mere recognition of rights and liberties previously existing (which must have been in virtue of their independence) it would seem to follow that their independence was recognized from the time of the settlement of North America, for no other period can be assigned. The Undersigned is totally unable to collect when the American Minister considers the independence of his country to have commenced, yet this is a point of no small importance if other rights are to be represented as coeval with it or dependent on it.

As to the origin of these privileges in point of fact the Undersigned is ready to admit that so long as the United States constituted a part of the dominions of His Majesty, the inhabitants had the enjoyment of them, as they had of other political and commercial advantages in common with His Majesty's subjects. But they had at the same time in common with His Majesty's other subjects, duties to perform, and when the United States by their separation from Great Britain became released from the duties, they became excluded also from the advantages of British subjects. They cannot therefore now claim, otherwise than by Treaty, the exercise of privileges belonging to them as British subjects, unless they are prepared to admit, on the part of Great Britain, the exercise of the rights which she enjoyed previous to the separation.

If it be contended on the part of the United States that, in consequence of having been once a part of the British dominions, they are now entitled as of right to all the privileges which they enjoyed as British subjects in addition to those which they have as an independent people, the Undersigned cannot too strongly protest against such a doctrine, and it must become doubly necessary for Great Britain to hesitate in conceding the privileges which are now the subject of discussion, lest by such a concession she should be supposed to countenance a principle not less novel than alarming.

But though Great Britain can never admit the claim of the United States to enjoy these liberties with respect to the fisheries, as matter of right, she is by no means insensible to some of those considerations with which the letter of the American Minister concludes. Although His Majesty's Government cannot admit that the claim of the American fishermen to fish within British jurisdiction, and to use the British territory for purposes connected with their fishery, is analogous to the indulgence which has been granted to enemy's subjects engaged in fishing on the high seas for the purpose of conveying fresh fish to market, yet they do feel that the enjoyment of the liberties formerly used by the inhabitants of the United States may be very conducive to their national and individual prosperity, though they should be placed under some modifications, and this feeling operates most forcibly in favour of concession. But Great Britain can only offer the concession in a way which shall effectually protect her own subjects from such obstructions to their lawful enterprises as they too frequently experienced immediately previous to the late war, which are from their very nature calculated to produce collision and disunion between the two States.

It was not of fair competition that His Majesty's Government had reason to complain—but of the pre-occupation of British harbours and creeks in North America by the fishing vessels of the United States, and the forcible exclusion of British vessels from places where the fishery might be most advantageously conducted. They had likewise reason to complain of the clandestine introduction of prohibited goods into the British Colonies by American vessels ostensibly engaged in the fishing trade, to the great injury of the British revenue.

The Undersigned has felt it incumbent on him thus generally to notice these obstructions, in the hope that the attention of the Government of the United States will be directed to the subject, and that they may be induced amicably and cordially to co-operate with His Majesty's Government in devising such regulations as shall prevent the recurrence of similar inconveniences.

His Majesty's Government are willing to enter into negotiations with the Government of the United States for the modified renewal of the liberties in question, and they doubt not that an arrangement may be made satisfactory to both countries, and tending to confirm the amity now so happily subsisting between them.

The Undersigned, &c.

(Signed) BATHURST.

No. 30.

Mr. Adams to Viscount Castlereagh.—(Received January .)

13, Craven Street, January 22, 1816.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received and communicated to the Government of the United States the answer of Lord Bathurst to a letter which he had the honour of addressing to his Lordship on the 25th of September last, representing the grounds upon which the American Government consider the people of the United States entitled to all the rights and liberties in and connected with the fisheries on the coasts of North America which had been enjoyed by them previously to the American Revolution, and which, by the IIIrd Article of the Treaty of Peace of 1783, were recognised by Great Britain as rights and liberties belonging to them. The reply to Lord Bathurst's note has been delayed by circumstances which it is unnecessary to detail. It is for the Government of the United States alone to decide upon the proposal of a negotiation upon the subject. That they will at all times be ready to agree upon arrangements which may obviate and prevent the recurrence of those inconveniences stated to have resulted from the exercise by the people of the United States of these rights and liberties is not to be doubted; but as Lord Bathurst appears to have understood some of the observations in the letter of the Undersigned as importing inferences not intended by him, and as some of his Lordship's remarks particularly require a reply, it is presumed that, since Lord Castlereagh's return, it will with propriety be addressed to him.

It had been stated in the letter to Lord Bathurst that the Treaty of Peace of 1783, between Great Britain and the United States, was of a peculiar nature, and bore in that nature a character of the permanency not subject, like many of ordinary contracts between independent nations, to abrogation by a subsequent war between the same parties. His Lordship not only considers this as a position of a new nature to which Great Britain cannot accede, but as claiming for the diplomatic relations of the United States with her a different degree of permanency from that on which her connections with all other States depends. He denies the right of any one State to assign to a Treaty made with her such a peculiarity of character as to make it in duration an exception to all other Treaties, in order to found, on a peculiarity thus assumed, an irrevocable title to all indulgences which he alleges have all the features of temporary concessions; and he adds, in unqualified terms, that Great Britain knows of no exception to the rule that all Treaties are put an end to by a subsequent war between the same parties.

The Undersigned explicitly disavows any pretence of claiming for the diplomatic relations between the United States and Great Britain a degree of permanency different from that of the same relations between either of the parties and all other Powers. He disclaims all pretence of assigning to any Treaty between the two nations any peculiarity not founded in the nature of the Treaty itself. But he submits it to the candour of His Majesty's Government whether the Treaty of 1783 was not from the very nature of its subject-matter and from the relations previously existing between

the parties to it peculiar? Whether it was a Treaty which could have been made between Great Britain and any other nation? And if not, whether the whole scope and objects of its stipulations were not expressly intended to constitute a new and permanent state of diplomatic relations between the two countries which would not and could not be annulled by the mere fact of a subsequent war between them? And he makes this appeal with the more confidence because another part of Lord Bathurst's note admits that Treaties often contain recognitions and acknowledgments in nature of perpetual obligation, and because it implicitly admits that the whole Treaty of 1783 is of this character, with the exception of the Article concerning the navigation of the Mississippi, and a small part of the Article concerning the fisheries.

The position that Great Britain knows no exception to the rule that all Treaties are put an end to by a subsequent war between the same parties, appears to the Undersigned not only novel, but unwarranted by any of the received authorities upon the laws of nations, unsanctioned by the practice and usages of sovereign States, suited in its tendency to multiply the incitements to war, and to weaken the ties of peace between independent nations, and not easily reconciled with the admission that Treaties not unusually contain, together with Articles of a temporary character liable to revocation, recognitions and acknowledgments in nature of perpetual obligation.

A recognition or acknowledgment of title stipulated by Convention is as much a part of the Treaty as any other Article; and if all Treaties are abrogated by war, the recognitions and acknowledgments contained in them must necessarily be null and void as much as any other part of the Treaty.

If there be no exception to the rule that war puts an end to all Treaties between the parties to it, what can be the purpose or meaning of those Articles which in almost all Treaties of Commerce are provided expressly for the contingency of war, and which during the peace are without operation? On this point the Undersigned would refer Lord Castlereagh to the Xth Article of the Treaty of 1794 between the United States and Great Britain, where it is thus stipulated: "Neither the debts due from individuals of the one nation to the individuals of the other, nor shares nor moneys which they may have in the public funds, or in the public or private banks, shall ever in any event of war or national differences be sequestered or confiscated." If war puts an end to all Treaties, what could the parties to this engagement intend by making it formally an Article of the Treaty? According to the principle laid down, excluding all exception, by Lord Bathurst's note, the moment a war broke out between the two countries this stipulation became a dead letter, and either State might have sequestered or confiscated those specified properties without any violation of compact between the nations.

The Undersigned believes that there are many exceptions to the rule by which the Treaties between nations are mutually considered as terminated by the intervention of a war. That these exceptions extend to all engagements contracted with the understanding that they are to operate equally in war and peace, or exclusively during war. To all engagements by which the parties superadd the sanction of a formal compact to principles dictated by the eternal laws of morality and humanity, and finally to all engagements which, according to the expression of Lord Bathurst's note, are in the nature of perpetual obligation. To the first and second of these classes may be referred the Xth Article of the Treaty of 1794, and all Treaties or Articles of Treaties stipulating the abolition of the Slave Trade. The Treaty of Peace of 1783 belongs to the third.

The reasoning of Lord Bathurst's note seems to confine this perpetuity of obligation to recognitions and acknowledgments of title, and to consider its perpetual nature as resulting from the subject-matter of the contract, and not from the engagement of the contractor. While Great Britain leaves the United States unmolested in the enjoyment of all the advantages, rights, and liberties stipulated in their behalf in the Treaty of 1783, it is immaterial to them whether she founds her conduct upon the mere fact that the United States are in possession of such rights, or whether she is governed by good faith and respect for her own engagements. But if she contests any one of them, it is to her engagements only that the United States can appeal as the rule for settling the question of right. If this appeal be rejected, it ceases to be a discussion of right, and this observation applies as strongly to the recognition of independence and to the boundary line in the Treaty of 1783 as to the fisheries. It is truly observed by Lord Bathurst that in that Treaty the independence of the United States was not granted but acknowledged. He adds that it might have been acknowledged without any Treaty, and that the acknowledgment in whatever mode made would have been irrevocable. But the independence of the United States was precisely the question upon which a previous war between them and Great Britain had been waged. Other

nations might acknowledge their independence without a Treaty, because they had no right or claim of right to contest it; but this acknowledgment to be binding upon Great Britain could have been made only by Treaty, because it included the dissolution of our social compact between the parties, as well as the formation of another. Peace could exist between the two nations only by the mutual pledge of faith to the new social relations established between them, and hence it was that the stipulations of that Treaty were in the nature of perpetual obligation, and not liable to be forfeited by a subsequent war, or by any declaration of the will of either party without the assent of the other.

In this view it certainly was supposed by the Undersigned that Great Britain considered her obligation to hold and treat with the United States as a Sovereign and Independent Power as derived only from the Preliminary Articles of 1782, as converted into the Definitive Treaty of 1783. The boundary line could obviously rest upon no other foundation. The boundaries were neither recognitions nor acknowledgments of title. They could have been fixed and settled only by Treaty, and it is to the Treaty alone that both parties have always referred in all discussions concerning them. Lord Bathurst's note denies that there is, in any one of the Articles of the Treaty of Ghent, any express or implied reference to the Treaty of 1783 as still in force. It says, that by the stipulation for a mutual restoration of territory, each party necessarily "reverted to their boundaries as before the war, without reference to the title by which their possessions were acquired, or to the mode in which their boundaries had been previously fixed."

There are four several Articles of the Treaty of Ghent, in every one of which the Treaty of 1783 is not only named, but its stipulations form the basis of the new engagements between the parties for carrying its provisions into execution. These Articles are the IVth, Vth, VIth, and VIIIth. The Undersigned refers particularly to the 4th Article, where the boundaries described are not adverted to without reference to the title by which they were acquired, but where the stipulation of the Treaty of 1783 is expressly assigned as the basis of the claims both of the United States and of Great Britain to the islands mentioned in the Article.

The words with which the Article begins are—"Whereas it was stipulated by the Second Article in the Treaty of Peace . . . of one thousand seven hundred and eighty-three, between His Britannic Majesty and the United States of America, that the boundary of the United States should comprehend all Islands, &c." It proceeds to describe the boundaries as there stipulated; then alleges the claim of the United States to certain islands as founded upon one part of the stipulation, and the claim of Great Britain as derived from another part of the stipulation, and agrees upon the appointment of two Commissioners "to decide to which of the two contracting parties the islands belong in conformity with the true intent of the said Treaty of Peace of 1783."

The same expressions are repeated in the Vth, VIth, and VIIIth Articles, and the Undersigned is unable to conceive by what construction of language one of the parties to those Articles can allege that at the time when they were signed the Treaty of 1783 was, or could be, considered at an end.

When, in the letter of the Undersigned to Lord Bathurst, the Treaty of 1783 was stated to be a compact of a peculiar character, importing in its own nature a permanence not liable to be annulled by the fact of a subsequent war between the parties, the recognition of the Sovereignty of the United States, and the boundary line were adduced as illustrations to support the principle; the language of the above-mentioned Articles in the Treaty of Ghent, and the claim brought forward by Great Britain at the negotiation of it for the free navigation of the Mississippi, were alleged as proofs that Great Britain herself so considered it excepting with regard to a small part of the single Article relative to the fisheries, and the right of Great Britain was denied thus to select one particular stipulation in such a Treaty and declare it to be abrogated by the war. The answer of Lord Bathurst denies that Great Britain has made such a selection, and affirms that the whole Treaty of 1783 was annulled by the late war. It admits, however, that the recognition of independence, and the boundaries were in the nature of perpetual obligation, and that with the single exception of the liberties in, and connected with, the fisheries within the British jurisdiction on the coasts of North America, the United States are entitled to all the benefits of all the stipulations in their favour contained in the Treaty of 1783, although the stipulations themselves are supposed to be annulled. The fishing liberties within British jurisdiction alone are considered as a temporary grant, liable not only to abrogation by war, but, as it would seem from the tenor of the argument, revocable at the pleasure of Great Britain

whenever she might consider the revocation suitable to her interest. The note affirms that "the liberty to fish within British limits or to use British territory is essentially different from the right to independence, in all that can reasonably be supposed to regard its intended duration. That the grant of this liberty has all the aspect of a policy temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places."

The Undersigned is induced on this occasion to repeat his Lordship's own words, because, on a careful and deliberate review of the Article in question, he is unable to discover in it a single expression indicating, even in the most distant manner, a policy temporary or experimental, or having the remotest connection with military, naval, or commercial conveniences or inconveniences to Great Britain. He has not been inattentive to the variation in the terms by which the enjoyment of the fisheries on the main ocean, the common possession of both nations, and the same enjoyment within a small portion of the special jurisdiction of Great Britain, are stipulated in the Article and recognized as belonging to the people of the United States. He considers the term "right" as importing an advantage to be enjoyed in a place of common jurisdiction, and the term "liberty" as referring to the same advantage incidentally leading to the borders of a special jurisdiction. But, evidently, neither of them imports any limitation of time. Both were expressions no less familiar to the understandings than dear to the hearts of both the nations parties to the Treaty. The Undersigned is persuaded it will be readily admitted, that wherever the English language is the mother tongue, the term "liberty," far from including in itself either limitation of time or precariousness of tenure, is essentially as permanent as that of "right," and can, with justice, be understood only as a modification of the same thing; and as no limitation of time is implied in the term itself, so there is none expressed in any part of the Article to which it belongs. The restriction at the close of the Article is itself a confirmation of the permanency which, the Undersigned contends, belongs to every part of the Article. The intention was that the people of the United States should continue to enjoy all the benefits of the fisheries which they had enjoyed theretofore, and, with the exception of drying and curing fish on the Island of Newfoundland, all that British subjects should enjoy thereafter. Among them was the liberty of drying and curing fish on the shores then uninhabited, adjoining certain bays, harbours, and creeks. But when those shores should become settled, and thereby become private and individual property, it was obvious that the liberty of drying and curing fish on them must be conciliated with the proprietary rights of the owners of the soil. The same restrictions would apply to British fishermen; and it was precisely because no grant of a new right was intended, but merely the continuance of what had been previously enjoyed, that the restriction must have been assented to on the part of the United States. But upon the common and equitable rule of construction for Treaties, the expression of one restriction implies the exclusion of all others not expressed, and thus the very limitation which looks forward to the time when the unsettled deserts should become inhabited, to modify the enjoyment of the same liberty, conformably to the change of circumstances corroborates the conclusion that the whole purport of the compact was permanent and not temporary; not experimental but definitive.

That the term *right* was used as applicable to what the United States were to enjoy in virtue of a recognized independence, and the word *liberty* to what they were to enjoy as concessions strictly dependent on the Treaty itself, the Undersigned not only cannot admit, but considers as a construction altogether unfounded. If the United States would have been entitled, in virtue of a recognized independence, to enjoy the fisheries to which the word *rights* is applied, no Article upon the subject would have been required in the Treaty. Whatever their right might have been, Great Britain would not have felt herself bound, without a specific Article to that effect, to acknowledge it as included among the appendages to their independence. Had she not acknowledged it, the United States must have been reduced to the alternative of resigning it, or of maintaining it by force, the result of which must have been war—the very state from which the Treaty was to redeem the parties. That Great Britain would not have acknowledged these rights as belonging to the United States in virtue of their independence is evident. For in the cession of Nova Scotia by France to Great Britain, in the XIIth Article of the Treaty of Utrecht, it was expressly stipulated that, as a consequence of that cession, French subjects should be thenceforth "excluded from all kinds of fishing in the said seas, bays, and other places on the coasts

of Nova Scotia; that is to say, on those which lie towards the east, within 30 leagues, beginning from the island commonly called Sable inclusively, and thence stretching along towards the south-west." The same exclusion was repeated, with some slight variation, in the Treaty of Peace of 1763: and in the XVIIth Article of the same Treaty, Spain explicitly renounced all pretension to the right of fishing in the neighbourhood of the island of Newfoundland. It was not, therefore, as a necessary result of their independence that Great Britain recognized the right of the people of the United States to fish on the banks of Newfoundland, in the Gulf of St. Lawrence, "and at all other places in the sea where the inhabitants of both countries used at any time theretofore to fish." She recognized it by a special stipulation as a right which they had theretofore enjoyed as a part of the British nation, and which as an independent nation they were to continue to enjoy unmolested. And it is well known that, so far from considering it as recognized by virtue of her acknowledgment of independence, her objections to admitting it at all formed one of the most prominent difficulties in the negotiation of the Peace of 1763. It was not asserted by the Undersigned, as Lord Bathurst's note appears to suppose, that either the right or the liberty of the people of the United States in these fisheries were indefeasible. It was maintained that, after the recognition of them by Great Britain in the Treaty of 1763, neither the right nor the liberty could be forfeited by the United States but by their own consent. That no act or declaration of Great Britain alone could divest the United States of them; and that no exclusion of them from the enjoyment of either could be valid unless expressly stipulated by themselves, as was done by France in the Treaty of Utrecht, and by France and Spain in the Peace of 1763.

The Undersigned is apprehensive, from the earnestness with which Lord Bathurst's note argues to refute inferences which he disclaims, from the principles asserted in his letter to his Lordship, that he has not expressed his meaning in terms sufficiently clear. He affirmed that, previous to the independence of the United States, their people, as British subjects, had enjoyed all the rights and liberties in the fisheries which form the subject of the present discussion; and that when the separation of the two parts of the nation was consummated by a mutual compact, the Treaty of Peace defined the rights and liberties which, by the stipulation of both parties, the United States in their new character were to enjoy. By the acknowledgment of the independence of the United States, Great Britain bound herself to treat them thenceforward as a nation, possessed of all the prerogatives and attributes of sovereign power. The people of the United States were thenceforward neither bound in allegiance to the Sovereign of Great Britain, nor entitled to his protection in the enjoyment of any of their rights as his subjects. Their rights and their duties as members of a State were defined and regulated by their own constitutions and forms of government. But there were certain rights and liberties which had been enjoyed by both parts of the nation, while subjects of the same Sovereign, which it was mutually agreed they should continue to enjoy unmolested, and among them were the rights and liberties in these fisheries. The fisheries on the banks of Newfoundland, as well in the open seas as in the neighbouring bays, gulfs, and along the coasts of Nova Scotia and Labrador, were by the dispensations and the laws of nature in substance only different parts of our fishery. Those of the open sea were enjoyed, not as a common and universal right of all nations, since the exclusion from them of France and Spain, in whole or in part, had been expressly stipulated by those nations, and no other nation had in fact participated in them. It was, with some exceptions, an exclusive possession of the British nation; and in the Treaty of Separation it was agreed that the rights and liberties in them should continue to be enjoyed by that part of the nation which constituted the United States. That it should not be a several, but, as between Great Britain and the United States, a common fishery. It was necessary for the enjoyment of this fishery to exercise it in conformity to the habits of the species of game of which it consisted. The places frequented by the fish were those to which the fishermen were obliged to resort, and these occasionally brought them to the borders of the British territorial jurisdiction. It was also necessary for the prosecution of a part of this fishery, that the fish when caught should be immediately cured and dried, which could only be done on the rocks or shores adjoining the places where they were caught. The access to those rocks and shores for those purposes was secured to the people of the United States, as incidental and necessary to the enjoyment of the fishery. It was little more than an access to naked rocks and desolate sands. But it was as permanently secured as the right to the fishery itself. No limitation was assigned of time. Provision was made for the proprietary rights which might at a distant and future period arise by the settlement of places then uninhabited; but no other limitation was expressed or indicated by the

terms of the Treaty, and no other can, either from the letter or spirit of the Article, be inferred.

Far then from claiming the general rights and privileges belonging to British subjects within the British dominions, as resulting from the Treaty of Peace of 1783, while at the same time asserting their exemption from the duties of a British allegiance, the article in question is itself a proof that the people of the United States have renounced all such claims. Could they have pretended generally to the privileges of British subjects, such an article as that relating to the fisheries would have been absurd. There was, in the Treaty of 1783, no express renunciation of their rights to the protection of a British sovereign. This renunciation they had made by their declaration of independence on the 4th of July 1776, and it was implied in their acceptance of the counter-renunciation of sovereignty in the Treaty of 1783. It was precisely because they might have lost their portion of this joint national property, to the acquisition of which they had contributed more than their share, unless a formal Article of the Treaty should secure it to them, that the article was introduced. By the British municipal laws, which were the laws of both nations, the property of a fishery is not necessarily in the proprietor of the soil where it is situated. The soil may belong to one individual, and the fishery to another. The right to the soil may be exclusive, while the fishery may be free or held in common. And thus, while in the partition of the national possessions in North America, stipulated by the Treaty of 1783, the jurisdiction over the shores, washed by the waters where this fishery was placed, was referred to Great Britain, the fisheries themselves, and the accommodation essential to their prosecution, were, by mutual compact, agreed to be continued in common.

In submitting these reflections to the consideration of His Majesty's Government the Undersigned is duly sensible of the amicable and conciliatory sentiments and dispositions towards the United States manifested at the conclusion of Lord Bathurst's note, which will be met by reciprocal and corresponding sentiments and dispositions on the part of the American Government. It will be highly satisfactory to them to be assured that the conduciveness of the object to the national and individual prosperity of the inhabitants of the United States operates with His Majesty's Government as a forcible motive to concession. Undoubtedly the participation in the liberties to which their right is now maintained is far more important to the interests of the people of the United States than the exclusive enjoyment of them can be to the interests of Great Britain. The real general and ultimate interests of both the nations on this object he is fully convinced are the same. The collision of particular interests, which heretofore may have produced altercations between the fishermen of the two nations, and the clandestine introduction of prohibited goods by means of American fishing vessels, may be obviated by arrangements duly concerted between the two Governments. That of the United States, he is persuaded will readily co-operate in any measure to secure those ends, compatible with the enjoyment by the people of the United States, of the liberties to which they consider their title as unimpaired, inasmuch as it has never been renounced by themselves.

The Undersigned, &c.

(Signed) JOHN QUINCY ADAMS.

No. 31.

Lord Melville to Viscount Castlereagh.—(Received April 8.)

(Private.)

My dear Lord,

Admiralty, April 8, 1816.

I HAVE lately had some conversation with Sir Richard Keats on the subject of such concessions as might be granted to American citizens in relation to the fisheries on the coasts of Newfoundland, &c. The following is the purport of what I have been able to collect from him:—

He is of opinion that *any* permission to be granted to America to fish on our coasts of Newfoundland, and of Labrador, and the Gulf of St. Lawrence, will be prejudicial to the interests of the fishery by British subjects, and will also affect materially the revenues of Newfoundland by the facility afforded to smuggling into that island; but if it shall be deemed expedient in any negotiation with the Government of the United States to concede to the Americans the privilege of frequenting and drying their fish on our coasts, he recommends that offers should be made to them of such privileges exclusively on the following portions of coast:—

1. From Mount Joli, opposite the east end of the Island of Anticosti, in the Gulf of St. Lawrence, along the coast of Labrador, to the Bay and Isles Esquimaux, near

the western entrance of the Straits of Belle Isle. He admits that the harbours on that line of coast are not good, but still it would afford a material accommodation to the Americans.

If that shall not be deemed sufficient, he recommends in lieu of it—

2. A portion of the southern coast of Newfoundland from Cape Ray (where the French fishery ends) eastward to the Ramea Islands, or about the longitude of 57° west of Greenwich.

He objects strongly to the Americans being admitted to the fishery on any other portions of the coast of Newfoundland possessed or enjoyed by this country, or on the eastern coast of Labrador from the western entrance of the Straits of Belle Isle.

By the Treaty of Paris in 1814, the French fisheries and possessions on the coasts of Newfoundland are placed on the same footing as they stood in 1792, viz.: as settled by the XIIIth Article of the Treaty of Utrecht in 1713, the Vth and VIth Articles of the Treaty of Paris in 1763, and the IVth, Vth, and VIth Articles of the Treaty of Versailles in 1783, and the Declaration and Counter-Declaration annexed to the last-mentioned Treaty. On perusing these Articles, you will perceive that the French have no right of territory in Newfoundland, though they have in St. Pierre and Miquelon; and it would appear by the Declaration of 1783 that their possession, or rather their right of fishing on the coast of the Island of Newfoundland, is exclusive in their favour. The privilege of fishing within the Gulf of St. Lawrence is granted to the French by the Vth Article of the Treaty of 1763 as a "liberty," and that gulf does not seem by any means to be considered as a part of the high seas open to all nations.

Believe, &c.
(Signed) MELVILLE.

No. 32.

Viscount Castlereagh to Mr. Bagot.

Sir,

Foreign Office, April 16, 1816.

IN the despatch No. 3 addressed to you by Earl Bathurst, bearing date the 20th November, 1815, your particular attention was directed to the discussion brought on by the Government of the United States with that of Great Britain, since the restoration of peace by the Treaty of Ghent, on the subject of the fisheries. Copies of the notes which had been exchanged between the American Minister in London and His Majesty's Government were therein transmitted for your information; and you were directed to conform your language in your intercourse with the American Secretary of State to the principles which had been brought forward in this correspondence on the part of your Court.

Whilst these discussions were passing in Europe, you will observe from the inclosed documents that, in pursuance of the construction of that Treaty as contended for by the British Government, the naval officer commanding on the Halifax station had taken measures for amicably removing all American fishing vessels from within the British jurisdiction, warning them, under pain of seizure, not to be again found either within the harbours, or within the maritime limits of the British sovereignty on those coasts.

You will find in Lord Bathurst's notes the grounds fully explained upon which the liberty of fishing and drying within our limits, as granted to the citizens of the United States by the Treaty of 1783, was considered to have ceased with the war, and not to have been revived by the Treaty of Peace. You will also find herein detailed the serious considerations affecting not only the prosperity of our own fishery, but the general interests of the British dominions in matters of revenue as well as of Government, which made it incumbent upon His Majesty's Government to oppose the renewal of so extensive and injurious a concession within the British sovereignty to a foreign State, founded upon no principle of reciprocity or adequate compensation whatever.

That this determination however was not taken in any unkind feeling towards America, or from any illiberal wish to deprive her subjects of adequate means of engaging in the fishery, will appear from the uniform avowal which that correspondence contains of the readiness of the British Government to enter into negotiation with the Government of the United States, with a view of combining a suitable accommodation for their fishery with those regulations which the British Government felt it necessary to adopt for the internal administration and prosperity of the King's dominions, and in

order to afford a more convincing proof of their desire to avoid every unpleasant collision with the American States; and under an impression that many of their subjects, possibly in ignorance of the discontinuance of these privileges, might have embarked in the fishery for that particular year at a considerable expense, orders were sent out in the month of June to His Majesty's naval officers, not to obstruct, for the remainder of the season, American vessels from enjoying the accustomed accommodation, but to confine themselves to rendering the notice general against their return another year.

You will see by Mr. Adams' note of January 22nd, that having referred to his Government for further instructions, he is directed to adhere to the pretensions as before brought forward on the part of the United States, but to declare at the same time the disposition of the American Government to reconcile, if possible, by amicable negotiation, the practical views which the respective Governments have it in contemplation to effectuate in the arrangement of the question.

In the spirit of this principle, instead of prolonging the controversy which might easily be done, in refutation of Mr. Adams' reasoning, it has rather been the endeavour of His Majesty's Ministers to frame some satisfactory arrangement which they might at once offer to the American Government as a pledge of good-will, and as the means of reconciling their respective views. Some delay has necessarily occurred, partly from the press of Parliamentary business, and partly from the absence of Sir R. Keats, whose judgment upon this subject, as well from his eminent abilities as from his experience as Governor of Newfoundland, on this particular question, it was their duty to carry along with them. Having, after consultation with that officer, framed a proposition which they persuade themselves from its liberality cannot fail to reconcile all differences, I was authorized to open the proposition to Mr. Adams, provided he felt himself furnished with the necessary powers to conclude an agreement upon this subject, and I accordingly had an interview with that gentleman; but finding that he had neither precise instructions nor powers to conclude, it has been deemed expedient to transfer the negotiation to America, and you will receive herewith the necessary full powers, authorizing you to sign with the American Secretary of State an agreement on this point, and to issue provisional instructions to His Majesty's officers, civil and military, in conformity thereto, in order that every possible inconvenience and collision may be avoided, and that the citizens of the United States may have the enjoyment, as early as may be, of the proposed concessions.

The object of the Americans being, that in addition to the right of fishing as declared by the first branch of Article IV of the Treaty of 1783, permanently to belong to them, they should enjoy the privilege of having an adequate accommodation both in point of harbours and drying ground on the unsettled coasts within the British Sovereignty. It has been the endeavour of His Majesty's Government to assign this accommodation with sufficient liberality, without abandoning that control within the entire of their own harbours and coasts which the essential interests and the principles of their Colonial system require.

I cannot better enable you to enter upon this negotiation than by sending you a private memorandum received from Lord Melville, in which Sir R. Keats's opinion is clearly stated. You will, in conformity to this suggestion, propose the Arrangement No. 1, in the first instance, to the American Government; or you may, as an alternative, offer them the coast as described in the second proposition. Should the American Government urge objections to accept of either of these propositions separately, you are authorized, in the last resort, to yield both to them upon their distinctly agreeing to confine themselves to the unsettled parts of the coasts so assigned, abandoning all pretensions to fish or dry within our maritime limits on any other of the coasts of British North America.

The proposed assignment of coast you will observe is locally the most convenient, from its being adjacent to the American States, that could have been selected. It is also to be observed, if the concession which both propositions involve should be made, that the American fishing vessels, from whatever quarter the wind may blow, will have a safe port under their lee.

Further than this His Majesty's Government cannot authorize you to go; and when the Government of the United States consider as well the footing upon which the navigation of the Mississippi has been left by the Treaty of Ghent, as also the prohibition which they have now imposed to our trading with the Indians within their boundary line, they surely cannot expect a larger surrender of accommodation within the British jurisdiction unless they conceive, which is wholly untenable, that the British Sovereignty is of such a qualified description as to be destitute of all the ordinary rights incident to that of every independent state, viz., to regulate its internal police in

matters of trade, revenue, and government, if necessary, to the total exclusion of aliens.

So soon as you may have come to a settlement with the American Government, you will notify the same to His Majesty's officers commanding in his North American provinces, with directions for the regulation of their conduct in conformity to the stipulations agreed upon.

You are in like manner authorized, pending your discussions with the American Government, to issue such instructions as you may deem expedient to the said officers and to prevent any occurrence happening which might either embarrass the negotiation or disturb the harmony happily subsisting between the two States. And I am to acquaint you that Earl Bathurst has received the Prince Regent's commands to instruct the said officers to obey such orders as they may receive from time to time from you for this purpose.

I am, &c.
(Signed) CASTLEREAGH.

No. 33.

*Mr. Hamilton to Mr. Goulburn.**

Sir,

Foreign Office, May 18, 1816.

I HAVE the honour to inform you that Mr. Bagot, His Majesty's Minister at Washington, has received full powers to enter into a negotiation with the American Government for the purpose of fixing the limits within which the fisheries would hereafter be allowed to be carried on in North America by subjects of the United States.

He has also been authorized, as soon as this point shall be settled with the American Government, to notify the same to His Majesty's officers commanding in the North American provinces belonging to Great Britain, and to issue to them such directions for the regulation of their conduct as shall be in conformity to the stipulations agreed upon. I am therefore directed by Lord Castlereagh to request you will move Lord Bathurst to send forthwith instructions to the said officers to obey such orders as they may receive from time to time from Mr. Bagot, in order that no obstacle may occur to embarrass or impede the negotiation.

I am, &c.
(Signed) WM. HAMILTON.

No. 34.

Mr. Goulburn to Mr. Hamilton.

Sir,

Downing Street, July 9, 1816.

I AM directed by Earl Bathurst to transmit to you the inclosed copy of a letter from Mr. Croker, reporting the detention, under the circumstances therein stated, of several American fishing vessels at Port Negro, and I am to request you will submit the same to the early consideration of Lord Castlereagh.

I have, &c.
(Signed) HENRY GOULBURN.

Inclosure 1 in No. 34.

The Secretary to the Admiralty to Mr. Goulburn.

Sir,

Admiralty Office, July 6, 1816.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the information of Earl Bathurst, the copy of a letter from Rear-Admiral Griffith, Commander-in-chief on the North American station, respecting the detention by Captain Wilson, of His Majesty's sloop "Portia," of several American fishing vessels which he found in Port Negro, on the eastern coast of Halifax; and I am to signify their Lordships' request that Lord Bathurst will signify to them the

* A similar letter, *mutatis mutandis*, was addressed to the Admiralty.

pleasure of His Royal Highness the Prince Regent as to the answer to be given on this subject.

I am, &c.
(Signed) JNO. BARROW.

Inclosure 2 in No. 34.

Rear-Admiral Griffith to the Secretary to the Admiralty.

Sir,

"Akbar," Halifax, June 14, 1816.

BE pleased to inform the Lords Commissioners of the Admiralty that I have received a letter from Captain Wilson, of His Majesty's sloop "Portia," informing me of his having detained several American fishing vessels which he found in Port Negro, on the eastern coast of this province, and that the crews of these and other vessels of the same description had become exceedingly troublesome, completely overawing the fishermen and inhabitants of the coast.

The Court of Vice-Admiralty here not being furnished with any instructions respecting vessels of this description that may be sent in for adjudication under these circumstances, decline taking cognizance of them. I shall, nevertheless, order them to be detained till I receive their Lordships' instructions respecting them; for I know of no other mode of carrying into effect what would appear to be the intentions of His Majesty's Government respecting the fisheries of our North American provinces. It is in vain, if they are to be preserved exclusively to the people of these provinces, any longer to treat the subjects of the United States encroaching on them with the lenity and forbearance which has hitherto been observed towards them—the invariable effect of such treatment being to encourage further encroachment, outrage, and insolence.

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

No. 35.

Mr. Goulburn to Mr. Hamilton.—(Received July 17.)

Sir,

Downing Street, July 17, 1816.

REFERRING to my letter to you regarding the detention of certain American fishing vessels at Port Negro, I am directed by Earl Bathurst to transmit to you, for the information of Lord Castlereagh, the copy of a further letter from Mr. Croker, giving an account of the release of these vessels, and of the orders issued on the subject.

I am, &c.
(Signed) HENRY GOULBURN.

Inclosure 1 in No. 35.

The Secretary to the Admiralty to Mr. Goulburn.

Sir,

Admiralty Office, July 12, 1816.

IN addition to my letter of the 6th instant, respecting the detention of some American fishing vessels by Captain Wilson, of His Majesty's sloop "Portia," I am commanded by my Lords Commissioners of the Admiralty to send to you herewith, for the information of Earl Bathurst, a copy of another letter from Rear-Admiral Griffith, dated 20th of last month, stating the liberation of these vessels and the orders he intended to give on the subject of such vessels.

I am, &c.
(Signed) JOHN BARROW.

Inclosure 2 in No. 35.

Rear-Admiral Griffith to the Secretary to the Admiralty.

Sir,

"Akbar," Halifax, June 20, 1816.

IN reference to my letter of the 5th instant, of which I herewith transmit a duplicate, I have to acquaint you, for their Lordships' information, that the "Portia" has arrived here, and Captain Wilson informs me that, having submitted (previous to my arrival here) the circumstances under which he had seized the American fishing vessels to the Attorney-General, and that gentleman entertaining some doubts as to the legality of the seizure, he had been induced to liberate the whole, duly warning them at the same time against future encroachment. I herewith inclose a copy of Captain Wilson's letter to me upon that subject.

You will be pleased to inform their Lordships that it is my intention to issue orders to the officers under my command who may be employed in protecting the fisheries, to seize and detain all foreign fishing vessels that may be found in the harbours of these provinces; for I am persuaded that there is no other mode by which the people of the United States will be deterred from their encroachments than by visiting those who will persist in them with the penalty justly due to their offence. Last year some two or three vessels were seized, and afterwards liberated, warning them against fishing on the coast at any future season; yet they now impudently plead ignorance of the fact, although it is notorious that it occasioned throughout the northern and eastern provinces a very strong sensation.

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

P.S.—I have written to Mr. Bagot, the British Minister at Washington, informing him of the seizure and subsequent liberation of the vessels above mentioned, and of my intentions in regard to any future seizures that may be made.

E. G.

Inclosure 3 in No. 35.

Captain Wilson to Rear-Admiral Griffith.

Sir,

"Portia," Shelburne, Nova Scotia, May 28, 1816.

I BEG leave to acquaint you that, on my arrival at Shelburne, whither I proceeded agreeably to your orders, I consulted with Mr. Wright, the Collector of that port, as to the most effectual method for me to adopt for the protection of the fisheries and the detection of smugglers. I learnt from him that the American fishermen were in great numbers on the coast; that they constantly resorted to the small harbours, principally to collect bait, to wood, water, and refresh themselves, which enabled them to remain until they had completed their cargo. Mr. Wright particularly mentioned the harbours Cape Negro, Ragged Island (called by the fishermen Lock's Harbour), La Bar, and Matoon, as being frequented by them, sometimes to the number of fifteen or twenty at a time; their usual practice is to go in on Saturday night and sail again on Monday morning. As most of these places are but thinly inhabited, I understood that these fishermen, when a number were collected together, completely overawed the inhabitants, and that the latter did not dare refuse to let them set their nets and do anything else they pleased. I was informed that at Cape Negro harbour they had even gone so far as to break open some houses and otherwise illtreat the people. Under these circumstances, I was induced to proceed off Cape Negro; and, as there was not sufficient water to enable the brig to get in, I sent the boats and brought out seven fishing vessels, with which I returned to Shelburne, dispatching one to Halifax for the opinion of His Majesty's Attorney-General on the case. As in his answer he expressed a doubt whether they were liable to seizure, and, on investigating the business as well as I was able, I could not ascertain that any of the people belonging to these vessels had been concerned in any outrage committed on the inhabitants, they were released, after being strictly cautioned not to be found on the coast again. I think it proper to mention that, during the few days these vessels were in Shelburne, I found it advisable to remain, as the townspeople apprehended that, should the brig depart, they might be subject to some outrage from them.

From the smallness of the harbour and the badness of the weather, I was not able to communicate with any of them, except Shelburne, but, judging from what I heard there, these people have made themselves dreaded wherever they go.

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

No. 36.

Mr. Gordon to Mr. Plunket.

Sir,

Downing Street, September 10, 1816.

I AM directed by Earl Bathurst to transmit to you, for the information of Lord Castlereagh, the copy of a letter from the Secretary of the Treasury, dated the 27th ultimo, containing representations received from the officers of the Customs in Nova Scotia respecting the proceedings of vessels from the United States of America carrying on fisheries on the British coasts in North America; and I am to request you will recommend the contents of these papers to Lord Castlereagh's early and particular attention.

I have, &c.
(Signed) ADAM GORDON.

Inclosure 1 in No. 36.

Mr. Harrison to Mr. Goulburn.

Sir,

Treasury Chambers, August 27, 1816.

I HEREWITH transmit, by command of the Lords Commissioners of Her Majesty's Treasury, a letter from the Secretary to the Commissioners of Customs, dated 7th instant, transmitting a copy of the Report of their officers at Shelburne, in Nova Scotia, on the subject of the instructions given by Sir Richard Keats relative to the vessels belonging to the United States of America fishing on that coast, transmitted in your letter of the 11th October last; and I am to request that you will lay the same before the Earl Bathurst, and move his Lordship to favour this Board with his opinion thereon.

I am, &c.
(Signed) GEO. HARRISON

Inclosure 2 in No. 36.

Mr. Curling to Mr. Lushington.

Sir,

Custom-House, London, August 7, 1816.

WITH reference to your letter of the 26th October last, transmitting, for the information of the Commissioners, copy of a letter from Mr. Goulburn, inclosing copy of instructions given to Sir Richard Keats and the Naval Officers at Halifax relative to certain vessels belonging to the United States of America fishing on the coast of Nova Scotia, I have it in command to transmit to you copy of a letter received from the Collector and Controller at Shelburne, dated 28th May last, upon the subject of the fisheries there; and I am to signify the request of the Commissioners to be favoured with their Lordships' further directions.

I am, &c.
(Signed) D. CURLING,
In the Secretary's absence.

Inclosure 3 in No. 36.

Messrs. Wright and Campbell to the Commissioners of Customs.

*Custom-House, Shelburne, Nova Scotia,
May 28, 1816.*

Honourable Sirs,

DEEMING it my duty to state to your Honourable Board every occurrence within this district affecting the laws of trade and navigation, as well for your information as to ask advice and to crave instructions on doubtful points for our future government, we hope you will not think us troublesome in again bringing before your Honourable Board the subject of the fisheries, and consequences attendant upon them.

Full, explicit, and indulgent, as was the letter of the Right Honourable Earl Bathurst, of the 17th June, 1815, yet, no sooner did the present fishing season commence (the fishing season is deemed to continue from March to November), than fleets of American vessels spread themselves in all directions along the coast of this Province, from Cape Canso to Minas Bason, in the Bay of Fundy, making it as usual their invariable practice to put into any unfrequented creek, harbour, bay, and river, every Saturday, where they remained till the Monday following; and also, upon every appearance of bad weather, there they cast anchor, put out their nets to catch herrings as bait for cod fish, mackerel, and salmon, and supply themselves with wood and water generally without leave of the poor settlers, and frequently *vi et armis*.

These circumstances have, of course, called forth serious representations from our poor fishermen, whose livelihood chiefly depends upon the fisheries, and they are now, as they were during the existence of the Treaty of 1783, forced to make, or to contemplate distant voyages for fish, and relinquish their native shores to the Americans.

Your officers in this district have used every endeavour to check the evil by appointing a number of extra tide-waiters, in whom they could confide, along the coast, with orders to warn every American off, agreeably to the terms of Earl Bathurst's letters, and to abstain from exacting any fee, lest the payment thereof should be construed into a price for a licence to fish; and we ourselves have personally warned several, endorsing their papers; but these lenient measures have hitherto proved unavailing. As the season advanced, the numbers increased, and from liberty, they proceeded at some of the most unfrequented bays, to licentious violence, demanding of a poor man at Cape Negro his pitch kettles, &c., to aid in careening their vessels, and when refused, they broke open his doors and took them by force.

Such was the state of things when, in the beginning of this month, as soon as the boisterous weather would permit, Rear-Admiral Griffith most opportunely sent some cruizers upon the coast, one of which, His Majesty's brig "Portia," commanded by Captain John Wilson, anchored in this port. We immediately apprized him that we had just received information of a fleet of thirty-three American vessels being in Cape Negro Harbour, about twenty-two miles to the south-west of this, the joint number of the crews of which amounting to upwards of 160 stout men, paraded about bidding defiance to the Revenue Officers, so that we could not have pretended to board their vessels without immense danger of our lives, or of being carried out to sea next day. Captain Wilson sailed in quest of them, but found only eight of them at anchor, the others having previously sailed to their fishing ground on this coast, and we understand from another point, Bryor's Island, in the Bay of Fundy, His Majesty's brig "Espoir," Captain Duff, detained about the same time eleven vessels.

Captain Wilson brought the eight vessels which he had detained into this port, and took their examinations on oath before a magistrate, the leading parts of which were—

1st. That they considered themselves still privileged as formerly to fish on our banks, and to use our harbours, &c.

2ndly. That they never had before, or now, considered it necessary to ask for information or report to any Custom-house.

3rdly. That being in want of wood and water, they supplied themselves without a question of right.

4thly. They denied landing any article, or having put into port either in distress or for the purpose of smuggling, or for any other purposes but those connected with the fishery, and, upon a strict examination of the vessels, we could not discover any article on board but salt and fishing stores.

Their examinations were immediately despatched to Halifax, for the opinion of

His Majesty's Attorney-General, whose answer is hereunto annexed, upon which Captain Wilson determined to give up the vessels, and endorsed their papers in the usual manner, but we having observed the thankless and insolent deportment of these fishermen, as soon as they found the legal authority did not encourage Captain Wilson to carry them before the Court for adjudication, we exacted the usual fees of Report Anchorage, &c., amounting to 17s. 6d. each, and the Provincial Officers charged their legal fees of light dues, &c., at the same time we endorsed on their papers an additional paragraph.

Your Honourable Board may be assured that we are well aware of the good policy of endeavouring to conciliate rather than irritate that jealousy which invariably exists between neighbouring States, but that policy has its bounds. We, therefore, feel extremely anxious that, since the letter of Earl Bathurst has not produced its well-meant effect, and that the Attorney-General did not consider there is any statute under which these vessels, if seized, could be condemned, the "Hovering Act" not being applicable, for, if fishing-vessels are allowed forty-eight hours after being warned and permitted to approach so near as the extreme point of two leagues from the land, our fishing trade would soon be utterly ruined, and that some more specific instructions should be sent us.

Your Honourable Board will pardon us for remarking that, as the population of these Provinces is increasing with rapid strides (being computed to double itself within eight years), the fisheries become more and more important; and as the people habituate themselves to look up to the Officers of the Customs for protection or relief against oppression in their maritime concerns, they become dissatisfied if they find we have not the power to grant it.

It would be presumptuous in us to enlarge upon another consequent evil attendant upon the intrusion of American vessels, as your Honourable Board will see at once the facility afforded thereby to illicit trade, which, in a country such as this, containing innumerable inlets, thick woods, and large tracts of unoccupied land, no vigilance of ours could put it down unaided by severe laws applicable to our peculiar situation, and a marine establishment of small, fast-sailing cruisers always upon the coast.

We hope nothing we have said will be construed into a departure beyond the limits of our duty, but that your Honourable Board will be pleased to impute it solely to our zeal for the service.

We are, &c.
(Signed) H. Y. WRIGHT, *Collector*.
COLLIN CAMPBELL, *Controller*.

Inclosure 4 in No. 36.

The Attorney-General for the Province of Nova Scotia to Captain Wilson.

Sir,

Halifax, May 23, 1816.

IMMEDIATELY on receipt of your letter of 20th instant, accompanied with the papers of eight American fishing-vessels, I considered it my duty to make the circumstance known to his Excellency the Lieutenant-Governor, and to request from him any recent instructions he may have received from His Majesty's Government respecting the American fishing-vessels resorting to our coast, and find that he has none later than those published from Lord Bathurst, to which instructions I refer you to your Government, as I know of no others to guide you in this business, unless you may have received other orders from Admiral Griffith with which I am unacquainted.

Nothing you state would support a prosecution of these vessels, either for an unlawful importation or exportation, nor do I know of any particular statute that would apply, except the 4th Geo. III, c. 15, s. 33 and 34, which is commonly called the "Hovering Act," under which I think you would be justified in warning any foreign vessels found within two leagues of the shore, unless in actual distress, to depart from the coast, which warning, with the date, you should endorse on the vessel's papers, and if the vessel warned does not depart within forty-eight hours after notice, you would, in such case, be justified in seizing the same, with the cargo, as forfeited.

I return to you the papers of these several vessels, that you may warn them off the coast, and as to the alleged breach of the peace, in breaking open houses, &c., they are to be dealt with according to law, the same as British subjects.

I am, &c.
(Signed) RICHD. JOHN UMACK.

Inclosure 5 in No. 36.

Endorsement written on the Papers of eight American Fishing-Vessels in Shelburne Harbour, Nova Scotia, May 25, 1816.

THE within-mentioned schooner having been detected at anchor in Cape Negro Harbour, was thereby liable to seizure, but in humanity to the families of the master and crew, &c., in hopes that this lenity will prevent them in future infringing the property of our poor fishermen and their families, they are suffered to depart.

No. 37.

Mr. Bagot to Viscount Castlereagh.—(Received .)

(No. 2.)

My Lord,

Washington, January 7, 1817.

I AM at length enabled to communicate to your Lordship the result of the negotiations which I was instructed, by your Lordship's despatch No. 8, of the month of April last, to enter into with the American Government upon the subject of the fisheries.

Your Lordship will see, by the inclosed copy of a correspondence which has passed between Mr. Monroe and myself, that the American Government have declined to accept the propositions which I was authorized to make.

It will be necessary for me to give your Lordship a detailed account of the course which has been pursued in this negotiation, and of the causes by which it has been so long protracted.

On the 5th of July last, two days after the receipt of your Lordship's instructions, I had an interview with Mr. Monroe, at which, after much preliminary conversation, I submitted to him the first proposition contained in Lord Melville's letter to your Lordship, allotting to the use of the United States such part of the south coast of Labrador as lies between Mount Joli and the Esquimaux Islands. On the following day I received a note from him acquainting me that, as he was unable to obtain in Washington any circumstantial information in regard to the coast proposed, he had been under the necessity of writing to the Secretary of the Navy, then at Salem, requesting him to make the necessary inquiries upon the subject. Some time afterwards he acquainted me that the Secretary of the Navy had sent persons to examine the shores in question, and that it would probably be some time before their report could be received, and he then went into the country. Upon his return to Washington on the 10th of August, I immediately waited upon him, when he informed me from the inquiries which had been made it appeared that there were several settlements upon the coast which I had offered, and that it did not appear to afford, in other respects, that degree of accommodation which was considered requisite for the purposes in view. Mr. Monroe then intimated that it was the wish of the American Government that an allotment should be given, either upon the eastern coast of Labrador, above the straits of Belle Isle, or in the neighbourhood of Chaleur Bay, upon the Coast of New Brunswick, or upon the Magdalen Islands. I stated to him that my instructions were precise; that I knew that there were insuperable objections to assigning any part of the eastern coast of Labrador, and that I had reason to believe that the same objections would exist in regard to any part of the coast of New Brunswick; and that the Magdalen Islands were, I believed, the private property of an individual. I then acquainted him that, if the coast I had proposed did not really afford sufficient advantages for the American fishermen, I would not delay to acquaint him that I was authorized to offer a portion of coast in another quarter, in which would be found every convenience which could be desired. I accordingly submitted to him the second proposition, which assigns the unsettled part of the southern coast of Newfoundland, from Cape Ray to the Ramea Islands. To both these propositions was annexed the condition of abandoning all pretension to use any other part of His Majesty's territories for the purposes of the fishery.

Mr. Monroe told me that he regretted the delay which it would occasion, but that it would be again necessary for him to procure some local information, which

could only be obtained with sufficient correctness by a survey of the coast in question. Upon my return from New York in the middle of October, he informed me that he had not had leisure to examine the information which had been procured upon the subject of my last offer, and it was not until the latter end of November that he was again prepared to communicate with me upon the business. He then told me that he had reason to think that neither of the propositions would be deemed worth the acceptance of the American Government, but that, as the question was one in which the eastern States of the Union were almost solely interested, he wished much to postpone any further proceedings until he could have an opportunity of ascertaining the sentiments of the State of Massachusetts and its dependencies, the Representatives of which would certainly be in Washington within ten days after the opening of the Congress. In this delay I readily acquiesced, but, as it had become evident to me, from Mr. Monroe's language, that it was not intended to accept either of the propositions which I had made, I thought it necessary to lose no time in putting them upon record, as well that they might be submitted in a proper point of view to those persons to whom they were most immediately interesting, as that hereafter no doubt might arise as to the considerations which had induced Great Britain to propose any arrangement upon this subject. With this object I addressed to Mr. Monroe the first note, of which I have the honour to inclose to your Lordship a copy, having previously shown him the draft of it, in order that he might confirm the correctness of my statement as to the order of the proceedings which had taken place.

About a fortnight after the opening of the Congress he informed me that upon consultation with the Representatives of the Eastern States he found that neither of the propositions which I had made having been found to afford the accommodation which was required, he was compelled to decline them. That he was about to send a note to this effect, but he wished to know whether I should object to his taking the opportunity, afforded by that note, of stating to me what arrangements would be satisfactory to the American Government.

As it appeared to me that in consenting to receive any counter proposition the basis of the whole negotiation would be essentially changed, and that it was of the utmost consequence to avoid any course which might seem to sanction, at some future time, an opinion that the American Government had been admitted to negotiation upon this subject upon a footing of equality with Great Britain, I requested Mr. Monroe to confine his answer to the rejection of the proposals which he had received. Upon the receipt of this answer I immediately addressed to him my note of the 31st ultimo, containing the ultimate proposition which I was authorized to make, and by which the American fishermen are permitted to have the use of both the coasts which I had pointed out.

Previously to the delivery of the note declining this last proposition Mr. Monroe requested to see me, and he again urged me to receive a proposition which he was desirous of making upon the part of the American Government, adding that if I did not myself feel authorized to enter into a discussion of the terms of it, I might perhaps not object to receiving it for reference to my Government. I replied that it was now too late to make any reference to my Government before the month of March, the period at which the fishery season commenced, that it was peculiarly desirable that the business should be decided before that time, and that as I had now gone to the utmost limit of my instructions I should wish to bring the negotiation, so far as it had been intrusted to me, to a final close.

I anxiously hope that your Lordship will not disapprove of the course which I have thought it my duty to take under these circumstances. From the moment at which I foresaw that the propositions made by His Majesty's Government would be rejected, I conceived it to be an object of considerable importance to endeavour so to conduct the proceedings as to make them serve not only as a proof of the liberality and goodwill of the British Government towards the United States, but also as a perpetual record that the privileges granted by the IIIrd Article of the Treaty of 1783 had been substantially withdrawn. If after the close of this negotiation the American Government should still wish to bring forward any new proposition upon the subject, they will be at liberty to do so, but it appeared to me that it would be difficult for them in that case to give their proceeding any shape which should not partake more or less of the character of a request.

As the fishing season will have commenced before I can receive from your Lordship any answer to this despatch, I shall acquaint the Admiral upon the Halifax Station that I have failed to make the arrangement which was in contemplation for the partial admission of the Americans to the fishery, and that he will therefore now take

such measures in regard to their vessels as he may deem proper under his former instructions.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 1 in No. 37.

Mr. Bagot to Mr. Monroe.

Sir,

Washington, November 27, 1816.

IN the conversation which I had with you some days ago upon the subject of the negotiation into which the British Government is willing to enter for the purpose of affording to the citizens of the United States such accommodation for their fishery within the British jurisdiction as may be consistent with the proper administration of His Majesty's dominions, you appeared to apprehend that neither of the propositions which I had had the honour to make to you upon this subject would be considered as affording in a sufficient degree the advantages which were deemed requisite.

In order that I may not fail to make the exact nature of the propositions clearly understood, and that I may fully explain the considerations by which they have been suggested, it may perhaps be desirable that I should bring under one view the substance of what I have already had the honour of stating to you in the several conferences which we have held upon this business.

It is not necessary for me to advert to the discussion which has taken place between Earl Bathurst and Mr. Adams. In the correspondence which has passed between them you will have already seen in the notes of the former a full exposition of the grounds upon which the liberty of drying and fishing within the British limits, as granted to the citizens of the United States by the Treaty of 1783, was considered to have ceased with the war, and not to have been revived by the late Treaty of Peace. You will also have seen therein detailed the serious considerations affecting not only the prosperity of the British fishery, but the general interests of the British dominions in matters of revenue as well as Government, which made it incumbent upon His Majesty's Government to oppose the renewal of so extensive and injurious a concession within the British sovereignty to a foreign State founded upon no principle of reciprocity or adequate compensation whatever. It has not been thought necessary to furnish me with additional arguments upon this point; I therefore confine myself upon the present occasion to a brief repetition of what I have already at different periods had the honour to submit to your consideration upon the subject of an arrangement by which it is hoped practically to reconcile the different views of our respective Governments.

It will be in your recollection that, early in the month of July last, I had the honour to acquaint you that I had received instructions from my Government to assure you that although it had been felt necessary to resist the claim which had been advanced by Mr. Adams, the determination had not been taken in any unfriendly feeling towards America, or with any illiberal wish to deprive her subjects of adequate means of engaging in the fisheries, but that, on the contrary, many of the considerations which had been urged by Mr. Adams in behalf of the American citizens formerly engaged in this occupation, had operated so forcibly in favour of granting to them such a concession as might be consistent with the just rights and interests of Great Britain, that I had been furnished with full powers from His Royal Highness the Prince Regent to conclude an arrangement upon the subject, which it was hoped might at once offer to the United States a pledge of His Royal Highness' good-will, and afford to them a reasonable participation of those benefits of which they had formerly had the enjoyment.

It being the object of the American Government that, in addition to the rights of fishery, as declared by the first branch of the IVth Article of the Treaty of 1783, permanently to belong to the citizens of the United States, they should also enjoy the privilege of having an adequate accommodation, both in point of harbours and drying-ground on the unsettled coasts within the British sovereignty, I had the honour to propose to you that that part of the southern coast of Labrador which extends from Mount Job opposite the eastern end of the Island of Anticosti in the Gulf of St. Lawrence to the bay and isles Esquimaux near the western entrance of the Straits of Belle Isle should be allotted for this purpose, it being distinctly agreed that the

fishermen should confine themselves to the unsettled parts of the coast, and that all pretension to fish or dry within the maritime limits on any other of the coasts of British North America should be adandoned.

Upon learning from you some weeks afterwards that, from the information which you had received upon the subject of this coast, you were apprehensive that it would not afford in a sufficient degree the advantages required, I did not delay to acquaint you that I was authorized to offer another portion of coast, which it was certainly not so convenient to the British Government to assign, but which they would, nevertheless, be willing to assign, and which, from its natural and local advantages, could not fail to afford every accommodation of which the American fishermen could stand in need. I had then the honour to propose to you, as an alternative, that under similar conditions they should be admitted to that portion of the Southern Coast of Newfoundland which extends from Cape Ray eastward to the Ramea Islands, or to about the longitude of 57° west of Greenwich.

The advantages of this portion of coast are accurately known to the British Government, and in consenting to assign it to the uses of the American fishermen it was certainly conceived that an accommodation was afforded, as ample as it was possible to concede without abandoning that control within the entire of His Majesty's own harbours and coasts which the essential interests of His Majesty's dominions required. That it should entirely satisfy the wishes of those who have for many years enjoyed without restraint the privilege of using for similar purposes all the unsettled coasts of Nova Scotia and Labrador, is not to be expected, but in estimating the value of the proposal the American Government will not fail to recollect that it is offered without any equivalent, and notwithstanding the footing upon which the navigation of the Mississippi has been left by the Treaty of Ghent, and the recent regulations by which the subjects of His Majesty have been deprived of the privileges which they so long enjoyed, of trading with the Indian nations within the territory of the United States.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 2 in No. 37.

Mr. Monroe to Mr. Bagot.

Sir,

Department of State, December 30, 1816.

I HAVE had the honour to receive your letter of the 27th of November, and to submit it to the consideration of the President.

In providing for the accommodation of the citizens of the United States, engaged in the fisheries on the coast of His Britannic Majesty's Colonies, on conditions advantageous to both parties, I concur in the sentiment that it is desirable to avoid a discussion of their respective claims, and to proceed, in a spirit of conciliation, to examine what arrangement will be adequate to the object. The discussion which has already taken place between our Governments has, it is presumed, placed the claim of each party in a just light. I shall, therefore, make no remark on that part of your note which relates to the right of the parties, other than by stating that this Government entered into this negotiation on the equal ground of neither claiming or making any concession in that respect.

You have made two propositions, the acceptance of either of which must be attended with the relinquishment of all other claims on the part of the United States, founded on the 1st branch of the IVth Article of the Treaty of 1783.

In the first you offer the use of the territory on the Labrador Coast, lying between Mount Joli and the Bay of Esquimaux, near the entrance of the Strait of Belle Isle; and in the second, of such part of the southern coast of the Island of Newfoundland as lies between Cape Ray and the Ramea Islands.

I have made every inquiry that circumstances have permitted, respecting both these coasts, and find that neither would afford to the citizens of the United States the essential accommodation which is desired, neither having been much frequented by them heretofore or likely to be in future. I am compelled therefore to decline both propositions.

I regret that it has not been in my power to give an earlier answer to your note. You will, however, have the goodness to impute the delay to a reluctance to decline

any proposition which you have made, by the order of your Government, for the arrangement of an interest of such high importance to both nations, and to the difficulty of obtaining all the information necessary to guide this Government in the decision.

I have, &c.
(Signed) JAS. MONROE.

Inclosure 3 in No. 37.

Mr. Bagot to Mr. Monroe.

Sir,

Washington, December 31, 1816.

I HAVE had the honour to receive your letter of yesterday's date, acquainting me that neither of the propositions which I had submitted to your consideration, upon the subject of providing for the citizens of the United States engaged in the fisheries some adequate accommodation for their pursuit upon the coasts of His Majesty's territories, having been found to afford the essential conveniences which are desired, you are compelled to decline them.

The object of His Majesty's Government in framing these propositions was to endeavour to assign to the American fishermen, in the prosecution of their employment, as large a participation of the conveniences afforded by the neighbouring coasts of His Majesty's settlements as might be reconcileable with the just rights and interests of His Majesty's own subjects, and the due administration of His Majesty's dominions; and it was earnestly hoped that either one or the other of them would have been found to afford in a sufficient degree the accommodation which was required.

The wish of His Royal Highness the Prince Regent to extend to the citizens of the United States every advantage which, for the purposes in view, can be derived from the use of His Majesty's coasts, has no other limit than that which is necessarily prescribed by a regard to the important considerations to which I have adverted. His Royal Highness is willing to make the utmost concession which those considerations will admit, and, in proof of the sincerity of this disposition, I have received His Royal Highness's instructions to acquaint you, that, if upon examination of the local circumstances of the coasts which I have had the honour to propose the American Government should be of opinion that neither of them, taken separately, should afford in a satisfactory degree the conveniences which are deemed requisite, His Royal Highness will be willing that the citizens of the United States should have the full benefit of both of them; and that, under the conditions already stated, they should be admitted to each of the shores which I have had the honour to point out.

In consenting to assign to their use so large a portion of His Majesty's coasts, His Royal Highness is persuaded that he affords an unquestionable testimony of his earnest endeavour to meet, as far as is possible, the wishes of the American Government, and practically to accomplish in the amplest manner the objects which they have in view. The free access to both of these tracts cannot fail to offer every variety of convenience which the American fishermen can require in the different branches of their occupation; and it will be observed that an objection which might possibly have been felt to the acceptance of either of the propositions, when separately taken, is wholly removed by the offer of them conjointly; as, from whatever quarter the wind may blow, the American vessels engaged in the fishery will always have the advantage of a safe port under their lee.

His Royal Highness conceives that it is not in His Royal Highness's power to make a larger concession than that which is now proposed, without injury to the essential rights of His Majesty's dominions and some of the chief interests of His Majesty's own subjects. But it will be a source of sincere satisfaction to His Royal Highness if, in the arrangement which I have the honour to submit, the citizens of the United States shall find, as His Royal Highness confidently believes that they will find, ample means of continuing to pursue their occupation with the convenience and advantage which they desire.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 4 in No. 37.

Mr. Monroe to Mr. Bagot.

Sir,

Department of State, January 7, 1817.

I HAVE had the honour to receive your letter of the 31st of December, proposing an accommodation of the difference between our Governments relative to the fisheries, comprised in the first branch of the IVth Article of the Treaty of 1783, by the allotment of both the coasts comprised in your former proposition.

Having stated in my letter of the 30th of December that, according to the best information which I had been able to obtain, neither of those coasts had been much frequented by our fishermen, or were likely to be so in future, I am led to believe that they would not, when taken conjointly, as proposed in your last letter, afford the accommodation which is so important to them, and which it is very satisfactory to find it is the desire of your Government that they should possess.

From the disposition manifested by your Government, which corresponds with that of the United States, a strong hope is entertained that further inquiries into the subject will enable His Royal Highness the Prince Regent to ascertain that an arrangement, on a scale more accommodating to the expectation of the United States, will not be inconsistent with the interest of Great Britain.

In the mean time this Government will persevere in its measures for obtaining such further information as will enable it to meet yours in the conciliatory views which are cherished on both sides.

I have, &c.
(Signed) JAS. MONROE.

No. 38.

Viscount Castlereagh to Mr. Bagot.

(No. 5.)

Sir,

Foreign Office, March 22, 1817.

YOUR despatch of the 7th January, in which you report the result of your negotiation with the American Government on the subject of the fisheries, has been received and laid before the Prince Regent.

His Royal Highness regrets that the very liberal accommodation which you were authorized to offer for the purpose of carrying on their fishery has not at once been accepted.

It is satisfactory, however, to observe that nothing has been done on the part of the American Government pending these discussions which can indispose this Government to receive from that of the United States, and to consider in the spirit of conciliation, any suggestion which they may have to offer, by which the accommodation intended to be afforded may be better effectuated without leading to consequences inconsistent with the interests of Great Britain.

The Prince Regent fully approves the motives which induced you to decline receiving any counter project from the American Secretary of State.

Undoubtedly no negotiation could be entertained which might, in its form, seem to imply any doubt on the part of this Government as to the sovereign rights of Great Britain, but as Mr. Monroe persuades himself that the British Government, upon further inquiry might, without prejudice to its own interests, accede to the proposition which he was desirous of making to them through you, His Royal Highness authorizes you to learn from the American Government the precise extent and nature of the accommodation which it seeks to obtain.

As soon as you shall forward to me the proposition in question, which you will express a hope may be framed in such a spirit of moderation as not to impose on this Government the necessity of meeting it with a refusal, I shall lose no time in submitting the same to the favourable consideration of His Royal Highness.

In the meantime I think it right to apprize you, and of this it may be desirable that the Government of the United States should be aware, in order that any unpleasant collision may be avoided, that the orders for the exclusion of American fishermen from our territorial jurisdiction in North America and Newfoundland are in full force, and will continue to be acted upon.

If, therefore, any unnecessary inconvenience has resulted, or should result, to the

American fishery in the ensuing season from the rejection of the liberal proposals with which you were charged, this inconvenience at least is not fairly attributable to the British Government, the proposition for affording to the Americans every reasonable accommodation having been opened by you to the American Secretary of State as far back as the month of July in the last year.

I am, &c.
(Signed) CASTLEREAGH.

No. 39.

Viscount Castlereagh to Mr. Bagot.

(Private.)

My dear Sir,

St. James' Square, March 22, 1817.

THE pressure of Parliamentary business has made me rather a bad correspondent with you; but I am not the less sensible of the good sense and ability with which you have conducted the concerns of the Mission since your arrival in the United States; and which I have every reason to know has produced a favourable impression with respect to our interests on the other side of the Atlantic.

I beg you will not understand the despatch you now receive, directing you to ascertain the nature of the American proposition with respect to the fisheries, as implying any doubt of the propriety of your decision not to suffer your own negotiation, at the eve of the commencement of the fishing season, to be entangled with any proposition of this nature. You can now receive the proposition from Mr. Monroe, upon the principle of accommodation, without allowing it to carry any appearance, on the part of this Government, of a doubt as to their own rights, the confidence in which is sufficiently evinced by the orders for the exclusion of the American fishermen from our territorial jurisdiction, still continuing in full force.

I wish the point was of a description that we could give you a discretion to act for us on the spot; but as the American proposition must be to assign some other part of the coast for their landing and drying their fish, than that which you were authorized to offer, it is felt that the safety of such a concession can only be judged of here. In your communications with the American Secretary of State, you will avoid being entangled in any discussion with respect to the right; it is enough that we assume it as clear on our part, whilst we are ready to listen to their suggestion, on the ground of practical accommodation towards a friendly Power.

The commercial proposition which you will receive by this mail, must convince the American Government that our views towards them are not only liberal but friendly; and that our object is to narrow as much as possible jealous and controversial points between the two Governments. I told Mr. Adams, many months since, that we should not resent or complain of any measure such as is now pending before Congress; in truth, in many respects it would operate beneficially to encourage our own Colonial trade in provisions and lumber; but we have not thought this any reason for refusing to the Americans a participation in those advantages which our Free Port Acts afford to other foreign Powers, which, consistent with the preservation of our Colonial system, is the utmost concession they can expect.

Believe, &c.
(Signed) CASTLEREAGH.

No. 40.

Mr. Adams to Viscount Castlereagh.—(Received April 21.)

28, Craven Street, April 21, 1817.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received the four projected Articles for a Supplement to the Commercial Convention of 3rd July, 1815, sent him by direction of Lord Castlereagh, and has transmitted them for the consideration of his Government.

By a letter of instruction from the Secretary of State of the United States of the 5th of February last, the Undersigned is informed that the negotiation between him and Mr. Bagot, in relation to the fisheries on the North American coast, had not been

brought to the desired result. That it is yet to be hoped, however, that it may be satisfactorily settled. That with this view it was the President's intention to renew the negotiation, as soon as he could obtain the information necessary to ascertain what arrangement would be best calculated to reconcile the interests of both parties, which he hoped to do in the course of a few months. That in the meantime he relied that no measures would be taken by His Majesty's Government to alter the existing state of things, and particularly that the order to the naval officer commanding on that station not to interrupt or disturb the American fishermen during the approaching season would be renewed.

The Undersigned, &c.

(Signed)

JOHN QUINCY ADAMS.

No. 41.

Viscount Castlereagh to Mr. Adams.

Foreign Office, May 7, 1817.

THE Undersigned, His Majesty's Principal Secretary for Foreign Affairs, in reply to Mr. Adams' note of the 21st ultimo, has the honour to acquaint him, that as soon as the proposition which Mr. Bagot was authorized in July last to make to the Government of the United States, for arranging the manner in which American citizens might be permitted to carry on the fisheries within the British limits, had been by them declined, viz., in the month of February the same was immediately notified, by His Majesty's Minister in America, to the British Admiral commanding at Halifax; the effect of which notification was to revive the orders which Mr. Bagot had taken upon himself to suspend, in the expectation that the discussions in which he was then employed with the American Government, would have led to a satisfactory issue.

These discussions, however, having failed of success, and the orders above alluded to being consequently now in full force, the British Government cannot but feel some reluctance again to suspend them, without being in possession of more precise grounds for expecting an adjustment. Persuaded, however, from the official communication received from Mr. Adams, that it is not only the sincere desire of the President of the United States to come to an amicable arrangement, but also that he being already in possession of the views of Great Britain, is now led to entertain a strong expectation that a settlement which shall reconcile the interest of both Parties, may without any material delay be effectuated.

The Prince Regent, under these impressions, is willing to give to the American Government this additional proof of his earnest wish, that the negotiation should proceed under circumstances the most favourable to a speedy and amicable conclusion, by acceding to the application of the United States, as brought forward by Mr. Adams.

Instructions will accordingly be expedited to the Naval Commanders on the American station to suspend the execution of the said orders during the approaching season. Ample opportunity will be thus afforded for coming to an amicable arrangement, more particularly as it appears the American Secretary of State in February last, had it in contemplation to offer for the consideration of the British Government some specific proposition on the subject, which Mr. Bagot did not then feel himself authorized to take *ad referendum*, but which he has since been instructed to receive and transmit for the opinion of his court.

Mr. Adams is requested to assure the President of the United States that the Prince Regent has been desirous of seizing this, the earliest occasion, since his elevation to the Presidency, of evincing to him and to the United States, His Royal Highness' disposition to cultivate a good understanding, in the confidence that the President will meet this sentiment with a corresponding feeling.

The Undersigned, &c.

(Signed)

CASTLEREAGH.

Mr. Goulburn to Mr. Hamilton.—(Received May 13.)

Sir,

Downing Street, May 12, 1817.

I AM directed by Earl Bathurst to transmit to you, for the information of Viscount Castlereagh, copies of two instructions addressed by his Lordship to the Lords Commissioners of the Admiralty regarding the conduct to be pursued by His Majesty's cruizers towards American vessels fishing on the coasts of the British provinces in North America.

I am, &c.
(Signed) HENRY GOULBURN.

Inclosure 1 in No. 42.

Earl Bathurst to the Lords Commissioners of the Admiralty.

My Lords,

Downing Street, May 10, 1817.

MR. ADAMS, the Minister Plenipotentiary of the United States of America, having made an official communication to Lord Viscount Castlereagh, His Majesty's Principal Secretary of State for Foreign Affairs, that it was the intention of the President of the United States to renew the negotiation for an amicable settlement with respect to the fisheries on the coasts of the British colonies in North America, and having been directed to make an application that the order given last year conditionally to His Majesty's naval officers commanding on the North American stations, not to interrupt or disturb the fishermen of the United States, might be renewed during the approaching season, His Royal Highness the Prince Regent being persuaded from this official communication that it is not only the sincere desire of the President of the United States to come to an amicable arrangement, but also that the President, being already in possession of the views of Great Britain, is now led to entertain a strong expectation that a settlement which shall reconcile the interests of both parties may, without any material delay, be effected; and His Royal Highness being, moreover, desirous of seizing this the earliest occasion since the elevation of the President to the first magistracy of the United States of evincing to him and to the United States His Royal Highness' disposition to cultivate a good understanding with those States, has commanded me to direct your Lordships to instruct His Majesty's commanders on the American coast to suspend, in regard to vessels of the United States, during the approaching season the execution of the instruction given to seize and detain all vessels belonging to foreign Powers which shall be found taking and drying fish in any of the unsettled bays, harbours, and creeks of His Majesty's possessions in North America. In order, however, that the subjects of the United States should not be hereby misled into a belief that this indulgence is to continue beyond the expiration of the season, His Majesty's cruizers must distinctly warn the said vessels of the United States that the suspension of the instructions above recited does not extend beyond that period. Your Lordships will further instruct the naval commanders on the American coasts to cause it to be signified to all the vessels of the United States which proceed for the purpose of fishing on the coast of His Majesty's North American possessions, that the liberty hereby allowed to vessels of the United States to frequent for this season the unsettled bays, harbours, and creeks, is by no means to be construed to extend to any bay, harbour, or creek which is actually settled, but that they are instructed forthwith to seize and detain all vessels of the United States which shall be found taking and drying fish on any part of the coast belonging to His Majesty which shall be settled.

I have, &c.
(Signed) BATHURST.

Inclosure 2 in No. 12.

Earl Bathurst to the Lords Commissioners of the Admiralty.

My Lords,

Downing Street, May 10, 1817.

IN the event of any vessels being seized and detained in conformity with the instructions contained in my letter of this day's date, I am to desire that your Lordships will instruct the Naval Commanders on the American coast to transmit an immediate account to your Lordships of all the circumstances attending such seizure and detention, and at the same time also to transmit a copy of such report to Mr. Bagot, His Majesty's Minister Plenipotentiary to the United States of America.

I am, &c.

(Signed) BATHURST.

No. 13.

Viscount Castlereagh to Mr. Bagot.

(No. 8.)

Sir,

Foreign Office, May 13, 1817.

I HAVE the honour to forward to you, for your information and guidance, copies of a note I received on the 21st ultimo from Mr. Adams respecting the negotiation which you have been carrying on at Washington on the subject of the fisheries; of my answer to that communication, and of the two instructions which have been addressed by the Principal Secretary of State for the Colonial Department to the Lords of the Admiralty for the guidance of the conduct of the commanding officer of Her Majesty's naval forces at Newfoundland.

You will take these documents as the foundation of your communications with the American Government on this subject, and you will endeavour to bring them, with as little delay as may be, to such reasonable terms as you conceive, when referred here for consideration, may be approved.

I further transmit to you the reports received by Lord Bathurst of the extent and nature of the abuses which the American fishermen have been in the constant practice of committing within the British limits. You will use this information in such manner as you may think best calculated to make the Government of the United States sensible how impossible it is for Great Britain to submit to such an infraction of her sovereign rights. You will also, as far as you can, prevail upon the American Secretary of State to caution their fishermen to avoid such irregularities during the ensuing season.

I am, &c.

(Signed) CASTLEREAGH.

No. 14.

The Secretary to the Admiralty to Mr. Hamilton.—(Received

.)

Sir,

Admiralty Office, June 7, 1817.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the information of Lord Castlereagh, a copy of a letter from Rear-Admiral Sir David Milne, dated at Bermuda the 6th of last month, with copies of the letters therein referred to, which have passed between the Rear-Admiral and Mr. Bagot, relative to the participation of American vessels in the fisheries.

I am, &c.

(Signed) JNO. BARROW.

Inclosure 1 in No. 44.

Rear-Admiral Sir D. Milne to the Secretary to the Admiralty.

Sir,

"Leander," Bermuda, May 6, 1817.

I HEREWITH inclose, for the information of the Lords Commissioners of the Admiralty, a copy of a letter which I have received from his Excellency the Honourable Charles Bagot, Minister Plenipotentiary to the United States of America, stating that the negotiation he had entered into for the purpose of an arrangement upon the subject of the fisheries has been brought to a close, and that the American Government had declined to accept the proposition made to them, to a participation therein, together with a copy of my answer to his Excellency, by which their Lordships will please to observe the directions I have given to the ships under my command falling in with American vessels attempting to fish within the British maritime jurisdiction, and I hope they will approve thereof.

I have, &c.
(Signed) DAVID MILNE.

Inclosure 2 in No. 44.

Mr. Bagot to Rear-Admiral Sir D. Milne.

Sir,

Washington January 10, 1817.

IN reference to my letters of the 6th July and 20th of August last to his Excellency Rear-Admiral Griffiths, I take the earliest opportunity of acquainting you that the negotiation, to which I adverted in those letters, has been brought to a close, and that the American Government have declined to accept the propositions which I was instructed to make for them, for the admission of the citizens of the United States to a participation of the fisheries within the limits of His Majesty's jurisdiction.

Under these circumstances it will be for your Excellency to take during the approaching season such measures in regard to American vessels found fishing within the British limits, or using, for purposes connected with the fishing, the coasts of His Majesty's territories as, with a view of His Majesty's interests, and the relations subsisting between the two countries, your Excellency may deem most proper under your Excellency's former instructions upon this subject.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 3 in No. 44.

Rear-Admiral Sir D. Milne to Mr. Bagot.

Sir,

"Leander," Bermuda, May 6, 1817.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 10th of January last, addressed to the officer commanding His Majesty's ships and vessels on the Halifax station, setting forth that the negotiation adverted to in your letter of the 6th July and 20th August to Rear-Admiral Griffiths had been brought to a close, and that the American Government had declined accepting the propositions made to them for the admission of the citizens of the United States to a participation of the fisheries within the limits of the British jurisdiction, and as it is probable that American vessels may still persist in fishing within our maritime jurisdiction, notwithstanding they have been repeatedly warned against so doing, and that they visit the harbours and creeks on the coast, where they have greatly annoyed, and sometimes even committed outrages upon, the inhabitants thereof, I beg to state, for your Excellency's information, that I have given directions to the ships under my command to seize any vessels they may meet with so trespassing, and send them into port for adjudication, unless it shall appear they have been driven in by distress, as the only means of protecting the interests of the inhabitants on these defenceless parts of His Majesty's North American provinces; and I beg to suggest to you whether it will be proper that your Excellency should communicate to the American Government the

measures that have been adopted, in order that, being aware of what has been done, it may not be an interruption to the relations of amity and friendship so happily subsisting between the two nations, and that individuals of that nation may not unknowingly incur expenses in fitting out vessels to engage in these fisheries, which the interests of the inhabitants demand they should be excluded from.

Having been appointed to the chief command of the naval force in North America and lakes of Canada, I beg to assure your Excellency that I shall at all times be happy to co-operate with you to the extent of my power in any measures for the benefit of His Majesty's service.

I have, &c.
(Signed) DAVID MILNE.

No. 45.

Mr. Bagot to Viscount Castlereagh.—(Received July 7.)

(No. 40.)

My Lord,

Washington, June 3, 1817.

IMMEDIATELY upon the receipt of the instructions contained in your Lordship's despatch No. 5, I requested an interview with Mr. Rush, at which I acquainted him that, in laying before His Majesty's Government the correspondence which had passed last year between Mr. Monroe and myself upon the subject of the fisheries, I had not failed to acquaint your Lordship that Mr. Monroe had expressed a wish to take the opportunity offered by that correspondence of communicating to me an arrangement which would be satisfactory upon the subject to the American Government—a communication which I had then declined to receive, my instructions not permitting me to conclude any other arrangement than that which I had been directed to offer; but that I had now received the commands of His Royal Highness the Prince Regent to ascertain the precise nature and extent of the accommodation which the American Government sought to obtain, in the hope that, upon examination, they might not be found irreconcilable with those rights and interests of His Majesty which it was the first object of His Royal Highness to protect; and that for this purpose I should be happy to receive, for His Royal Highness's information, the proposition which Mr. Monroe had been desirous of making.

Mr. Rush received my communication for reference to the President, and it was not till a fortnight afterwards that I learnt with some surprise that the President was desirous of obtaining yet further information upon the subject; and that he would probably not be able finally to shape a proposition till after his return from the excursion which he was about to make to the North.

Your Lordship will not be at a loss to understand the real motives of this delay when it is recollected that one of the President's principal objects in this excursion is to ingratiate himself with the eastern States of the Union, whose support and attachment he probably could not court in any surer way than by appearing to consult their wishes and receive their instructions upon a subject so intimately connected with one of their chief interests.

As I had no doubt that this was the real cause for which it was intended to delay making any proposition, I thought it right to address an official note to Mr. Rush, containing the substance of my first conversation with him, in order that the motives which had induced the British Government to invite a proposition, and the conditions upon which alone it could be entertained, might be accurately stated.

I have the honour to transmit inclosed copies of my note to Mr. Rush, and of his answer.

As the President's tour will occupy him at least three months, there is now no probability of any arrangement being made before the conclusion of the fishing season; I have, therefore, thought it more particularly necessary to assure Mr. Rush distinctly that the orders in respect to American fishing-vessels formerly given to His Majesty's naval commander on the American coast, and which were suspended during the late negotiation, are now in full force, and will continue to be acted upon.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 1 in No. 45.

Mr. Bagot to Mr. Rush.

Sir,

Washington, May 27, 1817.

IN laying before my Government the correspondence which passed last year between the Secretary of the Department of State and myself upon the subject of the accommodation which His Royal Highness the Prince Regent was willing to afford to the citizens of the United States for the purpose of their fishery, I did not fail to represent that, in the conversations which had taken place upon the propositions which I had been authorized to make and which were finally declined, the Secretary of the Department of State had intimated a wish to communicate to me some particular arrangement which would be satisfactory upon the subject to the American Government.

I have now received the commands of His Royal Highness to acquaint you that, whilst His Royal Highness regrets that the very liberal accommodation which I was instructed to offer should not have been thought to afford the advantages which the American Government desired, His Royal Highness still cherishes the same disposition to admit the citizens of the United States to such participation of the convenience afforded to their fishery by the neighbouring coasts of His Majesty's dominions as may justly consist with His Majesty's rights and the interest of his own subjects.

His Royal Highness is willing to receive in a sincere spirit of friendly accommodation whatever suggestion the American Government may have to offer which they may conceive to be reconcileable with these primary considerations. His Royal Highness feels assured that the Government of the United States must know so well the nature and the value of those interests of His Majesty's subjects which it is the first object of His Royal Highness to protect, and presume that they will not fail to frame any propositions which they may be desirous of making in such a spirit of moderation as will not impose upon His Royal Highness the necessity of declining to entertain it. His Royal Highness has therefore commanded me to ascertain from the American Government the extent of the accommodation which they seek to obtain, and at the same time to give the assurance of His Royal Highness that it will be considered with the sincere and earnest hope that it may not be found inconceivable with those important objects to which I have adverted.

I shall be happy to receive the proposition which the President may wish to make whenever you will do me the honour to communicate it, and although I am not authorized again to propose to the commanders of His Majesty's ships on the coasts of North America that they should suspend during its consideration by my Government the orders under which they are now acting I shall take the earliest opportunity of forwarding it to my Government in the hope that, if it should lead to an arrangement, the orders consequent upon that arrangement may be given with as little delay as possible.

I have, &c.
(Signed) CHARLES BAGOT,

Inclosure 2 in No. 45.

Mr. Rush to Mr. Bagot.

Sir,

Department of State, May 30, 1817.

I HAD the honour to receive, and have laid before the President, your note of the 27th of this month.

In answer to it I have the honour to state that this Government is not yet prepared to make known, in any definitive and final shape the nature and extent of the accommodation desired by its citizens engaged in the fisheries along the coast of His Britannic Majesty's Dominions, according to the invitation held out, by order of the Prince Regent, in your note. At the same time, I am directed by the President to inform you, that he recognizes in the terms of this invitation, not less than in the general scope of your note, a spirit of friendly accommodation which this Government, not foregoing rights which it feels itself bound to look to, will nevertheless be desirous in the fullest extent to reciprocate.

On the return of the President from a tour through part of the United States;

which he is now upon the eve of commencing, it is expected that this Department will be enabled to offer such propositions as, taking for their basis the principles stated in your note, it is confidently hoped may end in an adjustment of this important interest, upon terms reconcileable with the views of both nations, and serve to strengthen the harmony and good understanding which it is so desirable to cultivate and preserve between them.

I have, &c.
(Signed) RICHARD RUSH,
Acting Secretary of State.

No. 46.

Sir C. Robinson to Viscount Castlereagh.—(Received July 28.)

My Lord,

Doctors Commons, July 28, 1817.

I AM honoured with your Lordship's commands signified in Mr. Hamilton's letter of the 12th instant, transmitting two communications with their several inclosures, which have been received from the Admiralty respecting the participation of American vessels in the fisheries within the limits of His Majesty's jurisdiction, and mentioning the fact of the detention of several American vessels found fishing off Ragged Island and Cape Negro; and your Lordship is pleased to request that I would take these papers into consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's directions I have considered the same, and I have the honour to report that the practice in question of fishing on the coasts of Newfoundland and of using British ports for purposes of incidental accommodation may be fit to be regulated by Treaty or by any public declaration of the rights of this country that will establish a positive law, authorizing the Courts of Justice to act thereon. But, as the law now stands, I am not aware of any proceedings that can be instituted against these vessels for any act described in these papers, and, as at present informed, I am humbly of opinion that the proceedings, which are intended to be instituted at Halifax, cannot be maintained.

I have, &c.
(Signed) CHARLES ROBINSON.

No. 47.

Mr. Bugot to Viscount Castlereagh.—(Received August 6.)

(No. 47.)

My Lord,

Washington, June 30, 1817.

I HAVE the honour to transmit to your Lordship the copies of two letters which I received late last night from Rear-Admiral Sir David Milne, communicating to me, under date of the 6th of last month, the orders which he had issued from Bermuda respecting American vessels found fishing within the British jurisdiction, and subsequently acquainting me, under date of the 11th instant, from Halifax, that, in conformity with these orders, Captain Chambers, of Her Majesty's ship "Dee," had seized and brought into the port of Halifax twenty American vessels which had been found fishing in the harbours of Ragged Island and Cape Negro, near Shelburne, on the coast of Nova Scotia.

The repeated warnings which the American vessels are known to have received during the last two seasons—the propositions which were made last year for the partial admission of them to our coasts—the assurances which I gave to the American Government upon their rejection of those propositions, that the orders for their exclusion would thenceforth be rigidly enforced—and the correspondence which has recently passed between Mr. Rush and myself upon the same subject, furnish so obvious and complete an answer to any remonstrance which the American Government might make against these captures, that I can hardly imagine that any serious notice will be taken of them to me; and I am even willing to hope that, as the intelligence will probably reach Boston during the President's stay in that city, it may possibly have a beneficial

effect upon the discussions, which I still believe it is their intention to hold upon the question of the fisheries.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 1 in No. 47.

Rear-Admiral Sir D. Milne to Mr. Bagot, May 6, 1817.

[See Inclosure 3 in No. 44.]

Inclosure 2 in No. 47.

Rear-Admiral Sir D. Milne to Mr. Bagot.

Sir,

"Leander," Halifax, June 11, 1817.

ON the 6th ultimo I had the honour to address your Excellency in reply to your letter of the 10th of January last, which I have not before had an opportunity of forwarding. I have transmitted a copy thereof to the Lords Commissioners of the Admiralty, at the same time acquainting them with the instructions issued to the ships and vessels under my command in consequence of your communication.

I now inclose for your Excellency's information a copy of a letter which I have received from Captain Samuel Chambers, of His Majesty's ship "Dee," detailing the particulars of the detention of several American vessels (a list of which is also inclosed) found fishing in the harbours of Ragged Island and Cape Negro, which vessels arrived here the 9th instant, under escort of the "Dee;" I likewise inclose a copy of the orders under which Captain Chambers was acting, and I have referred the matter for the consideration of His Majesty's Attorney-General, the result of which shall be communicated to your Excellency by the first opportunity.

I have likewise submitted the particulars of this affair to his Excellency the Earl of Dalhousie.

I have, &c.
(Signed) DAVID MILNE.

Inclosure 3 in No. 47.

Captain Chambers to Rear-Admiral Sir D. Milne.

Sir,

"Dee," off Shelbourne, June 8, 1817.

IN compliance with your order of the 12th ultimo, I sailed from Halifax on the 30th ultimo, but did not meet or receive any intelligence of foreign fishing vessels being within our jurisdiction until the 3rd instant, when, being off the Isle Maten, I was informed that the whole of the banks to the westward (off Cape Sable and Shelburne) were fished by American schooners, and that they continually resorted to the creeks on this coast in order to catch their bait, clean their fish, wood, water, &c., this, of course, highly detrimental to the interest of the industrious fishermen on this coast. I was also informed the intricate harbours off Cape Negro and the Ragged Islands were their resort most evenings, several going in, but more particularly on Saturdays, when they remain till Monday to procure bait for the ensuing week; at the former place they had not been well received, at the latter I suspect much encouragement had been given them by an individual. I intended having our boats into Ragged Island Harbour before daylight on the 4th, but light winds prevented our getting that length, I, therefore, in the course of the day, put into Shelburne and in the evening dispatched the boats under the charge of Lieutenant Hooper into Ragged Island, with the order I inclose; the weather preventing any boats returning until the 7th, when I received information that nine American fishing vessels had been found at Ragged Island Harbour with their nets set. Lieutenant Hooper remained at this place, and I dispatched Lieutenant Lechmere with a gig and cutter to Cape Negro with the

inclosed order, he found two American fishing-vessels in the harbour, and seven others came in in the course of Saturday. The whole joined me this day with two others that came into Ragged Islands. I have, therefore, in obedience to your directions sent them into Halifax for adjudication, as any distress they may plead might with more ease be relieved at the regular harbour of Shelburne, which has been avoided, for two intricate harbours in its immediate neighbourhood.

I beg further to state that, without the use of our harbours, it appears impossible for any foreigners to carry on successful fishing on this coast, which fishing has much injured our fishermen, and I have every reason to believe that considerable smuggling of tobacco, shoes, &c., is carried on by their boats. I beg leave to inclose a list of the detained vessels, and also to inform you that, from some of the Americans attempting to tamper with some of our boats' crews and the riotous conduct of others, I have been obliged to take precautionary measures to prevent any of the vessels being run away with.

I have, &c.
(Signed) SAML. CHAMBERS.

Inclosure 4 in No. 47.

List of American Fishing Vessels Detained in the Harbours of Ragged Island and Cape Negro by Samuel Chambers, Esquire, Captain of His Majesty's Ship "Dec," 8th June, 1817.

Vessel.	Name of the—		No. of—	How Rigg'd.	No. of Quintals of Fish on Board.	Where Detained.	No. of Days from the United States.	Hds. of Salt for Curing Fish.	Where Belonging.	Remarks.
	Master.	Owners.									Men.	Tons.
Entorpiase ..	B. Harris ..	B. Harris ..	4	35	Schooner		15	Booth Bay..		
Isabella ..	T. Decker ..	G. Nickown ..	4	45	"		45	Ditto ..		
Superb ..	W. Decker ..	E. Decker ..	3	24	"		32	Ditto ..		
Welcome Return ..	Wm. Trefether ..	Wm. Trefether ..	4	24	"		38	Kerry ..		
John ..	Dan. Grant ..	Dan. Grant ..	4	37	"		5	Kennebunk ..		
Raven ..	Samuel Grant ..	D. and S. Town ..	4	38	"		7	Ditto ..		
Pandora ..	Ben. Whittle ..	J. Town and T. Stone ..	4	33	"		7	Ditto ..		
Exchange ..	Wm. Clarke ..	Sam. Thomson ..	3	23	"		35	Booth Bay..		
Lucy ..	Wm. Thomson ..	W. Thomson ..	4	25	"		42	Ditto ..		
General Jackson ..	Ah. Keen ..	Hy. Trefether ..	5	38	"		46	Waldoborough ..		
Defiance ..	Jas Dunton ..	T. Hodson ..	4	37	"		30	Edgecomb ..		
Nine Sisters..	Salath. Nickerson ..	S. Nickerson ..	9	36	"		14	Chatham ..		
Reporter ..	Sam. Kelly ..	L. Trep and Co..	10	31	Sloop		..	Farhaven ..		
Violet ..	Issiah Snow ..	Jos. Gifford ..	10	28	Schooner		..	Dartmouth..		
Rambler ..	Step. Rand ..	S. Rand ..	4	24	"		42	Booth Bay..		
Jefferson ..	Jno. Cameron ..	Jno. Cameron ..	3	21	"		49	Wisasset ..		
Packet ..	Issiah Kendrick..	D. Kendrick ..	8	37	"		14	Barnstable..		
Rising Sun ..	Wm. Bateman ..	Wm. Russel ..	5	38	"		46	Newbury Post		
Oliver Cromwell ..	Dennis Small ..	Crosby and Co... ..	9	38	"		21	Edgar Town		
Native ..	Samuel Sayward..	J. Parsons ..	4	23	"		41	Gloucester..		

(Signed)

SAML. CHAMBERS, Captain.

Found at anchor at the Ragged Islands and taken possession of by Lieut. Hooper on the morning of the 5th July, 1817; several acts set.

Taken possession of by Lieut. Hooper: at anchor in Ragged Islands Harbour on 6th and 7th June, 1817.

Taken possession of by Lieut. Lechmere at Cape Negro on the 7th June, 1817.

Found in the harbour of Cape Negro by Lieut. Lechmere at dawn of day 7th June, and taken possession of.

Taken possession of by Lieut. Lechmere in Cape Negro Harbour, June 7.

Taken possession of by Lieut. Lechmere in Point Anchoage, Cape Negro, having on discovering the boats, attempted her escape.

Taken in Cape Negro harbour 7th June, by Lieut. Lechmere.

Inclosure 5 in No. 47.

Orders addressed to Captain Chambers.

By Sir David Milne, &c., &c., &c.

YOU are hereby required and directed to proceed in Her Majesty's ship under your command to Halifax, and, having received on board a pilot at that place, you will repair and cruize between Cape Sambre Lighthouse and Cape Sable, using every means in your power for the protection of the revenue, as also the fisheries on the coast against the encroachment of foreigners.

On your meeting with any foreign vessel, fishing or at anchor, in any of the harbours or creeks in Her Majesty's North American Provinces, or within our maritime jurisdiction, you will seize and send such vessels so trespassing to Halifax for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress, acquainting me with the cause of such seizure and every other particular, to enable me to give all information to the Lords Commissioners of the Admiralty.

You are to come within sight of signals from Sambre Lighthouse every fourteen days, if the wind and weather will permit, and wait eight hours at that distance. You will continue on this service for eight weeks from your sailing from Halifax; at the expiration of which time you will return to that port for further orders.

Given under my hand on board the "Leander," Bermuda, May 12, 1817,

(Signed) DAVID MILNE, *Rear-Admiral.*

To Samuel Chambers, Esq.,

Captain of His Majesty's ship "Dec."

By command of the Rear-Admiral,

(Signed) J. P. LAMRY.

Inclosure 6 in No. 47.

Mr. Bagot to Viscount Castlereagh.

My Lord,

Washington, July 14, 1817.

I HAVE the honour to transmit to your Lordship the copy of a letter which has been received this evening by His Majesty's Consul-General from the Vice-Consul at Savannah, inclosing a notification published in that city of the capture of Amelia Island, on the 30th ultimo, by the forces under the command of General McGregor.

I also inclose the extract of a letter which was published this morning in the "Daily National Intelligencer," by which it appears that, on the 20th of May, the revolutionary forces evacuated the town of Pernambuco, and, on the 22nd, the Portuguese Government was again established.

I have, &c.

(Signed) CHARLES BAGOT.

No. 48.

Lord Melville to Mr. Hamilton.

(Private.)

My dear Sir,

Spithead, August 7, 1817.

I HAVE retained the letter to Mr. Croker, and I return herewith the draft and the other papers. I think we shall probably have to ask a further opinion from the King's Advocate, and that it would not be safe to send such a communication to our naval officers unless we meant them to understand that in no case whatever can a foreign vessel be prevented from fishing in our ports and harbours—in the roadstead, for instance, from whence I am now writing. In our letters to you there is no question of disputed jurisdiction between us and the Americans. The trespasses complained of were committed in harbours in the settled and inhabited parts of Nova Scotia, where the Americans claim right of fishing under the Treaty of 1783. If the King's Advocate only means that, in the particular cases laid before him, there is no positive proof of

those individual vessels having been actually engaged in fishing, it would be quite a different matter, and we might safely inform the Admiral to that effect.

Yours, &c.
(Signed) MELVILLE.

No. 49.

Mr. Bagot to Viscount Castlereagh.—(Received September 15.)

(No. 51.)

My Lord,

Washington, August 8, 1817.

SOON after the receipt of your Lordship's despatch No. 8 of the 13th May, inclosing to me a copy of the correspondence which had passed between your Lordship and Mr. Adams upon the subject of a further suspension of the orders respecting American vessels found fishing within the British jurisdiction upon the coasts of North America, I waited upon Mr. Rush, for the purpose of acquainting him with the instructions which had been sent, in consequence of this correspondence, to the Commander-in-chief of His Majesty's squadron on the Halifax station, and of urging, as strongly as I could, the propriety of no longer delaying the expected propositions of the American Government upon the subject of the fisheries.

Mr. Rush expressed himself fully sensible of all the motives which had induced the British Government to listen to the application which Mr. Adams had been instructed to make for a suspension of the existing orders, and assured me that he had no doubt that, upon the return of the President to Washington, at the end of this month, he would be prepared to bring forward the propositions to which I had referred. He then said that it was with great regret that he found himself under the necessity of acquainting me that the American Government had a serious complaint to make against the Commanders of His Majesty's ships on the coast of Nova Scotia, in consequence of their having seized more than twenty American vessels which had been driven by stress of weather into certain bays in the neighbourhood of Shelburne. He then entered into a detailed statement of the representations which had been made to the American Government of those seizures of which I had the honour to transmit to your Lordship an account in my despatch No. 47 of the 30th of June, contending that they had been wholly unprovoked, that they had been made under circumstances which did not involve any of the questions of right in dispute between the two countries, and in violation of humanity and the established usages of nations. I assured him that I had every reason to believe that the representations which had been made to him were totally unfounded; that I had been for some time in possession of all the facts of the case; and that I had no hesitation in stating that, according to my information, the circumstances under which those vessels had been captured were such as would at all times warrant a similar measure. Mr. Rush replied that it would, nevertheless, be necessary for him to write to me officially upon the subject, and I have now the honour to inclose to your Lordship copies of his note and of the answer which I have returned to it.

I am aware that I might have entered, with advantage, into a much more detailed argument upon the case; but it appeared to me that, with a view to the pending negotiations, it would be much more convenient to keep the question wholly distinct, and to place it altogether upon the matter of fact.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 1 in No. 49.

Mr. Rush to Mr. Bagot.

Sir,

Department of State, August 11, 1817.

IT becomes my duty to address you upon a subject of deep interest to all those citizens of this country who are concerned in the fisheries.

By representations made to this department, it appears that, at the commencement of the present fishing season, twenty sail of fishing-vessels of from 20 to 45 tons burden, belonging to parts of the United States, were fitted out and sailed for the purpose of fishing on the western bank. That while on their way, a number of them

were compelled by a storm to put into a harbour at Ragged Island, near Shelburne Lighthouse. That while here, they were boarded by an officer of the Customs, who demanded and received light-money from them, notwithstanding the circumstances of compulsion and distress under which they had entered the port. That they afterwards proceeded to the bank where, after remaining many weeks, they completed their fares of fish, and commenced their return to the United States. That meeting with another severe storm upon their return, they were again forced to seek shelter in a British port, a few leagues to the westward of Halifax. That in this port they were captured by an armed barge dispatched from the British sloop of war "Dee," Captain Chalmers, and the next morning ordered for Halifax, where they all arrived on the 9th of June. That the unfortunate crews have been exposed to peculiar inconveniences and hardships, and that those who desired to return to their homes were refused passports towards facilitating that end, from the proper officers to whom they made application.

For further particulars connected with the above facts, I have the honour to inclose you an extract of a letter to this department, from the collector of Boston, dated June 30. It will be seen that it is not a case involving unsettled questions between the two countries in relation to the fisheries, but which it is so confidently hoped are in a train of satisfactory and amicable arrangement. It is, on the other hand, distinctly said, that the boats far from taking a fish in any waters claimed as British waters, took them all at a distance of many leagues from the coast, while the other alleged facts would seem to forbid the imputation of their having entered a British harbour from any other than a lawful and necessary motive.

Should the facts, as represented, prove to be well founded, the President feels persuaded that your Government will not fail to take such measures, as well towards redressing the evil complained of in the present instance, as towards preventing the recurrence of one of the like nature, as are due to justice, and the harmony and good understanding which so happily subsist between the two nations.

I have, &c.
(Signed) RICHARD RUSH,
Acting Secretary of State.

Inclosure 2 in No. 49.

*Extract of a Letter from the Collector of Customs at the Port of Boston, dated
June 30, 1817.*

THIS morning forty-two distressed fishermen reported themselves to me, who had just arrived from Halifax, in the British schooners "New Packet," "Four Sons," and "Hero," and made the following representations, which I deem it my duty to lay before you. They belonged to twenty sail of fishermen, of from 25 to 45 tons burthen, which were owned, fitted out, and sailed from the ports and town set forth in the accompanying schedule, for the purpose of fishing on Brown's, or the western bank, so called, lying between Cape Sable and the Isle of Sable, about ten leagues from the coast of Nova Scotia. On their passage to the banks, a number of them were compelled, by a violent storm, to put into Lock Harbour, in Ragged Island, which lies three leagues to the eastward of Shelburne Lighthouse, where they were boarded by a British officer of the Customs, who demanded and received tonnage and light-money, in conformity to the maritime laws of that Government. After the storm abated, they proceeded to the banks, where they fished for five weeks, when a gale of wind compelled many of them to leave the fishing grounds and put into Bristol Bay, three leagues west of Halifax, where they remained one night, and the next morning returned to the banks, where they completed their fares of fish.

On their return to the United States, they were again obliged, by a severe storm, to put into another British Harbour, a few leagues to the westward of Halifax, called Port Negro. Before they came to anchor, an armed barge from the British sloop of war "Dee," Samuel Chalmers, Esq., Commander, took possession of them and brought them to anchor.

The next morning they were got under weigh and stood out to sea, where they joined the ship "Dee," which proceeded with all the prizes to Halifax, where they arrived on the 9th of June. The sails of the vessels were immediately unbent, and all of them anchored in line off the King's Dockyard. On the 16th they were all libelled, for the reasons declared in the libel, a copy of which I inclose.

The vessels were then hauled into a small creek above the Navy Yard, and moored in two lines after the running rigging and boats were removed. The skippers and crew were allowed to remain on board, if they chose; but as their provisions were exhausted when they left the banks, except barely enough to last them to their usual ports in the United States, all of them concluded to leave Halifax, save a skipper and one man to each vessel.

From the time the vessels were captured until those men, whose names are contained in the schedule, left Halifax, no provisions were given to the crews, except two days' allowance furnished the shippers, who were put into two vessels, the day after the capture, and taken in tow by the sloop of war "Dce."

Those who wished to return home waited on the civil, military, and naval authority to obtain passports and transportation to the United States; but their request was not granted. After much difficulty forty-two men were enabled to induce the commanders of the first named British schooners to take them on board, on the promise that every exertion would be made on their arrival to induce our Government to remunerate them for such service, at the rate of 6 dollars for each fisherman. I informed the British captains I had no doubt they would be compensated, and I should make it a point to lay the subject before the Executive. The fishermen state that they were treated with great kindness and humanity by the masters of the vessels, in which they came from Halifax, and that it would have been utterly impossible for them to have reached this country had not those vessels received them. By the laws of the United States, for the government of Consuls and Vice-Consuls, 10 dollars are authorized to be paid to captains of American vessels for bringing to the United States distressed seamen. I will thank you for instructions as to the payment of 6 dollars to those English captains.

There were from fifty to sixty other fishermen left at Halifax in a most lamentable and distressed situation, not having the means of support, except by asking alms, and no prospect of returning to their unfortunate families.

Some of the vessels never anchored in the British harbours, or did any of them take a fish in the British waters, or nearer than ten leagues of the coast.

This event has brought great distress on the owners and fishermen, who, going on shares, feel equally the misfortune. They informed me they had, most of them, got credit for the great and little general, as it is termed, which embrace the salt and all the requisite stores for the voyage, also for the support of their families during their absence; they have lost all their labour, besides for the season; and such of them as return to their wives and children, instead of carrying joy and comfort, with uncommonly fine fares of fish, have only a melancholy tale to relate of their sufferings and losses, while abject poverty sits enthroned in every dwelling of those hardy sons of the ocean.

They could not find bondsmen for their vessels, and should they be ultimately acquitted the fish will be spoiled and the whole season lost. Being in bulk they will not keep but a few weeks. If some arrangements could be made for the relief of those unfortunate men, who now remain at Halifax living on the cold and precarious charity of strangers, it would give, at least to expectant families, the consolation of seeing their husbands and relations.

This class of people are uninformed and know not what is the best course for them to pursue. Without council, or the means of engaging legal assistance, they are left to confront the maritime Courts of Great Britain, and have no hopes save those founded on their innocence and the justice of their cause.

Inclosure 3 in No. 49.

Mr. Bagot to Mr. Rush.

Sir,

Washington, August 8, 1817.

I HAD yesterday the honour to receive your letter of the 4th instant, acquainting me with the representations which had been made to the Department of State in relation to the seizure by His Majesty's ship "Dce" of certain American fishing vessels found in the harbours of Port Negro and Rugged Island upon the coast of Nova Scotia, and transmitting to me the extract of a letter upon the subject from the Collector of the Customs at Boston.

Should the circumstances of this seizure, as they have been presented to the American Government, prove to be correct, I can have no hesitation in giving you

every assurance that His Majesty's Government will willingly take measures for the prompt redress of the injuries to which it may have led, and for the prevention of their recurrence; but the representations which I have received upon the subject from the Commander-in-chief of His Majesty's squadron on the Halifax station differ so essentially in point of fact from those which have been made to the American Government, that I have every reason to hope that, upon a proper investigation of the transaction, it will not be found to involve any just cause of complaint.

I have the honour to transmit to you inclosed the copy of a letter from the captain of His Majesty's ship "Dee" to the Commander-in-chief of His Majesty's squadron on the coast of Nova Scotia, reporting the grounds upon which he had deemed it to be his duty to detain these vessels, together with a copy of the orders under which he had acted.

By these papers you will perceive that the vessels in question were in the habit of occupying, and were, at the time of their seizure, actually occupying, for the purposes of their fishery, the settled harbours of His Majesty's dominions, in violation of the orders at all times enforced against all foreign vessels detected in making similar encroachments, and of which it is not to be supposed the masters of these vessels could have been ignorant.

The proceedings which have been instituted upon the captured vessels will necessarily lead to a complete investigation of all the circumstances under which they were detained, and there can be no doubt that the merits of the whole case, which appear to rest altogether upon questions of fact, will be then fully ascertained.

I have, &c.
(Signed) CHARLES BAGOT.

No. 50.

Mr. Bagot to Viscount Castlereagh.—(Received .)

(No. 62.)

My Lord,

Washington, October 6, 1817.

AT the first conference which I had with Mr. Adams a few days after he had entered upon the discharge of his duties as Secretary of the Department of State, I requested to know whether he was prepared to bring forward the propositions of the American Government respecting the fisheries. He told me that he had taken an opportunity during the short stay of the President at Washington, to speak to him upon the subject; and that the President had stated that he had now obtained all the information which he required, and that he should be ready to enable Mr. Adams to put me in possession of the propositions as soon as he returned from Virginia, which he expected to do about the latter end of the present month.

His Majesty's Government has probably been already made acquainted with the judgment given on the 29th of August, in the Vice-Admiralty Court at Halifax, in the case of the twenty American fishing-vessels detained by His Majesty's ship "Dee," in the harbours of Nova Scotia; I, nevertheless, inclose to your Lordship a copy of this judgment, which has been printed in the American papers, in case your Lordship should not have yet received it through some other channel.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure in No. 50.

Extract from a Halifax Paper of October 6, 1817.

Decree pronounced by the Honourable Michael Wallace, Judge of the Vice-Admiralty Court, on Friday, the 29th ultimo, in the case of American fishing-vessels, seized and detained by His Majesty's ships of war, in the harbours, and on the coasts of Nova Scotia.

THIS case is of great national importance. Under that impression, it has had as much consideration on my part as my humble talents are capable of giving.

I entirely accede to the principle laid down by the Advocate-General, that the American Government, when it commenced hostilities against Great Britain, cut the cord on which their Treaty of 1783, with our Government, hung, and thereby dissolved

every condition, obligation, and privilege it contained. But as American subjects have long enjoyed under that Treaty the privilege of fishing on our coast, and there being no specific notification from our Government that I know of since the Treaty of Ghent, published on the subject, for me to have recourse to, I cannot adopt so serious a measure as the condemnation of the property of individuals who seem generally ignorant of the intentions of our Government with respect to the prohibition. Besides, it does not appear to the Court that any of them were found in the act of catching fish, or trading with the inhabitants in any of our bays or harbours, but merely seeking shelter from the weather, or a little fresh water, which, under existing circumstances, I cannot view in the light of an infringement of our rights.

Independent of this consideration, were I inclined to enforce the principle of national law against the claimants in this case, I should be at a loss what penalty to pronounce upon the aggressors.

In other cases in which foreigners are seized for unlawful traffic, there are positive Acts of Parliament, inflicting a forfeiture of the property and other penalties for the offence.

Is it a matter of course in this instance, that these vessels are to be condemned and forfeited to His Majesty? I cannot think so.

I have no law to guide me in my judgment, no Proclamation, or Orders in Council, no instructions of any kind, by which I can measure the punishment to be inflicted for this infringement of our Colonial rights.

It is totally a new question, and one that I conceive to be involved in much doubt and difficulty, in consequence of the silence of the Treaty of Ghent on this very important subject.

I am not ignorant that negotiations have been carried on respecting the fishery in question, between our Government and that of America. Those negotiations were broken off in January last, it is true; but it is equally true that they have been renewed, and are still pending.

Under which circumstances, therefore, I do not consider myself justified in condemning this property to His Majesty; but shall decree the vessels and property belonging to them, be restored to the claimants, on paying costs; from which decree, if the seizers are dissatisfied, they are at liberty to appeal to a superior Court, where it is probable the subject has been under the discussion of abler minds, and where the intentions of our Government with respect to it, can be fully ascertained.

No. 51.

The Secretary to the Admiralty to Mr. Hamilton—(Received November 18.)

Sir,

Admiralty Office, November 17, 1817.

IN reference to my letter of the 15th of September last, respecting the American vessels interfering with the British fisheries, I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the further information of Lord Castlereagh, a copy of a letter from Rear-Admiral Sir David Milne, dated the 1st of last month, with a copy of the decree of the Judge of the Vice-Admiralty Court at Halifax, ordering the release of the vessels of the above description which had been detained by His Majesty's ship "Dec."

I am, &c.

(Signed) JOHN BARROW.

Inclosure 1 in No. 51.

Rear-Admiral Sir D. Milne to the Secretary to the Admiralty.

Sir,

"Leander," Halifax, October 1, 1817.

REFERRING to my letter to you of the 13th instant, I beg to transmit, for the information of the Lords Commissioners of the Admiralty, a copy of the decree of the Judge of the Vice-Admiralty at Halifax in the case of the twenty American fishing vessels detained and sent into this port by the ship "Dec;" and I regret to be obliged to request their Lordships' attention to the whole of this; to me, extraordinary sentence, particularly the ninth, tenth, eleventh, and fourteenth, and five following lines of the third paragraph, second and third lines of the seventh, and the three concluding

lines of the last paragraph of the said Decree, wherein Mr. Wallace declares, as one ground for their acquittal, that he had not received any instructions or information respecting the case for guidance, notwithstanding I had, previously to the question coming before him, attended his Excellency the Earl of Dalhousie in Council, at which Mr. Wallace was present, before which Council was submitted every document in my possession that could afford information or authority upon the subject, including Mr. Bagot's letter to me of the 10th January last, with my answer thereto, inclosed to you in my letter of the 6th May; and one dated 30th June, 1817, from him, in reply to two written by me to him, a copy of which accompanied my letter to you of the 13th July last, together with their Lordship's order of the 12th May last, with the copy of the letter from Earl Bathurst, containing instructions on the subject.

I shall, notwithstanding the decree of Wallace, consider this important question undecided, it being of the utmost importance to the welfare of this part of His Majesty's Dominions that his subjects should have the advantage of the fisheries on their own shore and harbours, and ~~small~~ instruct the vessels under my orders to retain and send into this port for adjudication ~~on~~ all foreign vessels found fishing in the bays, harbours, and creeks of His Majesty's North American Provinces, agreeably to the tenor of their Lordship's orders of the 12th May last, unless they shall be pleased to give out other instructions for my guidance.

I have, &c.
(Signed) DAVID MILNE.

Inclosure 2 in No. 51.

Decree pronounced by the Honourable Michael Wallace, Judge of the Vice-Admiralty Court, on Friday the 29th August, 1817, in the case of American Fishing Vessels Seized and Detained by His Majesty's Ships of War in the Harbours and on the Coasts of Nova Scotia.

[See Inclosure in No. 50.]

No. 52.

The Law Officers of the Crown to Viscount Castlereagh.—(Received December 19,)

My Lord,

Doctors Commons, December 17, 1817.

WE are honoured with your Lordship's commands, signified in Mr. Planta's letter of the 22nd ultimo, transmitting a correspondence received from the Admiralty and the Colonial Department, containing the judicial proceedings of the Vice-Admiralty Court at Halifax against the schooner "Packet," and other vessels detained by His Majesty's ships "Dee" and "Rye," on a charge of having improperly fished within the limits of the British jurisdiction:

And your Lordship is pleased to request that we would take the same into consideration, and report to your Lordship our opinion thereupon; but more particularly to turn our attention to the question of the propriety of the judgment, as to what, if any, legislative measures may be necessary to protect our maritime interests in that quarter.

In obedience to your Lordship's directions we have the honour to report, that the process does not contain proofs of any facts by which the ship and goods would incur the penalty of confiscation by any law of this country, and we are of opinion that the judgment of the Court below was right.

The fish are described to have been caught "on Brown's Bank, at the distance of twelve or thirteen leagues from any part of Nova Scotia."

We collect from Admiral Milne's letter "that he has directed His Majesty's cruiser to bring in for adjudication all foreign vessels found fishing in the bays, harbours, and creeks of his Majesty's North American Provinces," and we presume that the special question proposed to us, "as to what legislative measures may be necessary to protect our maritime interests in that quarter," relates to interests of that kind.

The right of prohibiting foreigners from so fishing within the territorial waters in and about His Majesty's Dominions seems to be established on just principles, and might, we conceive, be enforced by penal enactments. A claim of this nature has been

extended anciently to a considerable distance from the coasts of this Kingdom, and the Treaty of Utrecht excludes French subjects from fishing within thirty leagues of the coasts of Nova Scotia, but no law has been made before or subsequent to that Treaty subjecting to confiscation the property of vessels so employed.

The 10th and 11th Wm. III, cap. 25 enacts, that it shall "be lawful for all His Majesty's subjects residing within his realm of England, or the Dominions thereunto belonging, trading, or that shall trade to Newfoundland, and the seas, rivers, lakes, creeks, harbours in or about Newfoundland, or any of the islands adjoining or adjacent thereunto, to have, use, and enjoy the free trade and traffic, and art of merchandize, and fishery to and from Newfoundland, and peaceably to have, use, and enjoy the freedom of taking bait, and fishing in any of the rivers, lakes, creeks, harbours, or roads in or about Newfoundland, and the said seas, or any of the islands adjacent thereunto, and liberty to go on shore, on any part of Newfoundland, or any of the said islands." &c.; "and that no alien or stranger whatsoever, (not residing within the Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed,) shall at any time thereafter take any bait, or use any sort of trade or fishing whatever in Newfoundland, or in any of the said islands or places above-mentioned:" but there is no penalty specified in that Act; and the limits of the seas in or about Newfoundland are not defined.

That Legislative Act would show that Great Britain had exercised powers in a case of a similar nature, which might be applied to this case; but it would show at the same time that the penalty of confiscation was not imposed; and though the term "seas" is used, it is to be understood, we conceive, of seas immediately adjacent to the creeks, harbours, and coasts, and such as may be comprised within the limits of territory on general principles.

If it is intended to apply the penalty of confiscation to cases of this description legislative enactments will be necessary, but we cannot advise as to the measures that may be proper to be adopted, without knowing more particularly the nature of the restrictions and regulations which are intended to be imposed.

I have, &c.

(Signed) CHRIST. ROBINSON.
S. SHEPHERD.
R. GIFFORD.

No. 53.

Mr. Bagot to Viscount Castlereagh.—(Received June 1.)

(No. 29.)

My Lord,

Washington, April 7, 1818.

I HAVE the honour to inclose to your Lordship the copy of a letter which I received on the 14th of last month from Rear-Admiral Sir David Milne, acquainting me with the orders which it was his intention to give to the cruizers under his command in regard to foreign vessels found fishing during the present season within the jurisdiction of His Majesty's North American territories.

Some days after the receipt of this letter I took an opportunity of informing Mr. Adams of the instructions which the Admiral was about to issue, expressing, at the same time, my regret that the American Government should have delayed to make the propositions which I had been so long taught to expect, and which might possibly have led to some arrangement in regard to the vessels of the United States, which would have exempted them from the operation of these orders.

Mr. Adams assumed an air of some surprise at this communication and, having repeated several of the reasons which he had assigned for the delay which had occurred, requested to know whether I could not take upon myself to suggest to the Admiral the propriety of again suspending the orders of His Majesty's Government upon this subject. I told him that I certainly could not take upon myself any such responsibility; that the orders of His Majesty's Government were peremptory; and that their suspension had only been continued through the last summer in compliance with his own particular request to your Lordship, and under an expectation of immediately receiving the propositions which the President had, at that time, expressed a wish to bring under the consideration of His Majesty's Government.

I have the honour to inclose to your Lordship a copy of the answer which I have returned to Sir David Milne's letter.

I confess to your Lordship that I am totally at a loss to account for the remarkable delay which has taken place in this business, unless, indeed, the difficulty is to be solved by a supposition that this Government is not, in fact, desirous of coming to any arrangement whatever upon the subject. I have for several months constantly availed myself of every opportunity of bringing the matter under Mr. Adams' notice, and I have never failed to remind him that it was becoming impossible for me to transmit the expected propositions to your Lordship with any hope of receiving your Lordship's decision upon them before the commencement of the present fishing season. Mr. Adams has at different times assigned a variety of reasons for this delay. At one time he attributed it to the necessity of procuring further information respecting the coast; at another to the numerous engagements of the President during the session of Congress; at another to some difference of opinion which, he said, prevailed upon the subject amongst the persons principally interested in the trade; and at another to the want of a Report with which your Lordship had promised to furnish him when in England, showing the real injuries and inconveniences which had arisen to His Majesty's settlements from the practices of the American fishermen. In consequence of the last of these reasons, I have furnished him with a copy of the letter of the 28th of May, 1816, from the Collector and Comptroller of the Customs at Shelburne, in Nova Scotia, to the Commissioner of the Customs, which was transmitted to me in Earl Bathurst's despatch No. 17 of October 1816, and which I conceive to be the Report to which your Lordship must have referred. I have omitted, however, that part of it which relates to the Attorney-General's opinion upon the legality of capturing foreign vessels.

It is proper that I should acquaint your Lordship that, in one of the last conversations which I had with Mr. Adams upon this business, he gave me to understand that it had been found impossible to make any proposition which should be framed upon the principle of an assignment of any particular portion of coast; for that, as it was known that the small fish which are used as bait, and without which the cod-fishery cannot be carried on, are in a constant state of migration, and that they occasionally desert for several years whole tracts of the coast, it might happen that, by an arrangement made upon such a principle, the United States might be altogether excluded from the necessary means of engaging in the pursuit.

Whenever Mr. Adams shall furnish me with the promised propositions, I shall not fail to take an immediate occasion of forwarding them to your Lordship, but I shall not think it necessary to advert again myself to the subject at any of our future conferences.

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 1 in No. 53.

Rear-Admiral Sir D. Milne to Mr. Bagot.

Sir,

"Leander," Bermuda, March 2, 1818.

REFERRING to my letter to you of the 4th of July last, which made known to your Excellency the measures I adopted, and the directions issued to my cruisers, respecting the meeting foreign vessels fishing on the coasts of His Majesty's North American Provinces, I have to acquaint you that the vessels detained by the "Dee," and sent into Halifax (a list of which I had the honour to transmit you in my letter of 11th June last) were tried, and, contrary to my expectation, liberated by the Honourable Michael Wallace, Judge of the Vice-Admiralty Court at that port.

In Mr. Wallace's extraordinary Decree releasing the vessels in question, he states as one ground for their acquittal, that he had not received any instructions or information respecting the case for his guidance, notwithstanding I had, previously to the question coming before him, attended at the request of his Excellency the Earl of Dalhousie, a meeting of Council, at which Mr. Wallace was present, and before which Council was submitted every document in my possession which could afford information or authority upon the subject, including your letters to me, with that of Earl Bathurst.

Should your Excellency be in possession of any further information on this important subject, I shall be much obliged in receiving a communication from you, and, at the same time, I beg to acquaint you that it is my intention this season, to give to the vessels under my command the same instructions as they were before furnished with, to seize and carry into port for adjudication, all foreign vessels they shall find fishing on the coasts of His Majesty's North American Provinces, agreeably to the

tenor of Earl Bathurst's letter: and of my intentions I have informed the Lords Commissioners of the Admiralty, who have been pleased to acknowledge the receipt of my letter, but without any additional instructions.

I have, &c.
(Signed) DAVID MILNE.

Inclosure 2 in No. 53.

Mr. Bagot to Rear-Admiral Sir D. Milne.

Sir,

Washington, March 23, 1818.

I HAD the honour to receive, on the 14th, your Excellency's letter from Bermuda of the 2nd instant, acquainting me with the orders which it was your intention to give to the cruizers under your command, in relation to foreign vessels found fishing during the approaching season within the jurisdiction of His Majesty's North American Colonies.

I am not in possession of any instructions, nor have I received any information, which would lead me to infer that it is the intention of His Majesty's Government that the orders originally given in relation to all such vessels should be further suspended; and I have, since the receipt of your Excellency's letter, taken an opportunity of apprising the American Government that they will be enforced.

I have, &c.
(Signed) CHARLES BAGOT.

No. 54.

Viscount Castlereagh to Mr. Bagot.

(No. 12.)

Sir,

Foreign Office, June 9, 1818.

YOUR despatch No. 29 of the 7th April was received on the 1st day of this month, and has since been laid before the Prince Regent.

However much the unexpected delay in the transmission of the proposition relative to the fisheries, which had been promised by the Government of the United States, has been for some time matter of regret, and in some degree of surprise, to the Prince Regent's Government, yet, in order to avoid any unpleasant collision, orders were on the 26th day of May transmitted to the naval commanders on the American station directing them to suspend acting upon their former instructions till further orders.

This additional proof of His Royal Highness' desire to come to an amicable understanding with the American Government upon this matter, will not fail to impress itself upon the President's mind, and I hope that the proposition in question, if not already on its way to Europe, will be transmitted without any unnecessary delay for the consideration of the British Government.

I am, &c.
(Signed) CASTLEREAGH.

No. 55.

Viscount Castlereagh to Mr. Bagot.

(Private and Secret.)

My dear Sir,

Downing Street, June 9, 1818.

WHATEVER were Mr. Adams' views in holding to you the language he did, I entirely approve of the prudence which led you to abstain from pressing him for further explanations. We are entitled under the repeated assurances received from the American Government, and especially in Mr. Adams' note addressed to me on the 21st day of April, 1817, to expect a specified proposition for the adjustment of this question. The delay that has already been suffered to intervene, whilst it furnishes unanswerable proofs of the moderation and amicable disposition of this Government, augments the responsibility of that of the United States, and as to inconvenience of again suspending the orders to our naval commanders, must be considered as incurred

for the present season, it appears desirable not to alter the position in which we are entitled, from all that has passed, to consider ourselves as standing, viz., that of awaiting a project from the American Government on the matter in discussion.

You will therefore so regulate your language as to make the American Secretary of State sensible that such is the expectation which the Prince Regent's Government has been entitled to form, and under which they had recommended to His Royal Highness a renewed Act of Suspension, before your despatch was received in England, but you will continue to abstain from pressing for any explanation, which might under present circumstances alter the position of the negotiation, the object being to bring the Government of the United States to some specific proposition upon the question in dispute.

Believe, &c.
(Signed) CASTLEREAGH.

No. 56.

Mr. Bagot to Viscount Castlereagh.—(Received July 12.)

(No. 48.)

My Lord,

Washington, June 2, 1818.

UPON the receipt of your Lordship's despatch No. 7 of the 4th of February last, I immediately communicated to Mr. Adams the acquiescence of His Majesty's Government in the reoccupation, by the United States, of the position held by them upon the Columbia River prior to the late war. I stated to him that His Majesty's Government entertained no doubt of the United States being entitled under the provisions of the 1st Article of the Treaty to resume possession of whatever was held by them at the moment of rupture which was not subject to the exceptions made by the 4th, 5th, 6th, and 7th Articles; and I acquainted him with the orders which had been given to prevent any interruption being offered to the re-establishment of the post in question. In conformity, however, with your Lordship's instructions, I did not disguise from him, that His Majesty's Government had seen, with some regret, the irregular mode in which the United States had thought fit to resume possession of this settlement; and I took the opportunity of laying a general claim, on the part of the British Crown, to the territory upon which it had been made.

Mr. Adams appeared to receive what I said in good part. He stated that in fact the American Government put very little value upon the post of Astoria. That the "Ontario" had received her orders before he had entered upon the duties of his office; but that he could assure me, that she had been instructed not to commit any act of hostility or force whatever; and that, with regard to her having been dispatched without previous concert with me, he could take upon himself to say, that it was entirely owing to a belief, founded upon the statement formerly made by Mr. Baker, that there was no person upon the spot by whom a final surrender could be made.

I then proceeded to carry into effect your Lordship's further instructions, and I opened to Mr. Adams, in the manner which your Lordship has suggested, the proposal of setting the whole boundary of the contiguous territories of His Majesty and the United States in the mode provided by the 4th and succeeding Articles of the Treaty of Ghent.

Mr. Adams assured me that he would lose no time in laying this proposition before the President, and he professed to see no objection to the measure, excepting such as might, perhaps, grow out of the dissatisfaction already expressed by Congress, at the expense and time required for the demarcation of the original boundary. He acquainted me that he had received from Mr. Rush a report of the conversation which he had had with your Lordship upon the subject of this proposal, and he seemed to wish to ascertain from me, whether your Lordship considered the admission of a reference upon the subject of the slaves as conditional upon the admission by the United States of a similar reference upon the question of boundary. I gave him to understand that the two points were so coupled in your Lordship's letter to me, as to have left me with the impression that they were looked upon as concomitant measures, and that as both questions were susceptible of the same mode of adjustment, it did not appear reasonable that they should be separated.

Mr. Adams then observed that there were several other points which might, perhaps, be brought upon the present occasion to a final arrangement, and he instanced the questions of the fisheries—the Colonial trade—and the measures to be taken in

consequence of the approaching expiration of the Commercial Convention. Upon this last point he stated that it was highly desirable that some steps should be taken as soon as possible, in order that whatever was agreed upon might receive the ratification of Congress at their next Session, and the merchants have early notice of the state of the commercial regulations between the two countries. He said that whether the present Convention was to be allowed to expire, whether it was to receive additions and modifications, or whether it was simply to be renewed in its present form, it was much to be wished that the trading interest should not be left in any uncertainty upon the subject. From what fell from Mr. Adams in this part of our conversation, I think I may infer, that although he is sensible that the present Convention has been in some respects unpopular in this country, the American Government would not object to a simple renewal of it in its present form, rather than again throw open several of the great points which have been upon the whole so conveniently and satisfactorily settled by that arrangement.

Some days after this conference Mr. Adams requested to see me again, when he informed me that the President had carefully considered the proposal which I had been instructed to make, and that he had come to the determination to propose to His Majesty's Government to adjust the points of the slaves, and the boundaries, together with all the other points which might be thought capable of such adjustment, by a general Convention; that he acquiesced in the opinion that it was desirable to ascertain and fix whatever might be undefined in the boundary of the two countries, or liable to put to hazard their mutual good understanding; but that he thought, that this object could be easily attained, and, for all practical purposes, with sufficient accuracy, by direct negotiation between the two Governments, rather than by the employment of Commissioners; that there were other points of great interest to both parties which it was advisable to endeavour now to arrange: and as he presumed that some negotiation must take place upon the subject of the future commercial relations, he wished to propose the negotiation at the same time of a general Treaty, which should include as many of the points in suspense, as the two countries might find themselves able to adjust, such Treaty not precluding an adjustment by other modes of any points which it could not be made to embrace. That the President hoped to arrange by this Convention the questions of the slaves—the whole or any parts of the boundary, the fisheries, the Colonial intercourse—and any other points which either party might desire to regulate by stipulation.

Mr. Adams then proceeded to inform me that he had received the President's orders to instruct Mr. Rush to propose to your Lordship to open a negotiation for this purpose in London; and that, in the event of His Majesty's Government agreeing to the proposal, it was intended to appoint two Plenipotentiaries on the part of the United States, one of whom would be Mr. Rush, and the other a gentleman whom the President had already designated, but whom Mr. Adams did not name to me, as it was as yet uncertain whether the British Government would be willing to enter upon the negotiation.

I inquired of Mr. Adams whether he proposed to await the answer of my Government before he furnished the American Plenipotentiaries with their powers, as in that case some months might be lost, and the great object of obtaining at the next Session of Congress the ratification of whatever had been concluded be very probably defeated. Mr. Adams said that the President had considered this circumstance, and that, as the Plenipotentiary who was to act with Mr. Rush was (as I understood him to say) in Europe, full powers and instructions would be immediately sent out, and that, with my permission, he would transmit through me the duplicates which are forwarded with these despatches.

I should not omit to mention to your Lordship that, Mr. Adams informed me that he had been directed by the President to assure me, that the circumstances of the "Ontario" having been dispatched to the Colombia River without any intimation being given to me of her destination, was entirely accidental. That she had received her instructions whilst he was at New York on his tour to the northern frontier, and that, in the pressure of his business there, he had omitted to direct the proper communications to be made to me upon the subject. I must also state to your Lordship that, in the conversation which I have reported, Mr. Adams adverted more than once to the Navigation Act of the last Session of Congress. He seemed anxious to impress upon my mind that the President earnestly hoped that that Act would not be considered by His Majesty's Government as an unfriendly proceeding on the part of the United States, that it was intended rather as a declaratory than as a positive and perfect measure; that its object was principally to re-open the question for further negotiation,

and that it might be made to yield to arrangements such as he thought the British Government would not be unwilling to admit.

I have, &c.
(Signed) CHARLES BAGOT.

No. 57.

Sir C. Robinson to Mr. Planta.

My dear Sir,

Doctors' Commons, August 6, 1818.

I INCLOSE for Lord Castlereagh's perusal the draft of a Bill for restraining foreign fishing vessels from fishing or taking bait in the waters of Newfoundland, and the seas adjacent within a marine league. I have been rather hastened in my profits on this subject, as thinking that Lord Castlereagh might wish to see them before he goes abroad. The more general Bill I have not done, and hardly know how to prepare that part which relates to the object of the Bill and matter of preamble, as the considerations will be so different as to different places. There seems to be abundant authority for the abstract principle, but it would be advisable that it should be introduced in support of some real interests. The enacting clauses would have to be culled from the present draft. I need not add that the Bill will require further revision before it is adopted, and it will be fit that the Attorney- and Solicitor-General should be consulted upon it.

Yours, &c.
(Signed) CHRIST. ROBINSON.

No. 58.

Sir C. Robinson to Mr. Planta.

My dear Sir,

Doctors' Commons, August 8, 1818.

I SEND a draft of a more general Bill respecting fisheries for Lord Castlereagh's consideration, subject to the observations in my former note, and I have endeavoured to avoid all questionable points as much as possible; and the exception as to cases under Treaty might possibly admit of the judicial interpretation, of the privileges claimed under the American Treaty, if it should be deemed advisable.

Yours, &c.
(Signed) CHRIST. ROBINSON.

No. 59.

Viscount Castlereagh to Messrs. Robinson and Goulburn.

(Extract.)

Foreign Office, August 24, 1818.

THE accompanying papers will bring the present state of the Fishery Question under your view. I refer you to the proceedings at Ghent for those arguments upon which the British Plenipotentiaries maintained, as I conceive unanswerably, that the second branch of the IIIrd Article of the Treaty of 1783 had expired with the war. The negative of this proposition was certainly contended, but very feebly, by the American Plenipotentiaries, which is proved almost to the extent of an admission of the principles contended for on the part of this Government by their tendering an Article in which the same privileges were, by a fresh stipulation, to be again secured to the subjects of the United States upon an equivalent offered on their part.

The subsequent correspondence will show the nature of the claim put forward by the American Government soon after the Peace. The orders issued to the British officers on the Halifax station to resist any encroachment on the rights of this country, and, finally, the friendly offer of a specified accommodation for the convenience of the American fishery, which Mr. Bagot was authorized to tender to the Government of the United States. You will see by that Minister's correspondence that he successively tendered the two propositions with which he was charged, to which proposals the American Government, desiring to offer a counter-proposition, Mr. Bagot did not conceive himself authorized to negotiate, but only to make a specific offer of accom-

modation. He therefore declined to receive the American counter-projet, notifying to the Admiral on the Halifax Station that nothing had occurred in negotiation at Washington which should interfere with the execution of the instructions of which he was in possession.

You will particularly advert to the note presented soon after by Mr. Adams in London, with my answer. You will see, upon the assurance of that Minister, that his Government was prepared to offer a proposition which they persuaded themselves (being then in possession of the views of the British Government upon this question, would lead to an early and satisfactory understanding on the point of the fisheries between the two States; that, upon this representation and at his express solicitation, the execution of the orders issued for the protection of our fisheries were suspended for that season; and that Mr. Bagot was directed to receive and transmit the proposition alluded to for the consideration of the Prince-Regent's Government.

Notwithstanding this assurance, no specific proposition whatever has hitherto been received from the United States. Various excuses, it is true, have been made for this delay, but the British Government is not the less entitled to complain that the expectation given has not yet been fulfilled, which has obliged them, in order to avoid collision, to suspend for another season the operation of these orders.

The American Government having, however, now expressly proposed to include this subject in the intended negotiation, I cannot entertain a doubt that you will be put without delay in possession of the extent of accommodation which they desire to receive from Great Britain on this point. Indeed, the American Plenipotentiaries, in the conversation we held with them, stated that, although they were not actually in possession of the projet, they were assured it would be sent to them by the first packet. You will, therefore, take the earliest opportunity of representing to them the disappointment which this Government has been subjected to on this important question, and make them feel that it has become indispensable for you to insist that the discussions on this point shall be proceeded in with the least practicable delay. The proposal of the United States on this subject, so soon as received, you will take *ad referendum* and submit for the consideration of your Government.

No. 60.

Protocol of the First Conference between the British and American Plenipotentiaries, held at Whitehall on the 27th August, 1818.

Present :

British—

Mr. Robinson.

Mr. Goulburn.

American—

Mr. Gallatin.

Mr. Rush.

THE Plenipotentiaries produced and exchanged their respective full powers.

It was agreed that the discussions should be carried on by conference and Protocol, with the insertion in the Protocol of such written documents as either party might deem necessary, for the purpose of recording their sentiments in detail.

The British Plenipotentiaries stated that they were ready to proceed at once to the signature of a Treaty, renewing the Commercial Convention of 1815 as it stands; or that, if the American Plenipotentiaries should prefer to delay the signature of such a Treaty of renewal, till more progress should have been made in the discussion of the other topics which it is the object of the two Governments to arrange, no objection would be made to the adoption of that course. But it was explicitly stated by the British Plenipotentiaries that, with respect to all those other topics of discussion, whether purely commercial or partaking more of a political character, they were instructed not to consent to any partial or separate consideration of them, nor to select any one in particular as an appendage to a renewal of the existing Commercial Convention.

The American Plenipotentiaries acquiesced in the division of the subject, represented by the British Plenipotentiaries to be essential, but stated it to be their desire not to sign the Treaty of renewal for the present. It was, however, agreed that the

eventual signature of that instrument should not be made contingent upon a settlement of the other points, and both parties declined bringing forward any proposed modification of it.

It was agreed to meet again on Saturday, at 2 o'clock.

No. 61.

Protocol of the Second Conference held between the British and American Plenipotentiaries at Whitehall on the 29th of August, 1818.

Present:

British—

Mr. Robinson.

Mr. Goulburn.

American—

Mr. Gallatin.

Mr. Rush.

THE Plenipotentiaries agreed upon and signed the Protocol of the preceding Conference, some general conversation then ensued upon some of the different topics of discussion.

The American Plenipotentiaries stated that whenever the British Plenipotentiaries were prepared to submit their projet on the impressment question, they (the American Plenipotentiaries) would bring forward their proposition respecting the other maritime points, but that they did not intend to bring those topics before the Conference at all, unless the impressment of seamen was to be discussed on the part of Great Britain.

It was agreed that the next Conference should take place on September 4.

(Signed)

FREDERIC JOHN ROBINSON.

HENRY GOULBURN.

ALBERT GALLATIN.

RICHARD RUSH.

No. 62.

Mr. Bagot to Viscount Castlereagh—(Received September 1.)

(No. 58.)

My Lord,

Washington, July 24, 1818.

I HAVE the honour to inclose to your Lordship the copy of a letter which I received on the 9th instant from His Majesty's Consul at Boston, acquainting me with the seizure and re-delivery to the master, by some of the prize crew, of the American fishing vessel the "Eight Sisters," of Penobscot, which it seems had been taken with some others while fishing within the British jurisdiction in the Bay of Fundy by His Majesty's ship "Wye."

I have not received any account of these captures from the Commander of His Majesty's squadron, nor has the circumstance been mentioned to me by the American Government, but I inclose to your Lordship a statement which has been published in the American papers of the vessels captured; and I also take this opportunity of transmitting the copy of an article upon the subject of the fisheries which appeared on the 15th of this month in the "Daily National Intelligencer."

I have, &c.

(Signed)

CHARLES BAGOT.

Inclosure 1 in No. 62.

Consul Manners to Mr. Bagot.

Sir,

Boston, July 3, 1818.

I HAVE the honour to inform your Excellency that Mr. Sadler, Master's Mate of His Majesty's ship "Wye," Captain John Harper, C.B., has this moment applied to me under the following circumstances. Captain Harper, while cruising in the Bay of Fundy, captured five American vessels which were employed in fishing in the British

waters. Mr. Sadler, with three men, was put on board one of the prizes, the "Eight Sisters," of Penobscot, Lewis, master, with orders to carry her into Halifax; and during the night, while Mr. Sadler was below, the two men on deck delivered her up to the master, who threatened to shoot Mr. Sadler if he made any resistance and carried her into Machias.

Mr. Sadler and one scaman took their passage for this port on board an American schooner. Being without money, I have paid for their passage and shall provide for them until I have an opportunity of sending them to Halifax to re-join their ship. There was no American on board the "Eight Sisters" except the master.

I have, &c.

(Signed) GEORGE MANNERS.

Inclosure 2 in No. 62.

Extracts from the "Daily National Intelligencer" of July 15, 1818.

AMERICAN FISHERMEN CAPTURED.

Portsmouth, June, 30, 1818.

BY the "Cyrus King," arrived at Kittery, we learn that, on the 15th instant, while that vessel in company with several others in the Bay of Fundy after having paid their light money and obtained the privilege of setting bait in said bay, they were captured by His Britannic Majesty's sloop-of-war "Syren," commanded by Thomas Harper, Esq., and sent into the harbour of Digby, where they were stripped of their sails, &c.

The crew of the "Cyrus King," on the third night after being carried in, got the keeper of their vessel intoxicated, went into the Custom-house store, where they obtained a schooner's gib and mainsail, which they immediately bent, and by cutting their cables, and warping out of the harbour, got under way, and arrived at Kittery on Saturday last.

The following is a list of the vessels captured with the "Cyrus King":—schooners "Polly," "Jenkins," of this place; "Boxana," "Spinney," of ditto; pink stern schooner "Eight Sisters," of Portland; and a schooner belonging to Fox Islands. All the above vessels had good fares of fish when captured.

Washington, July 15, 1818.

THE FISHERIES.—A Salem paper has given its readers a comparative statement of the fares of the Marble Head fishermen of this year and the last year; from which we are sorry to find a great reduction of the fruits of the proverbial enterprise and activity of our oceanic fishermen. The following Statement will show the amount of it:—

	Fish.
Aggregate fares of 1817	543,400
Thirteen vessels that did not return with a spring fare this year brought home for their spring fares last year	193,200
Making the amount of last year's fares	736,600
Amount of this year's fares only	159,700
Difference in favour of last year	576,900

The number of vessels that returned with spring fares last year was 47, averaging to each a fare of 15,672 fish—this year 42, averaging to each a fare of only 3,802.

This would be an alarming diminution in the profits of that branch of industry, were we not consoled by the reflection, that they are naturally subject to such fluctuation.

On this statement the "New York Evening Post" has the remarks, which will be found below, the application of the latter of which to the present case we do not clearly see; because we do not understand that the scantiness of the fares of the Marble Head fishermen is attributable to the interruption of their accustomed pursuits by any foreign Power, but rather, we should suppose, to the influence of the seasons, and the habits of the fish. We copy the remarks of the "Post," however, to show the opinions of a leading federal editor, at the present day, respecting encroachments on the freedom

of the seas—it being presumed that no difference in principle will be asserted between the right of fishing and of navigating the ocean, which is the common highway and property of all nations. There is a commendable spirit in this paragraph, which we hope to find pervading the mercantile community, in undiminished vigour, whenever occasion shall arise (may the occasion be far distant!) for its exercise.

From the "New York Evening Post."

"THE FISHERIES.—It will be seen by the article under the Salem head, that we are rapidly losing our fisheries, if not attended to as a national concern. According to the principle laid down in a late speech by an American senator, we possess the strict right to these fisheries, and if so, we shall not permit any earthly power to wrest them out of our hands, or abridge the enjoyment of them."

No. 63.

Messrs. Robinson and Goulburn to Viscount Castlereagh.

My Lord,

Board of Trade, September , 1818.

WE have the honour to report to your Lordship, that we had yesterday, agreeably to appointment, a further Conference with the Commissioners of the United States.

It commenced by our expressing a hope that they would now be prepared to put us in possession of the views of their Government with respect to a limited participation in the fisheries and the direct trade with the British Colonies; and we stated our anxiety to receive them, in order that no time might be lost in entering upon this part of our discussions, and as a necessary preliminary to our offering any projet on the subject of impressment.

The American Commissioners stated, in reply, that they had now received those instructions from the United States, the absence of which had alone induced them to defer entering into those questions. They then proceeded to offer the projet of Articles, which will be found inserted in the Protocol of this day's Conference, and of which we have the honour to inclose copies. They took the opportunity of stating in some detail, the nature of the propositions themselves, and the reasons by which their Government had been influenced in submitting them for consideration. With respect to the fisheries they observed that, in consideration of the different opinions known to be entertained by the Governments of the two countries as to the right of the United States to a participation in the fisheries within the British jurisdiction, and to the use, for those purposes, of British territory, they had been induced to forego a statement of their views of this right in the Article which they had proposed; but they desired to be understood as in no degree abandoning the ground upon which the right to the fishery had been claimed by the Government of the United States, and only waiving discussion of it upon the principle, that that right was not to be limited in any way which should exclude the United States from a fair participation in the advantages of the fishery; they added that, while they could not but regard the propositions made to the Government of the United States by Mr. Bagot as altogether inadmissible, inasmuch as they restricted the American fishing to a line of coast so limited, as to exclude them from this fair participation, they had nevertheless been anxious, in securing to themselves an adequate extent of coast, to guard against the inconveniences which they understood to constitute the leading objection to the unlimited exercise of their fishing. With this view, they had contented themselves with requiring a further extent of coast in those very quarters which Great Britain had pointed out, because it appeared to them that the very small population established in that quarter, and the unfitness of the soil for cultivation, rendered it improbable that any conduct of the American fishermen in that quarter could either give rise to disputes with the inhabitants or to injuries to the revenue.

They further observed that, as the Treaty of 1783 did not give the United States any right to dry or cure fish on the shores of Newfoundland, and as they were uncertain whether the offer made by Mr. Bagot was meant to include such a concession, they had deemed it absolutely necessary, in abandoning this privilege as far as regarded other parts of His Majesty's territories, to stipulate distinctly for its enjoyment in Newfoundland, and also to require the continuance of a similar concession on the Magdalen Islands; some situation in the Gulf of St. Lawrence in which fish might be

cured and dried, being essential to the carrying on the fishery at all on the coast of Labrador.

They concluded their observations on the subject of the fishery by adverting to that part of the proposed Article in which the right to fish within the limits prescribed is conveyed permanently to the United States, and stated that, as they conceived themselves to be abandoning a right to all these advantages, conferred by the Article of the Treaty of 1783, it appeared to the Government of the United States no less necessary than just that the fishery which they were henceforth to enjoy, should be distinctly admitted as permanent, and as not depending upon the duration of the Treaty, in which the stipulation was contained.

With respect to the Colonial Trade it appears to us only necessary to communicate to your Lordship that, while they admitted the importance of the trade to the United States (attended, as they stated themselves to believe, with corresponding advantages to Great Britain) they stated their willingness rather to forego entering into any arrangement on this subject, than to depart from the principle upon which the projet of their present Article was framed, namely, that however limited that trade might be, it should within those limits be equally open to America and Great Britain. They further stated that they could not consent to part the intercourse between Bermuda, Turks Island, Nova Scotia, and New Brunswick and the United States upon a different footing from that, upon which the West India trade (properly so-called) should ultimately stand. In reply to an observation made by us, that so far as regarded the trade between Bermuda, Turks Island, and Nova Scotia and the United States, the effects of the Article as explained by them, would be to place Great Britain on a worse footing than she stood at present, they frankly stated that that was certainly their intention, and that there could be no doubt that the restrictive system applied by the recent law of the United States to the trade between the United States and the British West Indies, would be applied, in a future session, to that carried on with Bermuda, Turks Island, and Halifax, it being, as they stated, the policy of the American Government to counteract by these means the system adopted by Great Britain of defeating, through the medium of those ports of entrepôt, the general prohibitions of the United States against the West India intercourse.

The American Commissions closed their observations by submitting projets of Articles upon some other points, which they were desirous of offering as subjects of discussion, with a view to their eventually forming parts of the proposed Convention. Copies of these Articles are inclosed for your Lordship's information.

We declined entering at the time into any discussion of the propositions they had brought forward till we should have had an opportunity of considering the Articles themselves, as necessarily containing a more precise view of their intentions than could be conveyed by any previous verbal explanation.

The American Commissioners then requested the communication on our part of the proposition with respect to impressment, which we had before stated to be contingent on the production by them of the Articles which had never been delivered to us. In acceding to their wish, and delivering to them the projet of a Convention, which will be found in the Protocol of the Conference, we thought it our duty to call their attention, among other circumstances, to that of His Majesty's Government having waived the introduction of any stipulation which should require the crews of vessels met with on the High Seas to be mustered. In doing so, it was impossible for us to avoid impressing upon them the strong feeling which has always, and so justly, prevailed in this country with respect to the right of impressment, as essential to our national security, and the jealousy with which a stipulation to forbear its exercise, under whatever limitations, could not fail to be regarded. We trusted therefore that, in the determination of this Government to forbear insisting upon one of those stipulations which they had originally thought a necessary check upon abuse, the American Commissioners would discover the best additional proof of their disposition to make every practicable sacrifice to maintain the present state of our friendly relations with the United States, and to cement that perfect cordiality which was considered essential to the interests and happiness of both.

We should not do justice to the American Commissioners, if we forbore to bear testimony to their acceptance of the proposition, with respect to impressment, in the spirit with which it was offered, and to their expression that the bonds of union between the two countries might by every means be cemented and confirmed.

The Conference concluded with their submitting to us two classes of propositions which appeared to them as in some degree connected with the question of impressment, the one relating to maritime and neutral rights, and the other comprising some general

regulations which, as connected with commerce, appeared to them not unfit to be introduced into a Commercial Convention.

We have, &c.
(Signed) J. ROBINSON.
HENRY GOULBURN.

P.S. The American Plenipotentiaries also submitted an Article respecting the captured slaves, which your Lordship will find inclosed.

J. R.
H. G.

Inclosure 1 in No. 63.

Memorandum delivered by American Plenipotentiaries with Article respecting Fisheries.

THE American Plenipotentiaries presented for consideration an Article on the subject of the fisheries. They stated at the same time that, as the United States considered the liberty of taking, drying, and curing fish secured to them by the Treaty of Peace of 1763 as being unimpaired, and still in full force for the whole extent of the fisheries in question, whilst Great Britain considered that liberty as having been abrogated by the war, and, as by the Article now proposed, the United States offered to desist from their claim to a certain portion of the said fisheries, that offer was made with the understanding that the Article now proposed, or any other on the same subject which might be agreed on, should be considered as permanent, and like one for fixing boundaries between the territories of the two Parties, not to be abrogated by the mere fact of a war between them, or that, if vacated by any event whatever, the rights of both parties should revive, and be in full force as if such an Article had not been agreed to.

Inclosure 2 in No. 63.

Draft Article.

WHEREAS differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall continue to enjoy unmolested for ever the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; on the western and northern coast of Newfoundland, from the said Cape Ray to Quirpon Island, on the Magdalen Islands; and also on the coasts, bays, harbours, and creeks from Mount Joly; on the southern coast of Labrador, to and through the Straits of Bell Isle, and thence northwardly, indefinitely, along the coast; and that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland here-above described, of the Magdalen Islands, and of Labrador as here-above described; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish within three marine miles of any of the coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in North America not included in the above-mentioned limits; provided, however, that the American fishermen shall be permitted to enter such bays and harbours for the purpose only of obtaining shelter, wood, water, and bait, but under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner abusing the privileges hereby reserved to them.

Messrs. Robinson and Goulburn to Viscount Castlereagh.

(No. 6.)

(Extract.)

Board of Trade, October 10, 1818.

I THEN proceeded to state to them that, upon the Fishery Article, we were not disposed to insist upon the exclusion of those points the introduction of which they had at our last Conference represented to be *sine quâ non*; and, after some discussion, it was also agreed on our part not to insist upon the two provisions contained in our proposed Article respecting the fishing in rivers and smuggling, to which they felt very considerable objections, and which did not appear to me to be of such importance as to require to be urged in a way that might prevent an arrangement upon the fisheries taking place. There still, however, remains a point undecided upon this question which involves considerations of great moment. They represent it to be an indispensable condition on their part that the Article respecting the fisheries should be not only permanent in the ordinary sense of conventional stipulations which are limited by no precise time, but permanent in such a way as not to be abrogated by any future war. They have therefore introduced the words "for ever" into the Article itself, and they accompanied the proposition of it (as your Lordship will see by referring to our despatch) with a Memorandum explanatory of the view in which they offered and were ready to sign an Article on this subject. Our intention had been to meet this Memorandum with a counter-declaration on our part, by which we might avoid being bound by their construction; but they stated to me explicitly that the presentation of such a declaration would be fatal to the arrangement of the Article; that they had endeavoured to frame this Memorandum in such a way as to leave us the utmost possible latitude in construing it. This led to a discussion of considerable length, in which I argued that the adoption of their view of the subject would involve the British Government in an admission of the very point upon which the two Governments had already been at variance in this matter, viz., that a war did not *ex necessitate rei* abrogate stipulations of that sort; and that, in fact, it never could be binding "for ever," because it would necessarily be competent to us to refuse to make peace unless they would consent to a non-renewal of the stipulation. One of the American Plenipotentiaries did not deny the accuracy of my views of the question, but admitted that, in his opinion, the point was one of very little consequence to them. He added, however, that their instructions were peremptory on the subject. The principal ground upon which they represented their instructions to be built was this: that if the arrangement were not to be permanent to all intents and purposes, and in spite of the contingency of a future war, it would necessarily be considered as a positive concession on our part, without which the late war would then be deemed as having deprived them of an important advantage of which they had not secured the renewal at the Peace. Finding their instructions on this point to be so peremptory, I took the point *ad referendum*, rather than break off at once upon it.

P.S.—Although, from Mr. Goulburn's absence, I am not yet enabled to send to your Lordship a detailed account of what passed at our preceding Conference (the fifth) on the 6th of October, but I think it right to inclose, for your information, copies of four Articles (A, B, C, D) which we then produced as contre-projets to Articles upon similar points previously submitted by the American Plenipotentiaries.

Inclôsure 1 in No. 64.

(A.)

Draft Article.

IT is agreed that the inhabitants of the United States shall have liberty to take fish of every kind on that part of the western coast of Newfoundland which extends from Cape Ray to the Quirpon Islands, and on that part of the southern and eastern coasts of Labrador which extends from Mount Joly to Huntingdon Islands; and it is further agreed that the fishermen of the United States shall have liberty to dry and cure fish in any of the unsettled bays, harbours, and creeks of the said south and east coasts of Labrador so long as the same shall remain unsettled; but as soon as the same or any part of them shall be settled, it shall not be lawful for the said fishermen

to dry or cure fish on such part as shall be settled without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

And it is further agreed that nothing in this Article shall be construed to give to the inhabitants of the United States any liberty to take fish within the rivers of His Britannic Majesty's territories as above described; and it is agreed on the part of the United States that the fishermen of the United States resorting to the mouths of such rivers shall not obstruct the navigation thereof, nor wilfully injure nor destroy the fish within the same, either by setting nets across the mouths of such rivers nor by any other means whatever.

His Britannic Majesty further agrees that the vessels of the United States *bonâ fide* engaged in such fishery shall have liberty to enter the bays and harbours of any of His Britannic Majesty's dominions of North America for the purpose of shelter, or of repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever; but under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein.

It is, further, well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this Article, shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States for any of the purposes aforesaid.

And, in order the more effectually to guard against smuggling, it shall not be lawful for the vessels of the United States engaged in the said fishery to have on board any goods, ware, or merchandize, except such as may be necessary for the prosecution of the fishery or the support of the fishermen whilst engaged therein, or in the prosecution of their voyages to and from the said fishing-grounds. And any vessel of the United States which shall contravene this regulation, may be seized, condemned, and confiscated, together with her cargo.

Inclosure 2 in No. 61.

(B.)

Draft Article.

IT is agreed that a line drawn from the most north-western point of the Lake of the Woods along the 49th parallel of latitude, and if the said point shall not be on the 49th parallel of latitude, then that a line drawn due north or south, as the case may be, until it shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of His Britannic Majesty; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty, and the northern boundary of the territories of the United States, from the Lake of the Woods to the Stony Mountains. And, in order to prevent any disputes as to the territorial rights of either of the Contracting Parties on the north-west coast of America, or anywhere to the westward of the Stony Mountains, it is agreed that so much of the said country as lies between the 45th and 49th parallels of latitude, together with its bays, harbours, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two States respectively, for the purposes of trade and commerce; it being well understood that although, by virtue of this arrangement, the two High Contracting Parties agree not to exercise, as against each other, any sovereign or territorial authority within the said above-mentioned country lying between the 45th and 49th parallels of latitude, this agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any territorial authority in any part of the country lying within the said limits; nor shall it be taken to affect the claim of any other Power or State to any part of the said country—the only object of the two High Contracting Parties being to prevent disputes and differences between themselves.

Inclosure 3 in No. 64.

(C.)

Draft Article.

It is further agreed that the subjects of His Britannic Majesty shall have and enjoy the free navigation of the River Mississippi from its source to the ocean, and shall at all times have free access from such place as may be selected for that purpose in His Britannic Majesty's territories to the Mississippi, with goods, wares, and merchandize (the importation of which into the United States shall not be entirely prohibited) on the payment of the same duties as would be payable on the importation of the same articles into the Atlantic ports of the United States.

Inclosure 4 in No. 64.

(D.)

Draft Article.

WHEREAS it was provided by the 1st Article of the Treaty of Ghent, that all territory, places, and possessions whatsoever taken by either Party from the other during the war, or which may be taken after the signing of this Treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the ratifications of this Treaty, or any slaves or other private property; and whereas doubts have arisen whether certain slaves, originally captured in certain forts and places belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of His Britannic Majesty lying within the harbours of the United States at the time of the exchange of the ratifications of the said Treaty, are to be restored under the above recited provisions of the said Treaty; the High Contracting Parties do hereby agree to refer the said doubts to some friendly Sovereign or State, to be named for that purpose; and the High Contracting Parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters so referred.

No. 65.

Messrs. Robinson and Goulburn to Viscount Castlereagh.(No. 7.)
(Extract.)*Board of Trade, October 13, 1818.*

AFTER this preliminary discussion, which had no reference to the immediate subject of the Conference. We submitted to them five several Articles relative to the fisheries, the boundary, the navigation of the Mississippi, the intercourse with Nova Scotia, and the captured slaves. The American Plenipotentiaries received them for consideration; but in doing so, they stated that, with respect to the fisheries, they were prevented by their instructions from acceding to any arrangement which should limit their right of fishery on the coast of Labrador to the north, or exclude the citizens of the United States from drying on the south coast of Newfoundland; that, on other points, they were at liberty to concede more or less, but that upon those two it was impossible for them to admit any alteration of their original projet.

They further stated that their instructions equally precluded them from acceding to any proposition the effect of which should be to give to Great Britain a participation in the navigation of, or an approach to, the Mississippi.

Inclosure in No. 65.

Observations, &c.

THE American Plenipotentiaries are not authorized by their instructions to assent to any Article on that subject, which shall not secure to the inhabitants of the United

States the liberty of taking fish of every kind on the southern coast of Newfoundland, from Cape Ray to the Rameau Islands, and on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador to and through the Straits of Belle Isle, and thence northerly, indefinitely along the coast, and also the liberty of drying and curing fish in any of the unsettled bays, harbours, and creeks of Labrador and of the southern coast of Newfoundland, as above described, with the proviso respecting such of the said bays, harbours, and creeks as may be settled.

The liberty of taking fish within rivers is not asked. A positive clause to except them is unnecessary, unless it be intended to comprehend under that name waters which might otherwise be considered as bays and creeks. Whatever extent of fishing-ground may be secured to American fishermen, the American Plenipotentiaries are not prepared to accept it on a tenure or on conditions different from those on which the whole has heretofore been held. Their instructions do not anticipate that any new terms or restrictions would be annexed, and none were suggested in the proposals made by Mr. Bagot to the American Government. The clauses forbidding the spreading of nets, and making vessels liable to confiscation in case any articles not wanted for carrying on the fishery should be found on board, are of that description, and would expose the fishermen to endless vexation.

No. 66.

Mr. Bagot to Viscount Castlereagh.—(Received October 17.)

(No. 61.)

My Lord,

Washington, August 3, 1818.

AT an interview to which I was appointed on the 21st of last month, I delivered to the President His Royal Highness the Prince Regent's letter, notifying the solemnization of the nuptials between Her Royal Highness the Princess Elizabeth and His Serene Highness the Hereditary Prince of Hesse Hombourg.

In reply to the expressions with which I accompanied, in His Royal Highness's name, the delivery of this letter, the President enjoined me to renew to His Royal Highness the assurance of the lively interest which was felt by the United States in every event which was connected with the welfare of the British nation, and the happiness of His Royal Highness' family.

On the 26th of the month the President left Washington on his return to his estate in Virginia, where he will probably continue to reside during the remainder of the season.

Since the receipt of your Lordship's despatch No. 12 by the "Montagu" packet, I have had an opportunity of acquainting Mr. Adams with the orders which have been sent to the Naval Commanders on the American station, directing them to suspend acting upon their former instructions till further orders.

Mr. Adams acquaints me that final instructions will be sent this day to Mr. Rush and Mr. Gallatin (for, since the date of my despatch No. 48, he has officially acquainted me that that gentleman is to be appointed joint-Plenipotentiary with Mr. Rush in the event of the proposed negotiation taking place) directing them to make a specific proposition upon the subject of the fisheries, and he has requested me to forward duplicates of these instructions by the present mail.

Since the receipt in this country of the Act of Parliament and Order in Council opening the Ports of Halifax and St. John's, an application has been made to me by Mr. Adams to know whether there will be any objection on the part of His Majesty's Government to the appointment by the United States of Consuls or Commercial Agents of some description to reside at those ports for the protection of the American shipping.

I have informed Mr. Adams that I shall lose no time in submitting this question to the consideration of His Majesty's Government, and that I will acquaint him as early as possible with their determination upon the subject.

I have the honour to transmit to your Lordship, under a separate cover, a volume of the laws of the United States passed at the last session of Congress.

I have, &c.

(Signed) CHARLES BAGOT.

Messrs. Robinson and Goulburn to Viscount Castlereagh.

(No. S.)

(Extract.)

Board of Trade, October 19, 1818.

WE have the honour to report to your Lordship the substance of a conference which we had with the American Plenipotentiaries on the 13th instant, when we presented to them the accompanying annexed Articles relative to the fishery, boundary, captured slaves, impressment, and blockade.

As the American Plenipotentiaries had thought it necessary at a former Conference to annex to their proposition respecting the fisheries the Memorandum which we transmitted to your Lordship on the 26th ultimo, we were extremely desirous to accompany the tender of our ultimatum upon that Article, with a declaration on our part reserving the grounds which the British Government had maintained in its previous discussions with the Government of the United States. Much of our discussion turned upon this topic, and in the course of what passed the American Plenipotentiaries urged in the strongest manner the difficulties under which such a proceeding on our part would place them; they repeated that their instructions were positive, and it was manifest that a perseverance in our intentions would have prevented the conclusion of any arrangement upon the subject of the fishery. Knowing the importance which His Majesty's Government attach to an amicable adjustment of this most delicate subject, we resolved (after exhausting all the arguments in our power against the view which their Government took of it), not to bring forward any counter declaration, which would infallibly have been fatal to the arrangement. We hope your Lordship will not think we have acted improperly in this matter, but we did not feel that we should have been justified under our instructions in suffering it to become the only obstacle to a settlement of the main question; and the Article as it now stands will probably be agreed to.

Messrs. Robinson and Goulburn to Viscount Castlereagh.

My Lord,

Board of Trade, October 20, 1818.

WE have the honour to submit to your Lordship the Convention which we have this day signed with the Plenipotentiaries of the United States, which, although it does not comprehend all the points with the discussion of which we were charged, we trust will, nevertheless, meet with the approbation of His Royal Highness the Prince Regent. We should not do justice to the American Plenipotentiaries if we did not assure your Lordship that we experienced from them every disposition to discuss the important topics in negotiation between us with perfect fairness and in the most conciliatory manner.

We have, &c.
(Signed) J. ROBINSON.
HENRY GOULBURN.

P.S.—We take this opportunity also of inclosing the Protocol of our concluding Conference.

J. R.
H. G.

Inclosure 1 in No. 68.

Convention between His Britannic Majesty and the United States of America.—Signed at London, October 20, 1818.

[Presented to Parliament, 1819.]

Inclosure 2 in No. 68.

Protocol of the Ninth Conference held between the British and American Plenipotentiaries at Whitehall on the 20th October, 1818.

Present :

English—

Mr. Robinson.

Mr. Goulburn.

American—

Mr. Gallatin.

Mr. Rush.

THE Protocol of the preceding Conference was agreed to and signed.

The Plenipotentiaries then proceeded to sign the Convention.

(Signed)

FREDERICK JOHN ROBINSON.

HENRY GOULBURN.

ALBERT GALLATIN.

RICHARD RUSH.

No. 69.

Mr. Bagot to Viscount Castlereagh.—(Received November 10.)

(No. 76.)

My Lord,

Washington, October 7, 1818.

I HAVE the honour to transmit to your Lordship copies of two letters which I received on the 6th instant from Vice-Admiral Sir Charles Hamilton, acquainting me with the seizure, by His Majesty's ship "Egeria," of a schooner and sloop belonging to Nantucket, and with the conduct of the Master and crew towards Mr. Waller, midshipman of the "Egeria," who had been put on board her by Captain Rowley.

I have, &c.

(Signed)

CHARLES BAGOT.

Inclosure 1 in No. 69.

Vice-Admiral Sir C. Hamilton to Mr. Bagot.

Fort Townshend, St. John's, Newfoundland.

August 28, 1818.

Sir,

HAVING received instructions from the Lords Commissioners of the Admiralty to transmit to you an account of all the circumstances attending the seizure and detention of any vessels of the United States which might be found acting in violation of the instructions of His Royal Highness the Prince Regent, by which certain privileges were granted to the fishing vessels of that nation during the season of 1817, which have been extended to the present season, I have the honour to inclose herewith, for your information, the copy of a letter I have received from Captain Rowley, of His Majesty's ship "Egeria," reporting the seizure of a schooner and a sloop belonging to Nantucket, under the circumstances therein stated, the former of which has arrived, but the sloop has not yet reached this port.

As I do not learn that any other vessels of the United States have appeared on the coasts of this island, and conceiving it to be the desire of His Majesty's Government that, in the operation of the orders before mentioned, the least possible occasion should be given that might tend to interrupt the amicable relations subsisting between the two countries, it is my intention to release these vessels on the engagement of their Masters to proceed immediately from the bays, harbours, and creeks of this island, and not to return thereto, unless in case of unavoidable necessity or distress of weather, and not to use the shores of this island for purposes connected with the fishery.

I have the honour also to transmit an extract of a letter from Mr. Goulburn to the late Governor of this island, in reply to a question from him as to allowing a

privilege to the American fishermen which they had not enjoyed even under the Treaty of 1783.

I have, &c.
(Signed) C. HAMILTON, *Governor.*

Inclosure 2 in No. 69.

Captain Rowley to Vice-Admiral C. Hamilton.

Sir,

"Egeria," St. John's Harbour, August 27, 1818.

ON my arrival at Harbour Britain, information was given to me that an American sloop was laying in the harbour of Gaultans, and the boats employed in the whale fishery actually in Hermitage Bay, and that a British planter had in his employ a subject of the United States, and that he was prosecuting the fishery with American subjects, and with boats built at Nantucket, in consequence of which I wrote to Morgan Doyle, the British planter, directing him to order all Americans to quit the island, and, as soon as circumstances admitted of my going in search, I sailed; and on opening the heads of Harbour Briton I saw the American sloop proceeding out of Hermitage Bay, but she was too far off for me to come up with her.

And, in furthering the execution of your orders, on my arrival at Placentia I learnt that there were an American sloop and schooner at St. Mary's, trying their oil in the harbour. I immediately sailed for that place, and arrived there late in the evening of the 15th instant, and on the following morning saw two American whalers anchored under the town of St. Mary's. I sent and detained them, as being contrary to the instructions granting to the subjects of the United States the indulgence of fishing in the unsettled bays, harbours, and creeks of His Majesty's possessions in North America.

The schooner proves to be the "Juno," of Nantucket, Abraham Pollard, Master, of 97 tons burthen, and, on examination of her log, she appears to have anchored under the Island of Colinet, in St. Mary's Bay, on the 1st of June, and during her stay there she caught several whales, and for the boiling of the blubber they went on shore on Colinet Island, and cut wood for the purpose of trying their oil, and, when taken possession of, she was at anchor a quarter of a mile from the town of St. Mary's, and about six miles from the Island of Colinet, which is inhabited by several planters and boat-keepers.

The sloop proves to be the "Hannah," of Nantucket, William Alley, Master, burthen seventy tons, and on examining him I found he kept no log, and admitted that he had caught whales in Hermitage Bay, laying the said sloop up in the Harbours of Gaultans and Piccard, both of which are settled; and on referring to "Juno's" log I find it stated there that the sloop anchored alongside of her under Colinet Island on the 4th of July, and said she had come from Hermitage Bay; that they quitted the anchorage together on the 25th of July, and in company struck two or three whales in St. Mary's Bay, and returned to Colinet Island, and anchored at a place at that island called Mother Rikie's Beech to cut the whales up; and that when I took possession of them under the town of St. Mary's they were actually boiling their oil.

Prior to my conclusion of the above-mentioned subject, I beg to acquaint your Excellency that I stated to the Masters of the "Juno" and "Hannah" that they were not to consider that I had detained them with an idea of making prizes of them, but as having infringed the rights of the temporary indulgence granted by His Royal Highness the Prince Regent.

I also stated to the young men whom I gave in charge of the vessels that they were not to interfere with any internal arrangements of the vessels, that the two countries were in a state of amity, and to show them every friendly attention, and, at the particular request of the Master of the sloop "Hannah," I allowed him to retain on board the two mates and cabin boy, and that all circumstances might be clear, I put on board two midshipmen in each vessel.

Finding the sloop kept a good wind, and sailed fast, I thought it advisable, as soon as she boiled all her blubber down, to send her on to St. John's for your Excellency's information, how and in what manner I had proceeded, agreeable to the close of the instructions, relating to the temporary indulgence granted to the subjects of the United States.

I brought the schooner here, but regret to say on my arrival I found the sloop had not got in.

I have, &c.
(Signed) RT. ROWLEY.

Inclosure 3 in No. 69.

Mr. Goulburn to Vice-Admiral Pickmore.

(Extract.)

AS far as regards Newfoundland itself your doubts as to the application to you of the instructions issued by the Admiralty respecting the American fishery are well founded. The Americans never having had a right to land in Newfoundland, can have no pretence now for exercising such a right, and the instruction, therefore, was only intended to authorize your permitting them to enjoy for a limited period those privileges which they enjoyed previous to the late war, viz., ~~that of~~ fishing on the coasts, and of drying their fish on unsettled coasts of Labrador, &c.

No. 70.

Mr. Bagot to Viscount Castlereagh.—(Received November 29.)

(No. 81.)

My Lord,

Washington, November 2, 1818.

I HAVE the honour to transmit to your Lordship the copy of a letter which I have this day received from Rear-Admiral Sir David Milne, forwarding to me lists of the American vessels which had been detained and sent into the port of Halifax for having been found fishing in the settled bays, harbours, and creeks of His Majesty's North American Provinces; and also forwarding to me a printed copy of the judgment given in the Vice-Admiralty Court in Halifax, in the case of the schooner "Nabby," seized and sent in for adjudication by His Majesty's ship "Saracen."

I have, &c.
(Signed) CHARLES BAGOT.

Inclosure 1 in No. 70.

Rear-Admiral Sir D. Milne to Mr. Bagot.

Sir,

"Leander," Halifax, October 16, 1818.

REFERRING to my letter to your Excellency of the 18th of July last, acquainting you that several American vessels had been detained and sent into this port for having been found fishing in the settled bays, harbours, and creeks of His Majesty's North American Provinces, I herewith inclose lists of them and beg to inform you that on the cases of those sent in by the "Wye" being examined by the Attorney-General, I permitted their being released, making a notification on the license of each vessel, warning them against being found trespassing again in like manner; but the three sent in by the "Dee" and "Saracen" (one of which I stated had been detained the season before and afterwards released) have been tried in the Court of Vice-Admiralty at Halifax, and notwithstanding I stated particularly to His Majesty's Attorney-General that these vessels had been sent in for being found fishing in the settled bays and harbours of this Province, and for that only: and having furnished him with copies of my instructions from the Lords Commissioners of the Admiralty, and of those issued by me to the cruizers under my command, I regret to be obliged to acquaint your Excellency that the three vessels in question were condemned for a breach of the laws of navigation and trade alone, although it was admitted on the trial that they had been found fishing in the settled bays and harbours of this province. I herewith transmit a printed copy of the judgment pronounced in the Vice-Admiralty Court, by which this important question of the fisheries is left in a worse state than hitherto, and will have the effect of encouraging the Americans to return next season in increased numbers, to the great detriment of our navigation and real injury to the interests of His Majesty's subjects in these Provinces.

I shall leave this place for Bermuda the latter end of this month, where I shall be happy to receive any communication from your Excellency.

I have, &c.
(Signed) DAVID MILNE.

Inclosure 2 in No. 70.

List of Four American Fishing Vessels Detained by His Majesty's Ship "Dec," Samuel Chambers, Esq., Captain, at the Seal Islands and in the Beaver Harbour, between the 1st and 8th of July, 1818.

Time Detained.	Name of the—			How Rigged.	No. of—			Where—			No. of Days out.	Under what	Quantity of Fish on Board in (Tunnies).	Cause of Detention.
	Vessel.	Master.	Owner.		Men.	Cuns.	Tons.	From.	Bound.	Belonging.				
July 1, 1818.	Plato	S. Thurston	{ S. Thurston and J. Littlefield }	Schooner.	7	..	46	Deer Island.	Deer Island.	Castine ..	42	American	150	Found at anchor under the Seal Islands taking in wood and water for the purpose of enabling them to remain on the banks to complete their cargo of fish.
"	Traveller	Sam. Blake	John Alden ..	Ditto ..	5	..	24	Portland ..	Portland ..	Portland ..	35		420	
"	Stranger	J. Holbrook.	Percy & Holbrook.	Ditto ..	5	..	30	Kennebec ..	Harpwell..	Harpwell..	35		60	
July 8, "	Raven	Sam. Grant.	Tobins Lord ..	Ditto ..	5	..	38 ^{1/2}	Kennebunk.	On a fishing voyage	Kennebunk .	8		8 and 27 lbs. of salt		Taking in squid for bait in Beaver Harbour. This vessel was taken by me last year at Ragged Island Harbour under similar circumstances.

N.B.—The "Traveller" was released, having a defective rudder.

(Signed) SAMUEL CHAMBERS, Captain.

Inclosure 3 in No. 70.

A List of American Fishing Vessels detained by His Majesty's Ship "Wyc," John Harper, C.B., Captain, in the Bay of Fundy, between the 15th and 21st of June, 1818.

Time.	Name of the—			How Rigged.	No. of—			Where—				No. of Days out.	Under what Colours.	Quantity of Fish on board in Quintals.	Cause of Detention.
	Vessel.	Master.	Owner.		Men.	Guns.	Tons.	From.	Bound.	Belonging.					
June 15, 1818	Polly	Thos. Jenkins	Robt. Noble	Schooner	6	..	39	{ Portsmouth, New Hampshire }	On a fishing voyage	{ Portsmouth, New Hampshire }	41	America.	155	Being at anchor fishing about two miles off Sandy Cove on the south shore of the Bay of Fundy. Each vessel had fish alive when boarded.	
"	Roxana	Wm. Spiancy	{ Wm. Spinney and J. S. Shortridge }	Chelt. boat.	5	..	26	Ditto	Ditto	Ditto	37		160		
"	Fox	B. Coombs	{ B. Coombs and Jos. Aney }	Schooner	3	..	20	Penobscot	Ditto	{ Vine, Charen, Massachusetts }	29		60		
"	Eight Sisters	John Lewis	{ Thos. Turner and Jas. Turner }	Schooner	5	..	34	Castine	Ditto	{ Bucksports, Massachusetts }	21		90		
"	Cyrus King	Ed. Moor	Talbot	Chelt. boat.	5	..	20	{ Portsmouth, New Hampshire }	Ditto	{ Kittery, Massachusetts }	44		70		
June 21, 1818	Betsy	Jer. Crowley	Moses Plumer	Schooner	7	..	42	Lubec	Ditto	{ Addison, Massachusetts }	10	12	Being at anchor fishing about two miles off Sandy Cove on the south shore of the Bay of Fundy on the 18th instant, when she escaped from the "Wyc's" boat. On the 21st was seen to come out of Seal Cove at Grand Menan and followed by the "Wyc's" boat, and taken possession of at anchor at Three Island Harbour, Grand Menan, half a mile from the shore, the master and part of the crew on shore at the time. N.B.—This vessel has no register on board.		

* Mem.—The sails belonging to the "Cyrus King" were stolen out of the Custom-house at Digby on the night of the 18th, and the vessel ran away with.

(Signed) JNO. HARPER, Captain.

Inclosure 4 in No. 70.

List of Two American Fishing Vessels detained by His Majesty's Sloop "Saracen," John Gore, Esquire, Commander, between the 9th and 12th of July, 1818.

Time Detained.	Name of the—			How Rigged.	No. of—			Where—			No. of Days off	Quantity of Fish on board in Casks.	Under what Colours.	Cause of Detention.
	Vessel.	Master.	Owner.		Men.	Guns.	Tons.	From.	Bound.	Belonging.				
July 9, 1818.	Nabby	T. Stanley, jun.	T. Stanley, jun.	Schooner.	4	..	22	Mount Desert Island	On a fishing voyage	Mount Desert Island	35	..	American	Taken at the entrance of Tope's Harbour coming out as the "Saracen" was going in.
July 12, 1818.	Washington	Jno. Redding ..	Jno. Redding ..	Ditto	7	..	40	Marblehead ..	Ditto	Marblehead	35	100	American	Taken by the two boats of the "Saracen" in Discobab Harbour.

(Signed) JNO. GORE, Captain.

Inclosure 5 in No. 70.

Substance of a Judgment delivered in the Court of Vice-Admiralty at Halifax, Nova Scotia, on the 24th August, 1818, in the Case of the Schooner "Nabby," Thomas Stanley, Master.

No. 71.

Sir C. Robinson to Viscount Castlereagh.

My Lord.

Doctors Commons, November 30, 1818.

I AM honoured with your Lordship's commands signified in Mr. Hamilton's letter of the 23rd instant, transmitting a letter from the Admiralty, inclosing one from Rear-Admiral Sir D. Milne, respecting the detention of several American fishing vessels, and a printed statement of the substance of a judgment delivered by the Judge of the Vice-Admiralty Court at Halifax in the case of one of the said vessels; and your Lordship is pleased to request that I would take the same into consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's directions I have the honour to report—

The judgment of the Vice-Admiralty Court is correct in that part on which Admiral Milne principally complains, that it has not condemned the vessel on the ground on which alone the seizure is represented by him to have been made, for fishing in the settled bays, harbours, and creeks of His Majesty's North American provinces. The act of fishing in the territorial waters of His Majesty will not, by any law at present existing, subject the ship so employed to condemnation in the Court of Admiralty. On the validity of the grounds on which the vessel has been condemned for importation in breach of the plantation laws, I entertain considerable doubts, though it is a construction of those laws which may properly be maintained so far as to be submitted to the judgment of the superior Court if the claimant shall prosecute his appeal.

I have, &c.

(Signed) CHRIST. ROBINSON.

No. 72.

Mr. Goulburn to Mr. Planta.

Sir,

Downing Street, December 29, 1820.

I AM directed by Earl Bathurst to transmit to you, for the information of Lord Castlereagh, the inclosed extract of a letter from Sir Charles Hamilton relative to the proceedings of the American fishing vessels in the neighbourhood of Newfoundland during the present season.

I am, &c.

(Signed) HENRY GOULBURN.

Inclosure in No. 72.

Vice-Admiral Sir C. Hamilton to Mr. Croker.

(Extract.)

St. John's, Newfoundland, October 24, 1820.

THIS being the first year of acting on the Treaty respecting the American fisheries near this island and its dependencies, and being apprehensive of the misunderstandings and contentions which were likely to occur, determined me to select an officer whose temper and judgment could be relied on; and I therefore dispatched Captain Robinson, of His Majesty's ship "Favourite," as early as possible; indeed, before the Labrador was clear of ice, to guard against disputes which might lead to the most unpleasant consequences if not guarded against in the first moments of acting on the Treaty; and, indeed, so essential did I conceive these precautions that I shortly after followed the "Favourite" in his Majesty's sloop "Grasshopper" to communicate with Captain Robinson, which I did at Cape Charles; and being perfectly satisfied with the arrangements and decisions he had made on that coast, I proceeded immediately elsewhere,

feeling no necessity for any interference of mine, and there has been only a single instance of complaint of an American vessel having committed any impropriety out of 600 sail, and that will, I trust, be settled amicably.

No. 73.

Sir Stratford Canning to Viscount Castlereagh.—(Received January 14, 1821.)

(No. 15.)

My Lord,

Washington, December 4, 1820.

IN a letter which I received a few days ago from Rear-Admiral Griffith, in answer to the Circular by which I had notified my arrival in this capital, it is stated that vessels belonging to citizens of the United States are "in the constant practice" of transgressing the laws established for the protection of such of the fisheries along the coasts of our possessions in North America as are still reserved for the exclusive enjoyment of His Majesty's subjects; and that "as often as they are detected, they are seized and sent into port for adjudication," agreeably to the instructions under which he acts, for "strictly enforcing the stipulations" of the Convention signed at London in October 1818.

On reading this statement I thought at first that it might be desirable for me to take an opportunity of mentioning the subject to Mr. Adams, with a view to preventing as far as possible, any future misunderstanding respecting it; but, on taking into consideration the feeble authority of this Government, the actual protection given to the fisheries by our naval force, and the absence hitherto of any complaint with respect to the mode of affording that protection, I have preferred leaving the matter at rest for the present.

Considering, at the same time, how much His Majesty's Government has it at heart to avoid collision with this country, I think it my duty to apprise your Lordship of Admiral Griffith's communication.

I have, &c.
(Signed) STRATFORD CANNING.

No. 74.

The Secretary to the Admiralty to Mr. Planta.

Sir,

Admiralty Office, October 10, 1823.

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Mr. Secretary Canning, a copy of a letter from Rear-Admiral Fahie, commanding on the North American station, with copies of the several letters and papers therein referred to, on the subject of the detention of an American fishing-schooner, called the "Charles" by His Majesty's sloop "Argus."

I am, &c.
(Signed) JNO. CROKER.

Inclosure 1 in No. 74.

Rear-Admiral Fahie to the Secretary to the Admiralty.

Sir,

"Salisbury," at Halifax, September 25, 1823.

I BEG you will please to lay before my Lords Commissioners of the Admiralty the inclosed copy of a correspondence resulting from a complaint made to Mr. Canning by the American Government (and forwarded by him to me), respecting the detention of the American schooner "Charles," by Captain Arabin, when in command of His Majesty's sloop "Argus;" and I further beg you will move their Lordships to be pleased to direct a communication to be made to Mr. Canning, of their having received these documents, agreeably to the wish he expressed to me while here on his way to England, as I had not then obtained all the necessary information touching the complaint.

I have, &c.
(Signed) WM. CHAS. FAHIE.

Inclosure 2 in No. 74.

Sir Stratford Canning to Rear-Admiral Folie.

Sir,

Philadelphia, July 5, 1823.

THE accompanying paper contains copies of a complaint and protest given in to the Government of the United States, by an individual named George Moody, a citizen, as he is described to be, of this country, and communicated to me by the American Government, with an official letter, requesting my good offices for the restitution of the fishing-schooner "Charles," owned by Moody, and stated to have been detained and sequestered under very irregular circumstances, and without cause assigned, by the British gun-brig, Captain Arabin, as well as for obtaining a suitable indemnification for the losses sustained by the owner and his men in consequence of the detention of their vessel, and the interruption of their voyage.

Having no acquaintance with the circumstances of the case, other than what is to be derived from the inclosed paper, I think it my duty, Sir, to apply to you for an inquiry into the facts, not doubting that you will take an early opportunity to afford me such information respecting the detention of the schooner "Charles" and its crew, as may enable me to set the matter in a proper light; and if the protest be correct, to satisfy the American Government in a manner consistent with the friendly relations of the two countries; either by atoning for any irregularity found to have been committed by the "Argus," or by explaining the grounds on which the detention is to be justified.

I have, &c.

(Signed) STRATFORD CANNING.

Inclosure 3 in No. 74.

Mr. Moody to ———

Sir,

York, Maine, June 12, 1823.

I WOULD refer you to the inclosed protest, for an outrage committed on my property, by the Commander of a British brig, and pray that you would lay the same before the proper authorities, that measures may be immediately taken to restore to me my property.

I have, &c.

(Signed) G. MOODY.

Inclosure 4 in No. 74.

Protest.

BY this public instrument of declaration and protest, be it known, that William Stover, of York, in the county of York, and State of Maine, and late mariner or skipper of the schooner called the "Charles," of York aforesaid, of the burthen of forty tons or thereabouts, and owned by George Moody, of said York, merchant, and Josiah Stover, Solomon Avery, Theodore Webber, jun., William Simpson, jun., and Hanson Fergerson, all of York aforesaid, fishermen employed and engaged on board said schooner for the present fishing season, personally appeared and came before me, Alexander McIntire, Notary Public, within and for the county of York and State of Maine, who did, on this 10th day of June, in the year of our Lord 1823, severally solemnly protest and declare, allege, and affirm, that having previously engaged with the said George Moody, the owner of said schooner "Charles," to go in her for the present fishing season; and said vessel being fitted out in York with all things necessary to prosecute the said voyage, and under a fishing license, we sailed from the said York on the 4th day of May last past, on our said voyage; and in prosecution of our said voyage we sailed to the course of Nova Scotia, and came to anchor for the first time after leaving York, about 8 leagues south-south-east from Shelburne, on said Nova Scotia course, on Thursday the 8th day of May, at which place we lay till Friday morning, May 9, at about 9 o'clock, the wind blowing very fresh from the east-south-east, and a heavy sea. We found that we could no longer lay to anchor, but found that we were drifting fast to leeward; and fearing an approaching storm, which actually took place the following day, we were obliged to put into Shelburne for a harbour, to avoid the dangers

of the winds and waves. We caught sixty-eight cod fish, and three herring only, while we lay at anchor, as beforementioned, which were all the fish we caught after we left York. We got into Shelburne about 12 o'clock at noon on the same day, and came to anchor. About an hour after we came to anchor in Shelburne, the British gun-brig called the "Argus," which, as we were told, was commanded by Captain Arabin, hove in sight, and soon after came into Shelburne, and came to anchor, having previously sent her barge manned with an officer and six men to us, who boarded us, took possession of our schooner, and ordered us to heave up our anchor directly, and go alongside of the British brig. The master or skipper was ordered to go on board said brig with schooner's papers; and, after being detained on board said brig about a quarter of an hour, was sent on board the schooner again, having had his papers taken from him. The boat was taken from off our deck, and carried alongside the said brig the same day. We lay along the said brig till Monday the 12th day of May, when four of our crew, named William Simpson, jun., Theodore Webber, jun., Solomon Avery, and Hanson Ferguson, were taken from the schooner, and put on board said brig; and two officers and seven men were put on board the schooner; and the said master, and skipper, and Josiah Stover, were kept on board the schooner. The officers and men put on board the said schooner, were armed with small arms and cutlasses, and victualled for twenty days. The brig proceeded to St. John's, where she landed the said William Simpson, T. Webber, jun., Solomon Avery, and Hanson Ferguson, destitute of money or clothing, excepting what clothing they had on their backs. We, the said William Stover, and Josiah Stover, further protest, affirm, and declare, that we were detained on board the said schooner "Charles" during a cruize of nine days in the Bay of Fundy; during which cruize she took two fishing-vessels belonging to the United States, and carried them into St. John's, and was again victualled for a cruize of twenty days; and after laying at St. John's one day, she again sailed on her second cruize; and, on the 22nd day of May last, we were landed at Campo Bello, where all the fishermen's clothes were given up to the said master or skipper. We further declare and say that, after we sailed from York on the 4th day of May as before named, till we were boarded and taken possession of by the said brig "Argus," no person was on board our said schooner, nor were any of the said crew of said schooner on shore at any place; and our boat was not taken from our deck after leaving York, till it was taken off by order of the officers of the brig "Argus;" nor was any article taken out of said schooner from the time we left York till she was taken possession of as before named.

Therefore the said William Stover and his said crew, to wit—Josiah Stover, Theodore Webber, jun., William Simpson, jun., and Hanson Ferguson, did declare to protest, as by these presents they do most solemnly protest against the said commander and crew of the said brig "Argus," and against every person concerned in the capture of said schooner "Charles," for arbitrarily, unlawfully, unjustly, and cruelly taking said schooner, as no just or legal cause existed to justify such taking and detention.

(Signed)

WILLIAM STOVER.
THEODORE WEBBER, JUN.
WILLIAM SIMPSON, JUN.
JOSIAH STOVER, JUN.
SOLOMON AVERY.
HANSON FERGERSON.

State of Maine, York, ss.

The within-named William Stover, Theodore Webber, jun., William Simpson, jun., Josiah Stover, Solomon Avery, and Hanson Ferguson, personally appeared before me, Alexander McIntire, Notary Public within and for county of York, and entered the foregoing public declaration and protest, by them severally subscribed, and made solemn oath that all the facts stated by them therein are severally true.

In witness whereof I have hereunto subscribed my name and affixed my notarial seal, this 10th day of June, in the year of our Lord 1823.

(Signed)

ALEX. MCINTIRE, *Notary Public.*

Collector's Office, District York, June 15, 1823.

I do hereby certify that the within-named persons, as master and fishermen of the schooner "Charles," are citizens of the United States, and inhabitants of this district, and I believe them to be men of truth and veracity.

(Signed)

THOMAS SAVAGE, *Collector.*

Inclosure 5 in No. 74.

Rear-Admiral Fahie to Mr. Addington.

Sir,

"Salisbury," Halifax, September 5, 1823.

ON the 2nd of last month I received a letter from Mr. Canning, dated Philadelphia, July 5, inclosing copies of a complaint and protest given in to the Government of the United States by an individual named George Moody, a citizen, as he is described to be of that country, relative to the detention of the American schooner "Charles," by His Britannic Majesty's sloop the "Argus," and requesting me to afford him such information respecting the case, as would enable him to place it in a proper light.

Previously to my receipt of Mr. Canning's letter, Captain Arabin, who commanded the "Argus" when the detention of the schooner "Charles" occurred, had returned to England; a circumstance which obliged me to draw from other sources the particulars of her detention, and of the subsequent proceedings in the Vice-Admiralty Court at New Brunswick, which have been following by her condemnation.

Mr. Canning's departure for Europe causes me to avail myself of the intimation of your appointment as *Chargé d'Affaires ad interim*, contained in his letter to me of the 24th of June, to forward, for your information and that of the American Government, copies of several documents, as particularized at the foot of this letter, which go to contradict, in material points, the statements made in the protests, and will, I trust, Sir, furnish sufficient evidence that the "Charles" was detained and proceeded against on legal grounds.

The meaning, however, of sending her "down the bay in pursuit of smugglers," which is admitted in the Report of Mr. Innes, the First Lieutenant of the "Argus," was certainly irregular, and if she had been acquitted, it would probably have induced the Court to award a proportional remuneration to the claimants; it is the first instance of such a proceeding that has come to my knowledge, and I have taken measures to prevent its recurrence.

By the next packet for England, I shall forward a copy of this letter, and of the documents it incloses, to my Lords Commissioners of the Admiralty, agreeably to the request of Mr. Canning when quitting Halifax.

I have, &c.

(Signed) WM. CHAS. FAHIE.

Inclosure 6 in No. 74.

Commander Dundas to Rear-Admiral Fahie.

Sir,

"Argus," in Halifax Harbour, August 11, 1823.

IN compliance with the orders contained in your letter of the 6th instant, I have called upon the officers of His Majesty's sloop "Argus," under my command, who had any thing to do with the seizure and detention of the schooner "Charles," American fishing vessel, and I beg leave to inclose for your information a detail of the circumstances of this case, as detailed to me by the respective Officers, as also an extract from the "Argus'" log book of the 9th May, 1823.

I have, &c.

(Signed) JOHN B. DUNDAS.

Inclosure 7 in No. 74.

*Statement of Mr. Legard.**"Argus," Halifax, August 10, 1823.*

I BEING ordered by Captain Arabin on the 9th of May to take charge of the American schooner "Charles," and proceed along the coast to St. John's, New Brunswick, and detain such unlawful vessels as I might meet in my way I sailed from Shorbourne on the 12th of May, and in my way to St. John's, detained one English and one American schooner, and arrived at St. John's on the 20th May, at which place I was taken out of the schooner "Charles," and she was delivered into the Custom-house.

(Signed)

H. LEGARD, *Midshipman.*

Inclosure 8 in No. 74.

Mir. Zouch to Commander Dundas.

Sir,

"Dundas," at Halifax, August 11, 1823.

IN compliance with your orders to make known to you such particulars as I may be acquainted with relative to the schooner "Charles," American fishing vessel, I beg leave to state that, having been ordered by Captain Arabin, on the 9th May, 1823, to board the said schooner, lying in Shelbourne Harbour, I went in the gig, manned by four seamen and the corporal of marines, and having boarded, demanded her papers. I inquired what brought him within the limits? And the master replied, to avoid a storm; how long he had been in anchor? he replied he had but just anchored. I then ordered the master to weigh, and according to the orders I had received from Captain Arabin, anchored close to the "Argus." I was ordered on board, and to bring the master and schooner's papers with me.

I am, &c.

(Signed) HENRY ZOUCHE, *Midshipman.*

Inclosure 9 in No. 74.

EXTRACT from the Log Book of the Proceedings of His Majesty's sloop "Argus,"
Septimus Arabin, Esq., Captain.

H.	R.	F.	Courses.	Winds.	Sig.	Remarks, &c.
1			At anchor in Liverpool harbour	N.E.	E.P.	Friday, May 9, 1823— A.M.—Moderate and hazy weather at 4; light winds and fine weather at 5.40. got under weigh and made sail; unbent the main-top gallant sail to repair, and bent another.
2						
3						
4						
5						
6			Running along shore	D.B.T.	At 8 moderate breezes and cloudy. Hope Island W. by S. $\frac{1}{2}$ S; Matoon N. by E. $\frac{1}{2}$ E. At 8.30 set studding sails; at 10 in ditto, and hove to; hoisted out the second cutter and sent her in shore through the Rugged Islands to examine some small vessels at anchor. Bore up at 10.30, hove to, and sent the gig in shore to examine vessels; bore up for Shelburne Harbour at noon. Moderate and cloudy. Opened a cask of beef, 200 lbs. Water on board, 31 tons.	
7						
8						
9	4		S.W. $\frac{1}{2}$ S. W. by S. $\frac{1}{2}$ S.	W.N.T.	P.M.—Moderate breezes and cloudy. At 12.30 boarded and detained an American fishing vessel, "The Charles." At 1.20 shortened sail, and came to with the small bower in Shelburne Harbour. 6 furlongs Sandy Point, E.N.E., $\frac{1}{4}$ mile Shelburne, N.N.E., a red store house, E. $\frac{1}{4}$ N. At 4 fresh breezes and cloudy. Our boats returned with two American fishing vessels detained by them. At 3 fresh breezes and cloudy; at midnight moderate and cloudy.	
10	4					
11			Running into Shelburne Harbour	S.E. by E. S.E. East	E.P. D.B.T. W.N.T. G.P.	
12						
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						

Bearings and distance—Bell Rock N. by W. $\frac{1}{2}$ W. $\frac{1}{4}$ mile, lighthouse W. by S.

Inclosure 10 in No. 74.

Lieutenant Innes to Commander Dundas.

Sir,

"Argus," in Halifax Harbour, August 11, 1823.

IN obedience to your orders to make known to you such particulars as I may be acquainted with relative to the American schooner "Charles," I beg leave to state that on the arrival of His Majesty's sloop "Argus," at Shelbourne, on the 9th of

May, 1823, the "Charles" was at anchor in that port, and was boarded by Mr. Henry Zouch, midshipman, and brought to an anchor, close to the "Argus," by Captain Arabin's orders. She was detained in the usual way, but I am not acquainted with the circumstances of her detention. I believe it was owing to information received from the shore of her having committed some breach of the Treaty.

On the "Argus" sailing on the 12th of May, she was given in charge of Mr. Legard, midshipman, to proceed to St. John's, New Brunswick; and the crew, their clothes, and provisions, with the exception of the master, were at their own request taken on board the "Argus," for a passage to St. John's; the master afterwards requested that his brother might accompany him in the "Charles," which was granted; they were landed, with their clothes, at St. John's, New Brunswick, on the "Argus" arrival on the 16th of May.

On the 20th the "Charles" arrived, and was reported to the Collector of the Customs for libelling. On the 21st she was manned and given in charge of Mr. Hugh Berners, midshipman, and sent down the bay in quest of smugglers, when the master requested a passage, he was taken on board, and landed at Campo Bello, about two miles distant from Moose Island, United States. On the 7th June the "Charles" again joined the "Argus," and was ordered to St. John's, where she was given up to the Collector of Her Majesty's Customs, for legal adjudication.

I am, &c.
(Signed) D. B. INNES.

Inclosure 11 in No. 74.

Mr. Wright to the Secretary of State.

Custom-House, St. John's, New Brunswick.

August 23, 1823.

Sir,

I HAVE this moment had the honour to receive your letter of the 13th instant, stating that a complaint and protest of George Moody, master of the American fishing schooner "Charles," had been transmitted to you, by His Majesty's Envoy Extraordinary in the United States, respecting the seizure of that vessel by His Majesty's sloop "Argus," and of Captain Arabin having employed the said schooner as a cruizer, and you request me to give you all the information on these subjects in my power.

I accordingly beg leave to refer you to the inclosed copy of a paper transmitted to me by Captain Arabin on his arrival in this port, dated 16th May last, which contains a full detail of the cause of seizure, under which she was subsequently libelled in the Vice-Admiralty Court here and condemned on the 17th of July last; as to that part of the complaint of Captain Arabin's having manned and employed the schooner to cruize, I have no knowledge of such a circumstance, and am induced to think it is incorrect; I do know, however, that Captain Arabin kept possession of her after his arrival here, from the 17th May to 21st June, when he delivered her into my custody. But I understood he did so solely with a view to prevent the expense of wharfage and ship-keeper's wages, which would, unavoidably, have been incurred had she been at once delivered up into the custody of the Customs.

I have, &c.
(Signed) HENRY WRIGHT.

Inclosure 12 in No. 74.

Memorandum of Particulars of Seizure by the "Argus" of the American Fishing-Vessel "Charles," on the South Coast of Nova Scotia.

THE American fishing schooner "Charles," William Stovor, Master, belonging to York, State of Maine, detained by the "Argus" at Shelburne on Friday, 9th May, 1823; for a breach of the Act 50 Geo. III., cap. 28, for the protection of the British Fisheries, and to enable His Majesty to make regulations respecting the same, according to a Convention made between His Majesty and the United States, 20th October, 1818. The said schooner was found at anchor in Shelburne Harbour, into which she had not been driven by stress of weather or any other fortuitous circumstance.

Information had been received of this schooner having put into that same harbour on the Tuesday previous to the seizure, and anchored below Sandy Point, the weather

being fine and moderate at that time, as well as on the day of seizure. She went out on Wednesday and returned again on Thursday, where she was found by the "Argus" on Friday, and, having remained hovering upon the coast instead of proceeding upon her fishing voyage, when there was no pretence whatever for putting into port, she was detained.

(Signed) SEPTIMUS ARABIN.
 "Argus," at St. John's, New Brunswick, May 16, 1823.

No. 75.

Mr. G. Canning to Mr. Addington.

Sir,

Foreign Office, November 15, 1823.

I TRANSMIT to you a communication which has been received from the Admiralty respecting the detention of an American fishing vessel, called the "Charles," by His Majesty's ship "Argus," for a breach of the Act of Parliament regulating the intercourse of foreign fishing vessels with the shores and harbours of His Majesty's North American Colonies.

The Government of the United States have preferred a complaint, in behalf of the owner of the "Charles," to Mr. Stratford Canning in consequence of her capture, and have claimed restitution of the vessel. It appears, however, that the "Charles" has since been regularly condemned in the Vice-Admiralty Court of New Brunswick, and it is not expected that the American Government will lend further countenance to the complaint of her owner, in consequence of such determination.

The only irregularity complained of, which is admitted in the documents received from Admiral Fabia, is the use made of the "Charles," under Captain Arabin's orders, to detain other fishing vessels prior to her own adjudication.

I am to desire that you will assure the American Secretary of State that such a practice will not be permitted for the future; and to inform him that orders will be given that any American vessel detained by the "Charles," while thus irregularly employed, shall be restored to the owner, even although liable on other grounds to be condemned.

I am, &c.
 (Signed) GEORGE CANNING.

No. 76.

Mr. Hamilton to Mr. Stratford Canning.

Sir,

6, Foley Place, London, April 8, 1824.

I HAVE the honour to return inclosed the papers your Excellency was pleased to send for my perusal, and to state, in compliance with your wishes, such remarks as appear to bear on a subject which I have generally been called on to express an opinion upon, at the commencement of every fishing season, by persons desirous of resorting early in the spring to St. George's Bay, on the West Coast of Newfoundland, for the herring fishery.

Your Excellency is aware that the Act of the 10 and 11 Will. III gives an unlimited right to all British subjects coming from Great Britain to take fish on the coasts of Newfoundland, and that the words in the declaration connected with the Treaty of Paris, 1783, "that British subjects were not to interrupt the French Fishery on the coast by their competition in any manner" do appear to restrain those rights which the Act above referred had given. Though I have been led to consider this Act still in force, I have always, in reply to the several applications made on this subject, cautioned the parties not to interrupt or intermix with French fishermen, and, if they were ordered away, not to persist, but to obey, and report the circumstances to me for the opinion of His Majesty's Government. The view, therefore, that I have taken of the subject, and on which I have acted, has been to consider the restrictions of the Declaration of 1783 confined to the prevention of British subjects erecting flakes or stages, and drying fish, on that part of the coast allotted to the subjects of His Most Christian Majesty, but that the cod fishery on the coast remained as much a right of both parties as that on the Great Bank; that France could not

maintain an exclusive right, and that Great Britain might dispose of the right she reserved as she might think best. But that some of the officers acting under the French Government have considered that they have an exclusive right is quite clear, for they forbade, in 1822, Mr. Bird, who had a salmon fishery in Bounce Bay, West Coast of Newfoundland, from carrying it on, though he had enjoyed the privilege before and since the Peace of 1814; and, in consequence of Mr. Bird's representation to me, I sent a vessel last year to inquire into the case, and it was reported to me that Mr. Bird had returned, and was carrying on his fishery without molestation. But, duly considering the Declaration of 1783, I do think this was an interruption with French fishermen, not only by competition but exclusion, for although the cod fishery can be carried on by several at the same time on an extensive coast, the salmon fishery of a river must be a monopoly, of which Mr. Bird enjoys the privilege by the forbearance of the French Government, which has been extremely indulgent towards British subjects settled on the coast during the war, many of whom continue to remain.

The British cod fishers seldom or ever fish on any part of the coast allotted to the French on the West Coast, therefore those of the United States would not derive much benefit from the stipulation of 1783 with France "to take fish of every kind on such parts of the Coast of Newfoundland as British fishermen use," for I am not aware that the British cod fishers frequent any part of the Western Coast except St. George's Bay, and that principally for herring bait; and the fact is, that the whole extent of the Western Coast, from Cape Ray to Quirpon, is very little fished by any persons, and is, I conceive, very immaterial to the United States, which enjoy so much better fishing stations on the South Coast, and also on the extensive and productive coast of Labrador.

In concluding these remarks, I beg to state to your Excellency that the subjects of France in the Islands of St. Pierre and Miquelon enjoy an indulgence from His Majesty, which they would not willingly lose. I allude to the cutting of wood in the Bays of Fortune and Despair; and I have already had many complaints against the abuses which they make of this indulgence, which was only granted for a year after the Peace to erect their houses, but which they have not yet been desired to refrain from; and a continuance of this indulgence, even under stated regulations, is so essential to French subjects that the loss of it would be severely felt.

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

No. 77.

Messrs. Huskisson and Stratford Canning to Mr. G. Canning.—(Received April 15.)

(No. 5.)

Sir,

Board of Trade, March 30, 1824.

THE American Plenipotentiary, in a Conference which we held with him yesterday, communicated the inclosed papers in explanation of the circumstances concerning which he has received the instructions of his Government with reference to the Newfoundland Fisheries.

The general purport of this communication is, that the French lay claim, in virtue of Treaties with Great Britain, to an exclusive enjoyment of the fisheries on the northern and western coasts of Newfoundland, and under this claim have taken upon themselves to exclude the citizens of the United States from that part of the fishery which is carried on between Cape Ray and the Quirpon Islands, along the whole western coast of Newfoundland, the enjoyment of which, in common with His Majesty's subjects, was conceded to the United States by the Convention of October 1818.

The American Plenipotentiary appears to be of opinion that His Majesty's Government is bound either to make the rights which his country has obtained under that Convention, in common with His Majesty's subjects, respected by the French, or in case of the French substantiating their exclusive claim, to make compensation to the United States for the loss of so large a portion of their fishing-ground.

It strikes us, on a first view of the case, as presented by Mr. Rush, that the circumstances are not of a nature to be settled by negotiation between him and us; but we defer submitting any distinct opinion on this point, until we have made inquiry

into the state of the regulations under which the fishery is practically carried on along the western coast of Newfoundland.

We have, &c.
(Signed) W. HUSKISSON.
STRATFORD CANNING.

Inclosure in No. 77.

Statement respecting Newfoundland Fishery, given in by Mr. Rush.

BY the XIIIth Article of the Treaty of Utrecht of 1713 the sovereignty of the Island of Newfoundland was ceded by France to Great Britain, France being allowed the right of fishing and drying fish from Cape Banavista on the Eastern Coast to the place called Point ~~Piche~~ but on no other parts.

The provisions of this Treaty were renewed and confirmed by that of Aix-la-Chapelle of 1748, and also as far as relates to Newfoundland and the French fisheries on its coast by the Treaty of Paris of 1763.

By the Treaty of Peace between the United States and Great Britain of September 3, 1783, Article III, it is stipulated that "the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, but not to dry or cure the same on that island.

By the Treaty of the same date between Great Britain and France, Articles IVth and Vth, the right of Great Britain to this island was confirmed (the small adjacent islands of St. Pierre and Miguelon being excepted), and the right of the French to fish on a certain part of the eastern coast, as above recited, was exchanged for that of fishing on the remainder of the eastern and on the whole of the western coast, as far down from the north as Cape Ray. See also the Declaration and Counter-Declaration of the Plenipotentiaries of the two Governments annexed to this Treaty, which are material as respects fishing rights.

By the Treaty of Paris of 1814 between Great Britain and France, the former restores to the latter the Colonies, fisheries, factories, and establishments of every kind, which France possessed on the 1st of January, 1792, in the seas or on the continents of America, Asia, and Africa, with the exception of Tobago, St. Lucie, and the Isle of France. By the XIIIth Article of this Treaty it is declared, that "as to the French right of fishery on the Grand Bank of Newfoundland, on the coasts of the island of that name, and the adjacent islands, and in the Gulf of St. Lawrence, everything shall be restored to the same footing as in 1792."

Finally, by the Convention of October 20, 1818, between the United States and Great Britain it is provided, Article I, that "the inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea Islands, and on the western and northern coast, from the said Cape Ray to the Quirpon Islands." By the same Convention the United States are allowed to dry and cure fish on the southern part of the coast of the island as above described, but not on the western coast.

From the preceding statement it follows, that the French have the right of taking and drying fish on the western coast of the Island of Newfoundland. The United States claim the right of taking fish on the same coast. But this the French deny, saying that the right both of taking and drying belongs to France exclusively. Their cruisers have accordingly in 1820 and 1821 ordered off the American fishing-vessels, whilst within the acknowledged jurisdiction of the coast, threatening them with seizure in case of refusal.

It may be that France will allege, in support of her doctrine, that by her Treaty of September 3, 1783, with Great Britain, which gave her the right of fishing and drying fish on the western coast of the island, it was intended that this right should be exclusive; that the words of the Treaty, and, above all, those of the declaration annexed to it, show this to have been the meaning, as France obtained the western coast in exchange for a part of the eastern coast with a view to prevent quarrels between the French and British fishermen. To this end, as it may perhaps be also alleged, the words of the Declaration provide that British subjects were not "to interrupt the French fishery on this coast by their competition in any manner;" and

further provide that the "fixed settlements" which had been formed there (by British subjects, it is presumed) should be removed.

The United States will insist, on the other hand, that Great Britain never could have intended by her Treaty of 1783 with France to grant a right of fishing and of curing fish on the western coast to French fishermen exclusively, but that the right of British subjects to resort there in common must necessarily be implied. That a contrary construction of the Instrument cannot be received, the sovereignty of the whole island having been fully vested in Great Britain, and even confirmed by this very Treaty. That it can never be presumed that she intended so far to renounce, or in any wise to diminish this sovereignty as to exclude her own subjects from any part of the coast. That no positive grant to this effect is to be found in the Treaty, and that the claim of France to an exclusive right, a claim so repugnant to the sovereign rights of Great Britain, can rest on nothing less strong than a positive grant. That all that the works contained in the Declaration to the Treaty can be construed to mean is, "that British subjects should never, whilst exercising their rights, improperly or injudiciously" interrupt by their competition the enjoyment of the French right. Furthermore, the United States cannot suppose that Great Britain, by the Convention of October 20, 1818, above recited, would ever have agreed that the inhabitants of the United States should have (for a just equivalent contained in the Convention) the right or the liberty to take fish on the very coast in question in common with British subjects, but under the natural conviction and belief that British subjects had the liberty of resorting there, and if they had, the claim of France to drive away the fishermen of the United States cannot stand.

The above summary may serve to present the general nature of the question which has arisen between the United States and France respecting fishing rights, and which Great Britain will doubtless desire to see settled in a manner satisfactory to the United States. It is obvious that if Great Britain cannot make good the title which the United States held under her to take fish on the Western Coast of Newfoundland, it will rest with her to indemnify them for the loss. Another question, which it is supposed will also be for her consideration, is, how far she will consider it just or proper that France should be allowed to drive or order away vessels of the United States from a coast which is clearly within the jurisdiction and sovereignty of Great Britain.

August 1822.

Since the foregoing summary was drawn up, and which, as will be seen, was in part hypothetical, a correspondence which has taken place between the Minister of the United States at Paris and the French Government, will serve to show more distinctly the grounds upon which France claims to evict the United States from so essential a portion of their fishing rights on the coasts of this Island. The correspondence consists of four letters from Mr. Gallatin to Viscount Chateaubriand, dated January the 22nd, March the 24th, April the 2nd and 15th, 1823; and two from Viscount Chateaubriand to Mr. Gallatin, dated February the 28th, and April the 5th, 1823.

Copies of these letters are annexed. For the Articles of the Treaties (no longer, however, in force) between the United States and France to which Viscount Chateaubriand alludes, see vol. 1 of the Laws of the United States, edition of 1815, pages 80 and 131.

March 1824.

No. 78.

Mr. Stratford Canning to Mr. Planta.

Dear Sir,

London, April 18, 1824.

MR. HUSKISSON and myself having occasion to send in a report to Mr. Canning relative to a question touching the Newfoundland Fisheries, submitted by the American Plenipotentiary in our negotiations with him, according to which report, you will perceive that the question I allude to is not unlikely to become a subject of immediate correspondence between Mr. Rush and the Secretary of State, I request your attention to the accompanying Memorandum, containing some points of information, which it may perhaps be of use to bear in mind if the American Minister should succeed at any time in making out a case for the favourable consideration of His Majesty's Government, with respect to the right of fishing on the coast of Newfoundland, as conceded to his countrymen by the Convention of October 1818.

The business in its present shape is of too contingent a nature to make it worth

while to occupy any part of Mr. Canning's time with the inclosed paper; but in placing it in your hands I know that I do enough to secure it a proper degree of attention, whenever the subject to which it relates shall come to be discussed in your office.

Believe, &c.

(Signed) STRATFORD CANNING.

Inclosure in No. 78.

Memorandum.

THE British cod-fishers seldom or ever fish on any part of the coast allotted to the French on the coast of Newfoundland. It is believed that they do not frequent any part of the western coast, except St. George's Bay, and that principally for herring bait.

The fact is, that the whole extent of western coast, from Cape Ray to Quirpon is very little fished by any persons, and is probably of little or no real consequence to the United States, whose fishing stations on the south coast and on the extensive coast of Labrador, are so much more productive.

In the Island of St. Pierre and Miquelon the subjects of France enjoy an indulgence from His Majesty which they would not willingly lose. This indulgence, which is the cutting of wood in the opposite Bays of Fortune and Despair, was only granted for a year after the Peace, to enable them to build houses, but it is still continued, notwithstanding some complaints, and the loss of it could be scarcely felt.

The inhabitants of the shores of Chaleur Bay complain that the American fishermen, who reach that neighbourhood early in the season, have the practice of throwing their garbage overboard, and thereby doing much injury to the fishery.

It is alleged to be a common practice of the American fishermen to throw their wood overboard, and then to go in, under the Treaty, for further supplies.

It appears also that they are in the practice of curing fish on the Magdalene Islands, to which they are not entitled under the terms of the Convention, neglecting their liberty to fish within the British waters.

By passing through the Straits of Causo instead of having to go round Cape Breton, they are enabled to reach the principal fishing stations with less risk and earlier in the season, thereby increasing their means of a successful competition with the British.

A duty has been levied on vessels passing through those Straits for light-money; but the Americans frequently pass through in the night without paying, and it becomes a question whether they could not be compelled to adopt the more circuitous course, instead of being allowed to pass through the narrow waters.

No. 79.

Messrs. Huskisson and Stratford Canning to Mr. G. Canning.—(Received April 26.)

(No. 7.)

Sir,

Office of the Board of Trade, April 14, 1824.

IN one of our former reports to you we intimated an opinion that the circumstances communicated to us by the American Plenipotentiary, concerning the right of fishing on the western coast of Newfoundland, were not of a nature to form one of the immediate subjects of negotiations between him and us. The references which we have since made as to the state of His Majesty's engagements with France respecting that right, and to what degree, if at all, British subjects are in the habit of fishing on the coast between Cape Ray and the Quirpon Islands, have resulted, on the whole, in confirming our previous impressions.

We conceive that the only supposable ground on which the United States can maintain a claim to any extension of the fishing rights conceded to them under the Convention of October, 1818, is their inability to enjoy those rights, according to the fair meaning of the Convention, in consequence of engagements incompatible therewith having been contracted by Great Britain towards any other Power. Until this fact be clearly established, the very basis is wanting for a fresh negotiation on the subject as between Great Britain and the United States; and so far is any such fact from being established as yet, that in the correspondence communicated to us by Mr. Rush, the French Minister for Foreign Affairs upholds the prétensions of his Government to

exclude American citizens from a part of the Newfoundland fishery, in virtue of Treaty stipulations subsisting between the United States and France anterior to the Convention of October, 1818.

According to the construction given to those stipulations by Viscount Chateaubriand, the citizens of the United States are incapacitated from availing themselves of the fishing liberties conceded to them by Great Britain on the western coast of Newfoundland unless the consent of His Most Christian Majesty be previously obtained by their Government. It appears from the same correspondence that instructions were to be given to the French Chargé d'Affaires at Washington, for the purpose of enabling him to open discussions on this subject with the American Cabinet.

Under these circumstances, we have thought it best to put the American Plenipotentiary at once in possession of our sentiments, as expressed above. We have admitted, in conference with him, that the citizens of the United States are clearly entitled, under the Convention of 1818, to participation with His Majesty's subjects in certain fishing rights on the coasts of Newfoundland; and therefore that his Government might require a declaration of the extent of those rights, as enjoyed by British subjects under any limitations prescribed by Treaty with other Powers, and protection in the exercise of the rights so limited in common with British subjects within the jurisdiction of His Majesty as Sovereign of Newfoundland; but we observed to him, at the same time, that such declaration and protection, if necessary, might be applied for in the regular Diplomatic course, and that they did not appear to be within the province of our negotiations.

The substance of this communication we propose, if not otherwise instructed by you, to enter upon the Protocol of our last conference with Mr. Rush.

Notwithstanding the opinion which we have thus declared, more particularly with reference to the present stage of this question, we are by no means prepared to maintain that a complete investigation of the subject may not terminate in showing that not only a concurrent, but even an exclusive right of fishing along the northern and western coasts of Newfoundland was made over to the French by the Treaty which Great Britain concluded with that Power in 1783; the provisions of which Treaty, in so far as they regarded the fisheries, were distinctly revived by the Definition Treaty of May 30, 1814.

In a Report of the Board of Trade, bearing date the 17th March, 1786, the same doubts which we have experienced are described as prevailing with respect to the right of fishing on such parts of the coast of Newfoundland as were frequented by the French, in virtue of the Treaty of 1783; and the uncertainty felt on this point is attributed to the manner in which the Duke of Manchester's declaration of the same date is worded. The Board, however, goes on to express a decided opinion in favour of His Majesty's entire sovereignty over the Island of Newfoundland, and to assert, in consequence, the paramount exclusive authority of Great Britain, for the purpose of removing British subjects from within the limits appropriated to the French fishermen, in case of its being finally decided that, according to the Treaty with France, we have no right to fish there.

On referring to the statutes, we find that, by the 28th of Geo. III, c. 35, His Majesty is empowered to give orders for compelling British subjects to depart from within the limits assigned to France, on the ground of his having engaged himself to prevent "his subjects from interrupting in any manner, by their competition, the fishing of the French, during the temporary exercise thereof, which is granted to them upon the coasts of the island of Newfoundland."

The engagement referred to in the Act of Parliament, which we have just cited, is, however, not an express stipulation of the Treaty of 1783, but part of the Duke of Manchester's declaration, accompanying the Treaty, though neither formally annexed to it, or openly acknowledged by the parties as intended to have the same force as the Treaty itself.

But whatever doubts may be entertained as to the obligations at present resulting from that instrument, it is manifest, from the instructions issued to the Governor of Newfoundland, in the years 1786 and 1788, that at both these periods it was the intention of the British Government to have it carried into effect, under the immediate authority of its own officers, so completely and rigorously as to exclude His Majesty's subjects from all the French fishing-grounds on the coast during a considerable part of the year, and, not improbably, during the whole of the fishing season.

In trying to ascertain the actual practice as to this fishery in later times, we have

learned that the present Governor of Newfoundland "has considered the restrictions of the Declaration of 1783 confined to the prevention of British subjects erecting flakes or stages and drying fish on that part of the coast allotted to the subjects of His Most Christian Majesty; but that the cod-fishery on the coast remained as much a right of both parties as that on the Great Bank, that France could not maintain an exclusive right, and that Great Britain might dispose of the right she preserved as she might think best." In stating these impressions, Sir Charles Hamilton has added that some of the officers acting under the French Government have already shown, by their interference, that they considered the right of France an exclusive one.

When we communicated our opinions on this subject to the American Plenipotentiary, he assured us that, although it did not appear on the face of the correspondence between Viscount Chateaubriand and Mr. Gallatin, he had reason, nevertheless, to believe that the French Government intended to assert their exclusive right as well against Great Britain as against the United States. It is mainly on this account that we have gone into more detail in drawing up the present Report than we should have otherwise thought necessary.

We have, &c.
(Signed) W. HUSKISSON.
STRATFORD CANNING.

No. 80.

Mr. Rush to Mr. G. Canning.—(Received May 4.)

1, *George Street, Portman Square, May 3, 1824.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has received the instructions of his Government to lay before Mr. Canning, His Majesty's Principal Secretary of State for Foreign Affairs, the following case.

By the 1st Article of the Convention between the United States and Great Britain, concluded at London on the 20th of October, 1818, it is, amongst other things, provided, that the "inhabitants of the said States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks, from Mount Joly on the southern coast of Labrador to and through the straits of Belle Isle, and thence northwardly, indefinitely, along that coast."

After the ratification of the above Convention, the fishermen of the United States proceeded, according to its stipulations, to take fish on the western and northern coast of Newfoundland, between the limits of Cape Ray and the Quirpon Islands; but, in the course of the years 1820 and 1821, whilst pursuing in a regular manner their right to fish within these limits, and being also within the strictest territorial jurisdiction of the island, these fishermen found themselves ordered away by the commanders of the armed vessels of France, on pain of seizure and confiscation of their fishing vessels.

This order was afterwards ascertained to rest upon a claim set up by France to an exclusive fishery upon that part of the coast of the island, a claim conceived by the Government of the United States to be without just foundation, and in violation of the rights of the citizens of the United States, as settled by the foregoing Article of the Convention of 1818.

The Government of the United States forbore at first to make any representation of the above occurrence, so injurious to the interests as well as rights of their citizens, to the Government of His Britannic Majesty, cherishing the hope that the difficulty which appeared to have arisen would be removed, on a fit representation, to the Court of France. A correspondence accordingly took place upon the subject, between the American Plenipotentiary at Paris and the Minister of Foreign Affairs of His Most Christian Majesty, which, has not terminated in a manner satisfactory to the Government of the United States, it appearing from it that France distinctly asserts an exclusive right of fishing within the limits in question. Copies of this correspondence, consisting of three letters from Mr. Gallatin, dated the 22nd of January, the 14th of

March, and the 2nd of April, 1823, and two letters from Viscount Chateaubriand, dated February the 28th, and April the 5th of the same year, the Undersigned has the honour to inclose for the more full information of Mr. Canning. It will be seen that the United States claim for their citizens the right to take fish only, not to cure and dry the same, within the limits from which France would interdict them, and that their claim is in common with the subjects and fishermen of His Britannic Majesty. The Undersigned has not been furnished with any affidavits or other formal proofs to substantiate the fact of the fishing vessels of the United States having been ordered away by French vessels of war, as above-mentioned, since it will be seen by the notes of the French Minister of State that no question is raised upon that point, but that the fact itself is justified under a claim of right, thereby rendering superfluous all extrinsic evidence of its existence. The grounds of justification, assumed by France, are believed by the Government of the United States to be satisfactorily refuted by their Plenipotentiary, in the correspondence inclosed, and although France has placed her claim as against the United States upon the footing of Treaties subsisting between the two Powers, it will not fail to be perceived that she also asserts, in the most unqualified manner, her anterior, unlimited, and exclusive right to the fishery in question, under the Treaties of Utrecht and of Paris; consequently, as pre-existent to her former Treaties with the United States, and paramount all title in any other power. In the note of Viscount Chateaubriand of the 5th of April, it is stated that the Chargé d'Affaires of France at Washington had been instructed to enter upon explanations with the Government of the United States concerning this interest, and was then about to be again written to on the same head; yet it becomes the duty of the Undersigned to say, that no adjustment of the subject has taken place, and that the fishing vessels of the United States still remain under the interdiction put upon them by the cruizers of France.

The Undersigned, in fulfilling the orders of his Government to bring under the official notice of Mr. Secretary Canning the circumstances of the above case, does so in full reliance that, through the friendly dispositions of His Majesty's Government, the whole subject will receive such attention as it will be seen to merit. The United States seek only the fair and unmolested enjoyment of the fishing rights, which they hold at the hands of Great Britain under the Convention of 1818, satisfied that Great Britain, whether as regards the guarantee of those rights, or the maintenance of her own sovereign jurisdiction over this island and its immediate waters, will take such steps as the occasion calls for, and, above all, as are appropriate to the just and amicable intentions which it may be so confidently supposed will animate the Government of His Britannic Majesty towards the United States, touching the full rights of the latter under the Convention aforesaid.

The Undersigned, &c.

(Signed)

RICHARD RUSH.

Inclosure 1 in No. 80.

Mr. Gallatin to Viscount de Chateaubriand.

Sir,

Paris, January 22, 1823.

AUTHENTIC information has been received by the Government of the United States that several of their fishing-vessels were, in the years 1820 and 1821, ordered away from their fishing stations, on the western coast of Newfoundland, within the limits secured to them by the Convention with Great Britain of 20th of October, 1818, by armed vessels of France, and upon the threat of seizure. I have not yet been informed whether the same proceeding was repeated in the year 1822.

The President of the United States has no doubt that the Commanders of those armed vessels did not correctly understand their orders, and has instructed me to make this representation to His Majesty's Government, and to request that those orders may be rectified for the future. I beg leave to call your Excellency's early attention to that subject, and have the honour to inclose a copy of the Article of the Convention above-mentioned which relates to the fisheries.

I request, &c.

(Signed)

ALBERT GALLATIN.

Inclosure 2 in No. 80.

Viscount de Chateaubriand to Mr. Gallatin.

Monsieur,

Paris, le 28 Février, 1823.

VOUS m'avez adressé avec la lettre que vous m'avez fait l'honneur de m'écrire le 22 Janvier, le 1^{er} Article d'une Convention conclue le 20 Octobre, 1818, entre les Etats Unis et la Grande Bretagne. Cet Article stipule que les habitants des Etats Unis auront en commun avec les sujets de Sa Majesté Britannique le droit de prendre, sécher et conserver le poisson sur une partie des côtes de Terre Neuve et sur celles des Iles Madeleine et du Labrador.

L'objet de la communication que vous m'avez faite étant d'obtenir que les pêcheurs Américains ne soient point troublés par les vaisseaux armés de la France, dans les limites qui leur ont été garanties par cette Convention, je crois devoir examiner avec vous, Monsieur, quelles ont été les Conventions qui avaient été antérieurement faites entre la France et les Etats Unis, sur l'exercice du droit de pêche dans les mêmes parages.

Les Etats Unis s'étaient engagés par l'Article X du Traité conclu entr'eux et la France le 6 Février, 1778, à ne jamais troubler les sujets du Roi Très Chrétien dans la jouissance et l'exercice du droit de pêche sur les bancs de Terre Neuve, non plus que dans la jouissance indéfinie et exclusive qui leur appartenait sur la partie des côtes de cette île désignée dans le Traité d'Utrecht.

Une disposition analogue fut insérée dans la Convention conclue le 30 Septembre, 1800, entre les deux Puissances, et l'Article XXVII déclare qu'aucune des deux nations ne viendra participer aux pêcheries de l'autre sur ces côtes, ni la troubler dans l'exercice des droits qu'elle a maintenant, ou qu'elle pourrait acquérir sur les côtes de Terre Neuve, dans le Golfe St. Laurent, ou partout ailleurs sur les côtes d'Amérique au nord des Etats Unis.

Avant que ce dernier Traité fut conclu entre la France et les Etats Unis, la France jouissait du droit de pêche et de sécherie sur les côtes septentrionales et occidentales de Terre Neuve dans les limites successivement déterminées par ses Traités avec l'Angleterre, savoir, par l'Article XIII du Traité d'Utrecht de 1713, par l'Article V du Traité de 1763, et par l'Article V du Traité de 1783. Les Etats Unis, après avoir reconnu le droit de la France, et après avoir déclaré dans l'Article X du Traité conclu avec elle en 1778 qu'ils ne la troubleraient jamais dans sa jouissance indéfinie et exclusive, ne pouvait modifier que de concert avec elle leurs premiers engagements sur ce point. La Convention qu'ils ont en 1818 avec l'Angleterre n'a pas changé leurs rapports avec la France, et lorsqu'ils ont obtenu de l'Angleterre la liberté de pêcher sur une partie des côtes de Terre Neuve, ils n'ont pu acquérir en effet qu'une liberté nécessairement limitée par leurs propres engagements envers la France, et par la déclaration qu'ils avaient faite de ne pas la troubler dans l'exercice de ses droits, déclaration renouvelée dans la Convention conclue en 1800 entre les Etats Unis et la France.

La durée de cette Convention n'était, il est vrai, que de huit années, et après ce terme elle a cessé d'être en vigueur. Mais les anciens droits qu'elle avait reconnus ne pourraient pas se trouver détruits, parce que le temps de son exécution était expiré; car ces droits existaient antérieurement, ils n'étaient pas l'effet d'une concession de la part des Etats Unis; et l'Article X du Traité de 1778, où ces droits avaient déjà été rappelés, ne faisait qu'en constater l'authenticité, puisqu'il reconnaissait que la jouissance indéfinie et exclusive de la pêche sur une partie des côtes de Terre Neuve appartenait à la France, conformément au véritable sens des Traités d'Utrecht et de Paris.

La question étant ramenée à ce point, je dois, Monsieur, considérer dans le nouvel Article dont vous m'avez donné communication, deux parties très distinctes.

La France n'a aucune observation à faire contre l'exercice du droit de pêche et de sécherie des Américains sur la cote méridionale de Terre Neuve. Elle même n'a jamais joui du droit de pêche sur ce point; et elle ne peut avoir rien à revendiquer.

Quant à la jouissance de la pêche sur la côte occidentale les Etats Unis s'étaient engagés envers la France, dès l'année 1778, à ne jamais la troubler dans l'exercice de ce droit. Ils avaient même déclaré à cette époque qu'ils regarderaient la jouissance de la France comme indéfinie et exclusive. Tant que cet engagement subsiste, il doit être respecté, il doit être la base des instructions données par l'un et l'autre Gouvernement à leurs pêcheurs et aux commandants de leurs stations maritimes; et un tel engagement ne pourrait être modifié que de concert entre les deux Puissances.

Je vous prie, Monsieur, de vouloir bien faire part à votre Gouvernement de la communication que j'ai l'honneur de vous faire en réponse à la note que vous m'avez adressé. Cette communication le portera sans doute à donner des ordres pour prévenir les difficultés auxquelles pourraient donner lieu quelque méprise sur l'application des Traités.

Agréé, &c.
(Signé) CHATEAUBRIAND.

Inclosure 3 in No. 80:

Mr. Gallatin to Viscount de Chateaubriand.

Sir,

Paris, March 14, 1823.

I HAD the honour to receive your Excellency's letter of the 28th of February, in answer to mine of the 22nd of January, on the subject of fisheries on the western coast of the Island of Newfoundland.

The right claimed by the United States on that part of the coast does not embrace that of drying and curing fish on shore, which is there enjoyed by France to the exclusion of the Americans; but they contend for their liberty to take fish of every kind on the said coast from Cape Ray to the Quirpon Islands, though not to the exclusion of the French, who have also the same right there. The United States, therefore, only insist that the rights thus enjoyed by France, that of taking fish on the portion of the coast above mentioned, is not exclusive.

Your Excellency has appealed, in support of the exclusive right claimed by France, to Treaties and Conventions between her and the United States which are no longer in force, and seems to argue as if the engagement contracted by one of these was nevertheless still obligatory on America. It is at the same time asserted that the exclusive right, being derived from prior Treaties, existed before those made between the two Countries. This appears to me the true and only question which can possibly be a subject of discussion; but how it can be maintained that the United States are still bound either by the Xth Article of the Treaty of 1778, or by the XXVIIth Article of the Convention of 1800, that a Treaty which is no longer in force is still in part binding on one of the parties, is not easily understood.

It was agreed by the Xth Article of the Treaty of 1778 that the United States, their citizens and inhabitants, should never disturb the subjects of the Most Christian King in the enjoyment and exercise of the right of fishing on the banks of Newfoundland, nor in the indefinite and exclusive right which belonged to them on that part of the coast of that island which is designated by the Treaty of Utrecht, nor in the rights relative to all and each of the isles belonging to His Most Christian Majesty; the whole conformable to the true sense of the Treaties of Utrecht and Paris.

It must in the first place be observed, that the part of the coast of Newfoundland which was designated by the Treaty of Utrecht, was on the eastern and not on the western side of that island, that it extended from Cape Bonavista to the Quirpon Islands, and that it did not embrace any portion whatever of the western coast from the Quirpon Islands to Cape Ray, which is now in question. The Article, having no reference to any right of fishery which might thereafter be acquired on any other part of Newfoundland by France, either by exchange or otherwise, the obligation then contracted by the United States does not apply to the western coast.

Supposing, however, for the sake of argument, that the condition might by implication be considered as having, after the Treaty of Paris of 1763, become applicable to the coast in question, still the engagement could have had no longer duration than the Treaty of 1778, of which it made part. The United States and France had it not in their power by that Treaty to alter the true sense and meaning of that of Utrecht between France and Great Britain; all they could do was to agree that the United States should be bound to give it the construction desired by France. Whether considered as making an alteration in her favour, or, what from the whole tenor of the article is very doubtful, as declaratory of what, in the opinion of both parties, was the true intention of antecedent Treaties, the obligation on the United States to abide by that engagement or by that opinion, ceased to be binding on them the moment that the Treaty of 1778 was abrogated.

It is not presumed that your Excellency means to contend that that Treaty is itself in force, without referring to antecedent facts, or the subsequent uniform conduct of both Governments; the IIInd Article of the Convention of 1800, and the modification

inserted in its ratification, by which the parties expressly renounced all pretensions which might be derived from former Treaties, are sufficient to remove every doubt on that question. The XXVIIth Article of that Convention affords an additional proof, if any was wanting, that the parties considered the Xth Article of the Treaty of 1778 as making no exception, and as being no more binding than any other part of that Treaty; since it would have been unnecessary, had it been still in force, to insert that provision in the Convention. And, relating to the same subject, that XXVIIth Article has, at all events, superseded the Xth Article of the Treaty of 1778, even supposing, what it is impossible to establish, that this had survived all the other conditions of that Treaty.

Recurring then to the stipulations of 1800, it will be seen that the United States were no longer willing to renew that by which they had engaged, in 1778, to consider as exclusive the right of France to fish on any part of the coast of Newfoundland.

“Neither party will intermeddle” (in the French copy “ne viendra participer”) “in the fisheries of the other on its coasts, nor disturb the other in the exercise of the rights which it now holds or may acquire on the coast of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world.”

Not only the word “exclusive” is not to be found in the part of the Article which relates to Newfoundland, but it is evident, from the tenor of the whole, that it was not intended by either party to recognize any such exclusive right in that quarter. There is an express distinction made between the coasts of each country, and those of Newfoundland and elsewhere. When speaking of the first, both parties respectively engage not to intermeddle with, not to participate in, the fisheries of the other. Instead of this, they only agree not to disturb each other in their rights on the coast of Newfoundland, clearly intimating that to participate was not to disturb, since, had it been otherwise, the expressions “not to intermeddle,” “not to participate,” would have been preserved and made applicable to the fisheries on that coast, as well as to those on the coast of each country. It would, indeed, be preposterous to suppose that the United States, by agreeing not to disturb France in the exercise of the rights which she might acquire anywhere on the coast of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States, engaged not to participate in such fisheries, and to consider as exclusive the rights which might be acquired by France, since this would have been tantamount to a renunciation, on their part, of nearly the whole of the fisheries they then enjoyed, and to which they had an indisputable right. But the Article makes no distinction whatever between the rights then held and those which might be thereafter acquired by France. If these, therefore, could not be exclusive, neither those she then held were recognized as such by the Articles.

I have alluded to those stipulations only as connected with those of 1778, to which they had been substituted. They have, as well as the Convention in which they were inserted, and all the preceding Treaties between France and the United States ceased to be in force. Nothing remains of the obligations formerly contracted by both countries on the subject of the fisheries; and the question recurs, which is stated in part of your Excellency’s letter, whether, independent of any such former stipulations, and by virtue of any Treaty antecedent to the right of the United States to take fish on the western coast of Newfoundland, France had there an exclusive right. That it was not viewed as such by either the United States or Great Britain is sufficiently evident from the Article in the Convention of 1818, of which I had the honour to inclose a copy to your Excellency. And, after a most attentive perusal of the Treaties alluded to, I have been unable to discover on what ground the presumed exclusive right was founded. It would be premature to enter into that discussion at this time, and until the special Treaty stipulations and arguments by which the claim is intended to be supported, shall have been communicated. Whenever it may suit your Excellency’s convenience to make that communication, the considerations which may be urged by France will receive all the attention to which they are justly entitled, and be discussed in the most amicable temper. But the United States cannot, in the meanwhile, and until the question shall have been settled, order or advise their citizens to abstain from what they must, until then, consider as their just right, the liberty to participate in common with the French, and without disturbing them, in the fisheries on the western coast of Newfoundland, which, particularly in their connection with those of the coast of Labrador, are of primary importance to them. It is, therefore, my duty to renew my remonstrances against the proceedings of His Majesty’s armed ships in that quarter, and to call again your Excellency’s most earnest attention to the subject.

Whatever may be the extent of the rights of France on that coast, whether exclusive or not, they are only those of taking and drying fish. The sovereignty of the Island of Newfoundland, on which she had, till then, possessions, was expressly ceded by the Treaty of Utrecht to Great Britain; subject to no other reservation whatever but that of fishing as, above mentioned, on part of the coast. The jurisdiction and all the other rights of sovereignty remained with, and belonged to, Great Britain and not to France. She has not, therefore, that of doing herself on that coast what may be termed summary justice, by seizing or driving away vessels of another nation, even if these should, in her opinion, infringe her rights. Such acts of authority, which may be lawful when performed within the acknowledged jurisdiction, become acts of aggression when committed either on the high seas or anywhere else without the jurisdiction of the Power that permits them. No Government has more strenuously contended for that principle than that of France; none has been more justly tenacious of the rights of her merchant ships, or has more efficaciously protected them and their flag against any supposed aggressions of that nature. I may therefore appeal with confidence to your Excellency, when, reserving entire the right to indemnities which may be justly claimed for the injuries already sustained on that account, I beg leave to request that positive and immediate orders may be given to the officers of His Majesty's navy that the fishermen of the United States shall not be disturbed hereafter, nor until an amicable arrangement shall have been made on that subject.

I request, &c.
(Signed) ALBERT GALLATIN.

Inclosure 4 in No. 80.

Mr. Gallatin to Viscount de Chateaubriand.

Sir,

Paris, April 2, 1823.

THE last despatches received from my Government contain renewed and special instructions, reminding me that the fishing season for the present year is rapidly approaching, and that the proceedings of the Commanders of French armed vessels, in driving the American fishermen from a coast the sovereignty of which belongs to another Power, are an aggression which cannot, after having been taken under serious consideration, be again renewed under the sanction of His Majesty's Government.

Having already anticipated these instructions, I can only call your Excellency's attention to my letter of the 14th of March, and request the favour of an answer which I may be able to transmit to my Government.

I request, &c.
(Signed) ALBERT GALLATIN.

Inclosure 5 in No. 80.

Viscount de Chateaubriand to Mr. Gallatin.

Monsieur,

Paris, le 5 Avril, 1823.

L'OBJET de la lettre que vous m'avez fait l'honneur de m'adresser le 14 Mars sur les pêcheries de Terre Neuve a été d'abord d'établir qu'en vertu de l'Article XIII du Traité d'Utrecht qui assure nos droits de pêche sur les côtes de cette île, aucune partie de ces droits ne pouvait s'appliquer à la côte occidentale. Il serait peut-être permis, Monsieur, d'attribuer cette observation à l'inexactitude des cartes que vous auriez consultées; et je pense que des renseignements plus précis auront pu changer sur ce point votre opinion.

Vous ne regardez plus, Monsieur, comme des actes obligatoires les Traités conclus en 1778 et 1800 entre la France et les Etats Unis, et les stipulations qui s'y trouvent sur le droit de pêche vous paraissant dès lors ne plus avoir de vigueur aujourd'hui. Veuillez observer, Monsieur, que je n'ai point révoqué en doute votre observation générale sur la durée temporaire de l'un et l'autre Traité. Je me suis borné à remarquer que les stipulations de celui de 1778, qui étaient relatives au droit de pêche appartenant à la France, n'étaient point une concession faite à la France par les Etats Unis; mais qu'elles n'étaient de leur part que la déclaration et la reconnaissance d'un droit antérieur; et que ce droit, nécessairement indépendant des Traités où on le rappelait, ne pouvait point tomber en désuétude avec eux. J'ai dû conclure de la même obser-

vation que ce droit subsistait encore depuis que les Traités n'existaient plus, et j'ai ajouté que le Gouvernement des Etats Unis, qui l'avait reconnu par deux Traités successifs, n'avait eu, depuis cette époque, aucun motif pour le révoquer en doute. Je vous ai enfin prié d'observer que jusqu'à ce que cet ordre de choses eut été modifié par un arrangement entre les deux Puissances, il devait être considéré comme toujours subsistant, et qu'il était à désirer que le Gouvernement Fédéral prît des mesures pour éviter sur l'exercice de ce droit tout conflit de juridiction.

La réponse que vous m'avez fait l'honneur de m'adresser ne me paraît point détruire les observations que je vous avez faites le 22 Janvier. J'ai recommandé depuis quelque temps au Chargé d'Affaires de France près du Gouvernement Fédéral d'entrer avec lui en explications sur cet objet : je lui en écris encore ; et je dois me persuader, Monsieur, que les démarches qu'il est chargé de faire parviendront à écarter les malentendus et les inconvénients que vous paraissez craindre dans les lettres que vous m'avez fait l'honneur de m'adresser. Le Gouvernement Français désire lui-même qu'ils soient évités, et dans cette vue il cherchera volontiers toutes les voies de conciliation qui pourront s'accorder avec l'exercice de ces droits.

Agréé, &c.
(Signé) CHATEAUBRIAND.

Inclosure 6 in No. 80.

Mr. Gallatin to Viscount Chateaubriand.

Sir,

Paris, April 15, 1823.

I HAD the honour to receive your Excellency's letter of the 5th instant on the subject of the Newfoundland fisheries.

The observation in my letter of the 14th March last, that the obligation contracted by the United States by the Treaty of 1778 did not apply to the western coast of Newfoundland, was expressed in too general terms, and applies only to that part of the coast which extends from Cape Ray to Point Riche. However uncertain the position of this point, which I have not been able to find in any of the maps published before the Treaty of Utrecht, it appears to have been understood by both parties to be somewhere on the western coast, and the right to fish between it and the Quirpon Islands was therefore secured to France by that Treaty. This does not, however, affect the main arguments used in my letter, as I reasoned on the supposition that the Treaty of 1778 was applicable to the whole western coast.

It was not denied that if France had an exclusive right to the fisheries in question prior to and independent of the Treaty of 1778, that right is still in full force. But I have contended that the stipulation then entered into was not renewed by the Convention of 1800, and that, if founded in error, the recognition of such right by the Treaty above mentioned was at this time no more binding on the United States than any of its other conditions. I regret that my observations in that respect should have failed in producing any effect; but it is hoped that the Chargé d'Affaires of France at Washington has been instructed to give some answer to them, and to state the grounds on which, independent of the Treaty of 1778, the extensive right claimed by her is founded.

That conciliatory means should be found which may be consistent with the exercise of its rights is the earnest desire of the Government of the United States as well as of that of France. It has already been explicitly stated that the forcible means to which she has resorted are an aggression on those rights; and she will neither commit her own, or injure the interests of her subjects, in abstaining, with every necessary reservation, from similar proceedings until a satisfactory arrangement shall have taken place.

I request, &c.
(Signed) ALBERT GALLATIN.

Mr. Stratford Canning to Mr. G. Canning.—(Received May 7.)

Sir,

London, May 6, 1824.

AGREEABLY to your directions communicated to me this evening by Mr. Planta, I have examined with attention the note and accompanying documents submitted to you by the American Envoy under date of the 3rd instant. It appears from these papers that the Government of the United States desire the intervention of Great Britain, in order to obtain for their citizens the actual enjoyment of the right to take fish on the western coast of Newfoundland, in virtue of their Convention with His Majesty of October, 1818; the Government of France denying that right, and the armed vessels of France being described as having interfered by force to prevent the exercise of it by American fishermen.

In considering the subject-matter of Mr. Rush's statement and the annexed correspondence between Mr. Gallatin and Viscount Chateaubriand, two leading points present themselves for inquiry, viz., the extent (as far as relates to the question raised by France) of the American claim upon Great Britain, and, secondly, the nature of the French pretension to an exclusive right of fishing on the western coast of Newfoundland.

The former of these questions may be answered by a reference to the terms of the Convention already named. The first Article of that instrument stipulates that "the inhabitants of the United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on . . . the western and northern coasts of Newfoundland from Cape Ray to the Quirpon Islands."

It is obvious from these expressions that whatever right to take fish is enjoyed by British subjects on the western coast of Newfoundland, the same is to be equally enjoyed by the citizens of the United States in so far as depends on the consent and authority of the British Government. It follows that within the jurisdiction of His Majesty, as Sovereign of Newfoundland, the same local protection which secures to British subjects the peaceable exercise of their fishing rights on the coast ought also to be extended to the citizens of the United States, though it does not appear that any engagement amounting to a granting of that right, in the proper sense of the term, has ever been contracted towards them by the Crown of Great Britain.

The second point of inquiry, if viewed only in connection with the correspondence presented by Mr. Rush, appears to admit of a plain and conclusive answer. The pretension advanced by Viscount Chateaubriand, whatever be the grounds on which it virtually rests, is not brought openly to bear against the rights of the British, but solely against those of the United States. It is true that the French Minister has endeavoured to establish that pretension on grounds independent of the actual validity of Treaties at any time subsisting between the United States and France; but this argument will be found to stop short of Great Britain, amounting only in substance to an exclusion of the United States from any participation in the disputed privilege, in consequence of their having recognized, to their own prejudice, the claim of France in the full extent attached to that claim by the French Government, and having thereby incapacitated themselves from reaping any benefit as to the western coast of Newfoundland, except by consent of France, from their subsequent agreement with Great Britain. The argument of M. de Chateaubriand is, in fact, an argument *ad verecundiam*. The sum of it is this: Admitting that the Treaties by which the American Government bound itself to recognize and respect the right alleged by France are no longer in force, the just and powerful reasons which formerly prevailed to obtain from the American Government a recognition of the right, and on which the Treaty stipulations were grounded, ought, nevertheless, to operate on the conduct of that Government with equal force at the present period.

If this be a correct view of the matter, it remains for the American Government to prove its title to the intervention of Great Britain, by showing how that title is to be reconciled with the disqualification resulting from its own anterior engagements with France, engagements to which Great Britain is no party, and the very basis of which was, in truth, hostility to her power.

But there is another case to be provided for. The claim of France to take fish on the western coast of Newfoundland may turn out to be exclusive with respect to Great Britain, as well as to the United States. As to how far it may be just and necessary for Great Britain to admit, or possible for France to make good, such a pretension in virtue of Treaties, I must take the liberty of referring you to the Report No. 7, addressed

to you on the 15th ultimo by Mr Huskisson and myself. Whatever information we were able to collect on this branch of the subject is substantially contained in that statement.

In the event of the supposed claim being either at once admitted, or fairly substantiated, in such manner as to exclude the British no less than the American fishermen from the limits assigned to France, it is not improbable that His Majesty's Ministers may feel themselves bound in equity to allow the American an equivalent in some other quarter, unless they can prevail on France to waive her extreme right, and to consent to their participating henceforward in the west-coast fisheries of Newfoundland. It is not to be imagined that the British Plenipotentiaries, in framing the Convention of 1818, could have meant to concede, in return for concessions made by America, a privilege already made over *in toto* to another Power, even to the exclusion of British subjects; though it is not impossible that the clause relating to the western coast of Newfoundland may have been insisted with a knowledge of the French claim, and intended only to have an eventual and contingent effect.

Supposing that doubts were entertained by Her Majesty's Ministers as to the real character of the French title, notwithstanding the conviction of its limited nature expressed by the American Envoy at Paris, you might perhaps think it advisable, sir, for the readier satisfaction of all parties, to communicate on the subject directly with the French Government. But if, on the contrary, it be determined, according to the known merits of the case, to reject the exclusive claim of France as obligatory on the British Government, the American Minister may be entitled to expect that such determination should be made known to him.

On either supposition the rights and dignity of His Majesty's Crown would seem to require that no French officer should be allowed to exercise authority over the citizens of the United States while engaged under Treaty with Great Britain in fishing within the limits of His Majesty's exclusive jurisdiction, as Sovereign of the Island of Newfoundland.

Recurring, however, to the correspondence between Viscount Chateaubriand and Mr. Gallatin, it still remains to be seen whether it be the intention of the French Government to maintain an exclusive claim against Great Britain, as well as against the United States; and while this uncertainty prevails, and the fisheries in question are practically open to British subjects, His Majesty's Government may not feel themselves called upon to originate a discussion on the subject with France, but deem it sufficient, in the first instance, to issue such orders to the authorities at Newfoundland as may secure a proper degree of protection to the American, in common with the British fishermen, within the limits of His Majesty's peculiar jurisdiction.

You will probably be of opinion that the conflicting claims of France and the United States, however to be regretted as sources of disagreement between the Powers in friendship with His Majesty, can only be decided between the parties themselves.

I have, &c.

(Signed) STRATFORD CANNING.

No. 82.

Mr. Addington to Mr. G. Canning.—(Received November 8.)

(No. 48.)

Sir,

Washington, October 12, 1824.

PRIOR to the departure of Mr. Adams from the capital at the beginning of last month, he informed me that, during his absence, Mr. Brent, the chief clerk of the Department of State, would be instructed to communicate to me a packet of papers relative to the seizure of several American fishing vessels in the Bay of Fundy in the course of the summer by the Commander of His Majesty's ship "Dotterel," in violation, as it was alleged, of the Convention of 1818.

These documents, accompanied by notes from Mr. Brent, couched in a very moderate tone, I received severally on the 8th and 21st ultimo, with a request that I would interpose my good offices in procuring the correction of the abuses complained of.

Meantime I had received from Rear-Admiral Lake, under date of the September a counter statement of the same occurrences, representing the Americans to be in fault, and by the illegality of their conduct, to have justly exposed their vessels to seizure. At the same time, he preferred a formal complaint against some American citizens for an act of violence committed by them on the master and boat's crew of

the "Dotterel," while executing their public duties in bringing into port some vessels detained by them for a violation of the terms of the Convention of 1818. It appears, in fact, that a regular, and evidently pre-determined, rescue of those vessels from the hands of the British was effected by above a hundred armed Americans in the Bay of Fundy.

Admiral Lake informed me in the same letter that Captain Hoare of His Majesty's sloop "Dotterel," having, subsequently to this outrage, found some of the persons who had been concerned in it, on board of different vessels which he fell in with in the course of his cruizes on those seas, had thought proper to take them prisoners; and that as such Admiral Lake had authorized him to keep them until he should hear from me.

I inclose herewith the whole mass of papers in which the proceedings on both sides are detailed, consisting of Mr. Brent's two letters with their several inclosures, as well as Admiral Lake's letter to me, covering Captain Hoare's correspondence.

In addition, I have the honour to inclose two letters which I had addressed in reply to Admiral Lake, and one to the American Secretary of State on the 3rd and 5th instant.

In one of the former I took the liberty of recommending that the men detained on board the "Dotterel" should be forthwith delivered over for trial to the competent tribunals of their own country, at the same time, stating that a demand for their punishment would be made by me at the hands of the American Government. In the other, I urged the expediency of instituting an impartial investigation into the circumstances attending the several seizures which had been made by the Commander of the "Dotterel," in order that their legality or illegality might be clearly ascertained, and the sufferers indemnified, or the falsity of their charges demonstrated to the American Government, according as the evidence might turn out.

In my letter to Mr. Adams I thought it my duty to demand that measures should be immediately taken by the American Government for the correction of the outrage reported to me by Admiral Lake, by the infliction of punishment on the offenders. At the same time, I assured the Secretary of State of my desire to see strict justice done to all parties; for the accomplishment of which object I informed him that I had recommended that the whole subject should be thoroughly and fairly sifted by His Majesty's Naval Commander, and expressed my hope that a similar scrutiny might be ordered on the part of this Government.

I trust the language which I have held in both instances will meet the approbation of His Majesty's Government. In delivering the opinion which I have expressed on the subject of the prisoners detained by the "Dotterel," I will not deny that I felt a momentary embarrassment, as it seemed to me to be a matter involving points of some legal nicety, and not easy for a mere diplomatist to decide upon, except by treating it according to what he might consider rules of political expediency.

In so doing I have endeavoured to blend firmness with conciliation.

Both the President and Secretary of State being but just returned to the capital, no time has yet been at their disposal for reading the documents submitted to them. The case of the rescue had, however, been already forwarded by Mr. Brent to the District Attorney of the State within the jurisdiction of which the outrage took place.

I am, &c.

(Signed) H. U. ADDINGTON.

No. 83.

Sir C. Robinson to Mr. G. Canning.—(Received November 19.)

Sir,

Doctors' Commons, November 19, 1824.

I AM honoured with your commands signified in Mr. Planta's letter of the 16th instant, transmitting a letter and its inclosures, received from the Admiralty, respecting an outrage committed by some citizens of the United States on an officer and some men belonging to His Majesty's sloop "Dotterel" in the Bay of Fundy, and you are pleased to request that I will take the same into consideration, and report my opinion thereupon.

In obedience to your commands I have the honour to report that the Treaty of the 30th October, 1818, stipulated "That American fishermen shall not take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the previous

exceptions. But they may enter such bays or harbours for shelter, and repairing damages, and obtaining wood and water."

In the present case the "Reindeer" and "Ruby" were taken in Fox Island Harbour, in the Island of Grand Manam, but it is not stated in any of the letters from Admiral Lake, or Captain Hoare, that they were actually employed in fishing. In the Memorial in the papers transmitted by Mr. Addington, it is asserted that the "Ruby" and the "Reindeer" went to Fox Island Harbour for wood and water, and were immediately seized.

Admiral Lake intimates in his letter to Mr. Croker of the 17th October, 1824, that he had "called upon Captain Hoare for a full explanation of the whole circumstances."

In the Memorial above referred to, it is stated also that the "Dotterel" was cruising under orders to seize, and send into St. Andrew, all American fishermen found within three miles of the Island of Grand Manam; and in another Memorial, in the same papers, "the place in which the American vessels have been molested is described to be ground in the Bay of Fundy, common to both countries."

I am at a loss to understand how Two Island Harbour and the fishery of Grand Manam can be considered as common to both countries, as the Treaty appears to exclude American vessels from fishing within those limits. These are points, however, on which it will be necessary that more accurate and precise information should be obtained before any final opinion can be formed on the subject of this reference. And I humbly suggest whether it may not be advisable to request to be furnished by the Admiralty with a copy of the instructions under which the "Dotterel" was cruising, and to wait till the particular and circumstantial statement from Captain Hoare shall be transmitted by Admiral Lake.

The act of violence and rescue committed by the American boats appears to have been unwarranted, since certain exclusive limits have been acknowledged on the part of America, which the British navy may justly be employed to protect. And if there should have been any mistake as to boundary, or some irregularity in the exercise of this authority, it was a matter to be redressed by application to the British Government, or by claims in the courts of justice, instead of being made the cause of individual hostility, which never can be contemplated by Governments without great disapprobation, and the most serious apprehension of the consequences that may ensue from such lawless practices. And I think you may with propriety decline to interfere with respect to the detained vessels till satisfactory notice shall have been taken of the violence committed in this instance by the American citizens.

The "Madison" has been released, and probably the "Pilgrim," and also the American seamen who were taken at sea as parties concerned in the rescue. The other vessels which are stated to have been unlawfully molested by the British cruiser, in the Memorial of the American merchants, are not mentioned in the letters of Admiral Lake.

I have, &c.
(Signed) CHRIST. ROBINSON.

No. 84.

Mr. Addington to Mr. G. Canning.—(Received February 13.)

(No. 7.)

Sir,

Washington, January 3, 1825.

THINKING it might be agreeable to His Majesty's Government to be made acquainted with the determination of that of the United States on the subject of the further prosecution of the negotiations entered upon last year between the two countries, I ascertained a few days since, from the American Secretary of State, that there was no intention on the part of the President to pursue those negotiations any further for the present. That magistrate would be too much occupied, Mr. Adams said, during the remainder of his time in winding up his public administration, besides which Mr. Rush was on the eve of returning to his own country, nor would a successor be appointed to him by the present President.

The negotiations might, therefore, be considered as suspended for the present.

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

Mr. Addington to Mr. G. Canning.— (Received April 23.)

(No. 21.)

Sir,

Washington, March 5, 1825.

IN my despatch No. 48 of last year I had the honour to transmit to you copies of a correspondence which had taken place between the American Secretary of State, Rear-Admiral Lake; and myself, relative to the detention of several American fishing vessels in the Bay of Fundy by His Majesty's sloop "Dotterel," and the forcible recapture of two of them by some armed Americans from Eastport in the State of Maine.

In consequence of the application which I then stated myself to have made to Admiral Lake requesting him to cause the matter to be investigated, in order to clear the British Officers from the charge adduced against them by the American authorities, he took measures for effecting that object, and communicated to me the result of his inquiries in a letter, which I received towards the close of January last.

The vindication of the conduct of the British officers, having, after an attentive perusal of that letter and the depositions which accompanied it, appeared to me perfectly satisfactory, I addressed a letter on the 19th ultimo in that sense to Mr. Adams, in reply to those, which I had received from the Department of State, in which the complaints had been first proposed against Captain Wood and his men.

All these papers having been recently laid before the House of Representatives, in pursuance of a call of the House of the 1st ultimo, I inclose printed copies of them herewith for your information. In addition to the correspondence above alluded to you will therein find copies of depositions taken on oath by order of this Government, in compliance with an application from me, before the District Attorney of the State of Maine, relative to the recapture by armed Americans of two American fishing schooners detained by the "Dotterel."

These depositions are diametrically opposed to those of the officers and men of the "Dotterel" engaged in that business, and render it therefore impossible, without further inquiry, to pronounce upon the legality or illegality of the original capture of those vessels. But this not does appear to me to affect in any way the case of the recapture of them by an armed American force, which was manifestly contrary to all right and reason.

This view of the matter I propose again to submit in temperate language to this Government as soon as I shall have received from this Department of State official communication of the papers above referred to.

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

Inclosure in No. 85.

Mr. Addington to Mr. Adams.

Sir,

Washington, February 19, 1825.

ON the 8th and 21st September last, I had the honour of receiving from the Department of State, two letters in which my good offices were requested, in behalf of certain individuals of the state of Maine, engaged in the fishing trade, who desired redress and reparation for injury done them, by the seizure of their vessels by His Majesty's sloop "Dotterel," while employed in cruising on the coasts of His Majesty's North American possessions.

I informed you, Sir, in reply to these communications, that I should forthwith address an application to the British Naval Commander-in-chief, on the North American station, recommending that a full and impartial investigation should be instituted, into the various cases which formed the grounds of complaint on the part of the American Government.

I have the honour to transmit to you herewith, copies of a correspondence which took place, in consequence of my application, between Captain Hoare, commanding His Majesty's sloop "Dotterel," and Rear-Admiral Lake, in reference to the cases set forth in your letters, above mentioned. The depositions of the officers and men concerned in the capture of the "Rebecca," "Ruby," "Reindeer," "William," "Galeno," "Pilgrim," "Hero," vessels therein enumerated, are also annexed.

By a perusal of these documents it will, I trust, Sir, more conclusively appear to you that the complainants have no just ground of accusation, against the officers of the "Dotterel," nor are entitled to reparation for the loss they have sustained. That, on the contrary, they rendered themselves, by the wilful irregularity of their own conduct, justly obnoxious to the severity exercised against them, having been taken, some *flagrante delicto*, and others in such a position and under such circumstances as rendered it absolutely impossible, that they could have had any other intention than that of pursuing their avocations as fishermen, within the lines laid down by Treaty, as forming the boundaries, within which such pursuit was indicated to them.

With regard to the charge preferred against Captain Hoare of his having converted detained American vessels, prior to their adjudication in the courts, into tenders for assisting him in his operations against the vessels of the same country, I have only to observe that that officer broadly and in the most explicit terms, denies ever having committed or authorized one such act. And in respect to the other accusation, adduced by the complainants, of maltreatment by the British officers of those persons whose vessels had been detained, I trust, that a perusal of the inclosed papers will make it equally clear to you, that that charge is entirely unfounded.

I cannot but apprehend, Sir, that the acrimony with which the proceedings of Captain Hoare have been viewed by the citizens of the state of Maine, employed in the fishing trade, on the British North American coasts, may be justly ascribed to the circumstances of the recent substitution of vigilance, on the part of British cruizers, for the laxity which appears to have prevailed heretofore in guarding those coasts from the intrusions of foreign fishermen and smugglers; and I doubt not that, if those persons could be prevailed upon to confine themselves within the limits prescribed to them by Treaty, no cause of dissension or complaint would ever arise between the individuals or vessels of the two nations.

It remains for me to observe that, in one case, in which, by the ignorance of the midshipman employed in the service, the territory of the United States had been violated by the pursuit and seizure of an American vessel within the American boundaries, Captain Hoare made all the reparation in his power for his officer's misconduct, by delivering up to the Americans the boat which had been detained and paying all the expenses incident to her detention.

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

No. 86.

Mr. Addington to Mr. G. Canning.--(Received August 12.)

(No. 40.)

Sir,

Washington, July 2, 1825.

IN reference to several of my preceding despatches, in which I have reported or adverted to the subject of an assault, made last summer in the Bay of Fundy, by some armed Americans from Eastport on some of the officers and men of His Majesty's sloop "Dotterel," while in discharge of their duties in conveying into port some detained American fishing-vessels, I have the honour to inform you that, prior to the departure of the Secretary of State from the capital, I several times recalled that subject to his consideration.

Finding, however, that he was almost overwhelmed with business, in consequence of the number of Ministers for whom he had to draw up instructions, and having also received an assurance from him that the general question of the fisheries would form one point of the instructions relative to the negotiations intrusted to the charge of Mr. Rufus King, at which time the dispute above alluded to might, Mr. Clay said, be taken into consideration, I have deliberately abstained hitherto from insisting afresh on the reparation which I consider due to Great Britain for the outrage offered to her flag.

In addition to the consideration above mentioned, it has not failed to strike me that the depositions made on either side, which I have already transmitted to you, annexed to my No. 36, are diametrically opposed to each other, and that that of the Americans is on oath, while ours is not, which would of itself constitute a strong position for this Government to occupy, should it be disposed to object to the prosecution of the offenders.

Under all these circumstances, I hope the line which I have taken, of suspending

for the present any further official representation on the subject, may be approved by His Majesty's Government.

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

No. 87.

Mr. G. Canning to Mr. Vaughan.

(No. 4.)

Sir,

Foreign Office, September 12, 1825.

YOU will find in the archives of your Mission a correspondence which passed during the last and the present year between Mr. Addington, Mr. Adams, and Rear-Admiral Lake on the subject of the detention of several American fishing-vessels in the Bay of Fundy by His Majesty's sloop "Dotterel," and of the forcible recapture of two of them by some armed Americans, from Eastport, on the State of Maine.

I have to desire that you will read that correspondence, and furnish me with a report thereupon.

I am, &c.
(Signed) GEORGE CANNING.

No. 88.

Mr. Vaughan to Mr. G. Canning.—(Received December 14.)

(No. 15.)

Sir,

Washington, October 31, 1825.

I HAVE the honour to acknowledge the receipt, on the 29th October, of your despatch No. 4, directing me to read over and to furnish you with a report of the correspondence in the archives of this Mission, which passed during the last and present year between Mr. Addington, Mr. Adams, and Rear-Admiral Lake, on the subject of the detention of several American fishing-vessels in the Bay of Fundy by His Majesty's sloop "Dotterel," and of the forcible recapture of two of them by some armed Americans from Eastport in the State of Maine.

I have lost no time in referring to the above mentioned correspondence, and I apprehend that I shall best comply with the instructions which have been sent to me by recapitulating the contents of that correspondence, as it will best explain the state of the discussion between the two Governments upon the subject of the fisheries as carried on in the Bay of Fundy.

It appears that the Under-Secretary of State, Mr. Brent (in the absence of Mr. Adams, and by his direction), addressed two notes, dated the 8th and 21st September, 1824, to Mr. Addington, His Majesty's Chargé d'Affaires, inclosing several memorials and attestations of citizens of the State of Maine, complaining of the injury which they had suffered from the interruption which the British ship "Dotterel," commanded by Captain Hoare, had given to their accustomed and lawful employment of taking and curing fish in the Bay of Fundy.

The substance of the complaints to be found in the papers inclosed in the notes of the American Minister is as follows:—

That nine vessels had been taken by the "Dotterel;" that its barge had carried off from near the wharf at Eastport two boats laden with flour; that the British cruizers had notified their determination to seize every American vessel which they should find within three miles of the island of Grand Manan, or of any part of the coast of His Britannic Majesty's possessions; that the American vessel "Galeon" had been captured, valued at 1,500 dollars; that a vessel, called the "Hero," had been captured off the banks of Manan, when not within six from to nine miles of the shore; that an American vessel had been employed as a cruizer, previously to adjudication as a prize.

In the papers transmitted by the Government of the United States the point is not always precisely specified where the capture of the fishing vessels took place, but it is stated generally that the vessels were captured upon the coast of the British Possessions, or in or near the harbour of Manan, to which they had been obliged to resort from a want of wood and water.

By the 1st Article of the Convention of 1818 between Great Britain and the

United States, after defining accurately the boundaries within which it shall be permitted to the Americans to fish upon the banks of Newfoundland, it is agreed that the United States "renounce for ever any liberty heretofore enjoyed, or claimed, to take, to dry, or to cure fish on or within three marine miles of any of the coasts, bays, or creeks, or harbours of His Majesty's dominions in America, not included within the above-mentioned limits on the Banks of Newfoundland, provided the American fishermen shall be admitted to enter such bays, harbours, &c., for repairing damages, purchasing wood, and obtaining water."

Previously to Mr. Addington having received the papers from the Government of the United States, containing the grounds of complaint which I have already recapitulated, he had received from Rear-Admiral Lake, in a letter dated the 9th September, 1824, a statement of the capture by his cruizer, the "Dotterel," of two American vessels, the "Reindeer" and "Rugby," but which vessels had been subsequently recaptured by an armed American party off the coast of the State of Maine. These two vessels had been taken in Two Island Harbour in Manan, and, upon the approach of the "Dotterel," they were lashed together, for the purpose of making a better resistance, but they were boarded and taken possession of. On their way to St. Andrew's they were forcibly rescued by a party of 100 armed men from the coast of Maine, the majority of whom, it is asserted, were militiamen, under the command of a Colonel of Militia, Mr. Howard, of Eastport.

Rear-Admiral Lake called upon Mr. Addington to represent this outrage officially to the Government of the United States, and to demand redress.

It appears, therefore, that Mr. Addington had to acknowledge at the same time to the American Government the receipt of the complaints of the citizens of Maine against our cruizers in the Bay of Fundy, and to demand satisfaction for the violent rescue of two captured vessels by the citizens of the same State. This was done in a note addressed to the American Government on the 5th October, 1824, a copy of which was transmitted to His Majesty's Government in Mr. Addington's No. 48 of that year. Mr. Addington also announced to the Government of the United States that he should transmit the complaints which he had received respecting the conduct of British cruizers in the Bay of Fundy to the commanding officer upon that station, in order that they might be fully investigated.

In a note dated 19th of February of the present year, Mr. Addington was enabled to submit to the American Government, in the form of depositions of officers and seamen, received from Rear-Admiral Lake, a complete refutation of every complaint brought forward by the Americans against His Majesty's cruizers. The papers transmitted to the American Secretary of State by Mr. Addington were subsequently printed and laid before the Congress on the 26th February, 1825, and a copy was sent home by Mr. Addington in his despatch No. 21 of that year.

It appears by the voluminous correspondence of Rear-Admiral Lake with Mr. Addington that a constant pretext for entering the bays and harbours of His Majesty's Possessions in the Bay of Fundy has been furnished by that clause in the 1st Article of the Convention of 1818, which secured to them the privilege of repairing damages therein, and of procuring wood and water. Repeated testimony is afforded in the depositions furnished by the Rear-Admiral that the want of wood and water has been often alleged when it did not exist, or when the want has been occasioned expressly by a scanty supply having been taken on board at the commencement of the voyage, in order that no excuse might not be wanting for entering the harbour. It appears that previously to 1824 our cruizers in the Bay of Fundy did not exert the same vigilance to secure the interests of the British fishermen in that quarter, and those interests had consequently suffered from the encroachment of the Americans, and from a practice prevailing with them of throwing overboard at their anchorage the offal of fish, which had the effect of driving the fish from those quarters.

It is not necessary, I presume, to enter into the particulars of every complaint refuted by the Rear-Admiral, it will be sufficient to observe that a reference to his correspondence furnishes I think a satisfactory answer to all the complaints I have enumerated as brought forward by the American Government.

The question with regard to the fisheries in the Bay of Fundy, which has been agitated at Washington during the residence of Mr. Addington, divides itself into two points. The complaints of the Americans of the unjust capture of their fishing-boats; and the demands on our part of redress for the outrage committed by a party of armed Americans, who rescued two vessels on the coast of Maine, which had been captured in an harbour off Manan Island, where the Americans had renounced the right of fishing within three miles of the coast by Treaty.

With regard to the first point, it appears to me that full and satisfactory investigation of all the complaints made by the Americans took place under the directions of Rear-Admiral Lake, and such evidence was adduced in refutation of charges brought against British cruisers, that I apprehend that the papers laid before Congress must have satisfied the Americans, as I do not find that their complaints have been renewed.

The reparation demanded for the outrage of rescuing by an armed force the captured American vessels the "Reindeer" and "Ruby," has not yet been granted.

Mr. Addington has stated his reasons in his despatches Nos. 21 and 40 of this year for suspending the renewal of his demand for redress. In one of those despatches he alludes to a paper containing depositions taken on oath by the American authorities, which influenced his opinion, and which depositions I cannot find in the archives, as I believe that they were not officially reported to him, though it appears that a copy, as communicated to Congress, was sent to the Foreign Office in Mr. Addington's No. 21 of this year. I am inclined not to renew remonstrances with this Government upon the subject of that outrage until I am instructed so to do by His Majesty's Government.

I shall be happy to know that I have complied with my instructions to read and report upon that portion of correspondence in the archives of this Mission, by transmitting the answer contained in this despatch.

I have, &c.
(Signed) CHAS. B. VAUGHAN.

No. 89.

Mr. G. Canning to Mr. Vaughan.

(No. 8.)
Sir,

Foreign Office, February 8, 1826.

REFERRING to your despatch No. 15, respecting the detention of American fishing-vessels in the bay of Fundy, I think it expedient in the present state of that question, as detailed in your despatch, to direct you to endeavour to procure from the American Government an acknowledgment of the impropriety of the conduct of the persons concerned in the forcible recapture of the "Reindeer" and "Ruby;" at the same time waiving all further demand for their punishment, on the ground of the act being apparently the result of unpremeditated violence.

You will at the same time assure the American Government, in reference to their counter-demand for redress, that the proper Colonial Tribunals will decide, if they have not already decided, on the merits of each case brought before them; and that the Government of the United States may depend upon impartial justice being rendered to all parties. As an earnest thereof, you may adduce the instance of the vessel the "Charles," which, though legally detained, had, after her detention been illegally employed by her captors, and was consequently restored.

I am, &c.
(Signed) GEORGE CANNING.

No. 90.

Mr. Vaughan to Mr. G. Canning.—(Received June 7.)

(No. 33.)
Sir;

Washington, May 1, 1826.

IN consequence of the instructions which I have received in your despatch No. 8, I have endeavoured to procure from the American Government an acknowledgment of the impropriety of the conduct of the persons concerned in the forcible recapture off the coast of the State of Maine last year of the fishing-vessels called the "Reindeer" and "Ruby," and I have the honour to inclose a copy of the note which I have addressed to Mr. Clay upon the subject.

I have, &c.
(Signed) CHAS. R. VAUGHAN

Inclosure in No. 90.

Mr. Vaughan to Mr. Clay.

Sir,

Washington, April 29, 1826.

ON the 5th October, 1824, Mr. Addington, His Majesty's Chargé d'Affaires, addressed a note to the Government of the United States, in which he stated that an outrage had been committed by some armed citizens of the State of Maine, in forcibly rescuing off Eastport two American vessels, the "Reindeer" and "Ruby" which had been captured by Her Majesty's cruisers while fishing in the Bay of Fundy, in places where the United States had by Treaty renounced the right so to do.

No answer having been given by the Government of the United States to the remonstrance made by Mr. Addington, I am directed to ask for an acknowledgment of the impropriety of the conduct of the persons concerned in the recapture of the above-mentioned vessels.

In all complaints which the Government of the United States has had occasion to bring forward against Her Majesty's cruisers employed in the protection of the British fisheries in the Bay of Fundy, the fullest investigation into every case of alleged misconduct has been instituted by the British Agents, and the reports of the commanding officers have been laid before the American Government. If it has been necessary to call for the judgment of the Colonial Tribunals, prompt and impartial justice has been administered, in proof of which I have only to refer you to the case of the American ship "Charles," which had been legally detained, but having been illegally employed by her captors after her detention, was restored.

I ask with confidence, on the part of His Majesty's Government, for an acknowledgment of the improper conduct of the persons engaged in the forcible recapture of the "Reindeer" and "Ruby," as the British Government is disposed to waive all demand for the punishment of the offenders, as the act resulted apparently from unpremeditated violence.

I have, &c.

(Signed) CHAS. R. VAUGHAN.

No. 91.

The Secretary to the Admiralty to Mr. Backhouse.—(Received December 17.)

Sir,

Admiralty Office, December 17, 1827.

I AM commanded by His Royal Highness the Lord High Admiral to transmit to you, for the information of the Earl of Dudley, copies of a letter and its inclosures from Rear-Admiral Sir Charles Ogle, commanding on the North American Station, relative to the practice of American fishermen, to dry and cure (technically called making) their fish on the Magdalen Islands; and I am to request that you will observe to Lord Dudley, that by former reports the numbers of the Americans engaged in that practice were so trifling that it was not thought necessary to make any representation on the subject to His Majesty's Secretary of State, but that they now appear to be increasing to so great a degree, that his Lordship will probably deem it expedient to furnish His Royal Highness with instructions for the future guidance of the Admiral.

I am, &c.

(Signed) JOHN BARROW.

Inclosure 1 in No. 91.

Rear-Admiral Sir C. Ogle to the Secretary to the Admiralty.

Sir,

"Hussar," in Halifax Harbour, November 24, 1827.

BE pleased to acquaint His Royal Highness the Lord High Admiral, that as soon as I could avail myself of the services of the "Alligator," I directed Captain Canning to proceed into the Gulf of St. Lawrence, to inquire into some complaints made by the Sub-Collector of the Magdalen Islands, and to ascertain, as the fishing season was then nearly over, the state of things in the Gulf.

The report of Captain Canning, herewith inclosed, says, that "nearly 400 Americans have dried their fish on the Magdalen Islands this year, paying 10 per cent. to the

inhabitants, chiefly in goods, without duty; and an American man-of-war schooner anchored in the roadstead for two or three days, for the purpose of inspecting their fishermen."

I learn that the Americans consider they have a right to do this, under the terms of the Convention of 20th October, 1818, contending, that, in the spirit of that Convention, the Magdalen Islands are on the southern coast of Newfoundland; and that a previous arrangement with their inhabitants is all that is required to make it lawful for them to dry and cure (or technically speaking) to make their fish thereon.

Upon a reference to the papers left by my predecessors, which have been put into the hands of the officers employed from time to time in the Gulf of St. Lawrence. I observe, that this subject was brought under the notice of the Lords of the Admiralty in a letter from Rear-Admiral Fahie, dated the 23th of July, 1823, who writes:—

"I, therefore, beg to call their Lordship's attention to this construction on the part of the Americans, and, indeed, the inhabitants of the Magdalen Islands also, that, should it not be admitted by His Majesty's Government, the practice may be stopped in this early stage of it."

As no instructions were sent to the Rear Admiral in reply, the Americans and the inhabitants of these islands who designate the practice herein mentioned, as one "much to the advantage of the settlers," have continued, reciprocally, to enjoy the benefit of their construction of the Convention; until the American vessels have increased from fifteen (the number when Rear-Admiral Fahie wrote) to nearly 400: employing upwards of 3,000 men.

Viewing the subject as one of importance, greatly increased by the circumstance of the American fishing vessels in the Gulf of St. Lawrence this year amounting to between 1,600 and 1,700, with crews averaging from seven to ten men, I feel it my duty to bring the same before His Royal Highness; requesting, that His Royal Highness will be pleased to favour me with instructions, before the commencement of the next fishing season, whether I am to admit the aforesaid construction of the Convention, or confine the Americans to taking fish only on the shores of the Magdalen Islands.

Although my own opinion is, that the Americans have no right to make their fish on the Magdalen Islands, yet they have exercised this freedom so long, that I do not feel myself authorized to give the Captains of the Squadron peremptory orders to disturb them, particularly as the Lords of the Admiralty made no reply to the representation of Rear-Admiral Fahie upon the subject.

I am, &c.
(Signed) CHAS. OGLE.

Inclosure 2 in No. 91.

Captain Canning to Rear-Admiral Sir C. Ogle.

Sir,

"Alligator," Halifax, November 9, 1827.

IN compliance with your orders, I have the honour to inform you that the night after I left this place, I anchored off Canso Lighthouse, and the next day visited the lighthouse and the Fox Islands. The Fox Islands I found had been perfectly quiet for some time, and the broils which had taken place seem to have been very much exaggerated, and only to have been such as must always occur in a place where 3,000 men (for that I understand is the number congregated there in the fishing season) of different nations, English, Irish, and French, meet together without any legal authority to control them. The priest who has lately been sent there seems to have great influence, and will, I have no doubt, be the means of preserving tranquillity. I met the "Chebucto" as I was coming away, and Captain Potter informed me that they had been perfectly quiet since he had been there. The lighthouse which I visited the same day appears to be kept in perfect order, and very clean; by the persons who are entrusted with it, but the light is very bad, and cannot, I should think, be seen far enough, as it consists only of lamps with eight common cotton wicks in each, without any reflectors. There is no register kept at the lighthouse of the American fishing-vessels, which enter the Gulf of St. Lawrence that can be depended upon, as many pass in the night, and the greater number of those which go to the Labrador, go round Cape North; but from the best accounts which I could get there have been from 1,600 to 1,700 in the Gulf this year, with crews averaging from seven to ten men. They nearly monopolize the Labrador coast, and have the greatest part of the Bradelle

and Orphan Banks. From Canso I proceeded round Cape Breton, the winds being always westerly, to the Magdalen Islands, calling at Sydney on the way.

At the Magdalen Islands I heard great complaints that the French and American fishermen had taken all the best fish away this year, very much to the prejudice of the revenue, although to the advantage of the lawless inhabitants, who thereby receive French and American goods without paying any duty, as the sub-Collector has no power of enforcing his demands, which are openly set at defiance, and his own life threatened whenever he attempts to execute his duty. The Civil Law in these islands is in perfect abeyance, as there is only one magistrate, whose authority is doubtful, as he has, since receiving his warrant, changed his religion to the Roman Catholic, and has been suspended. The only remedy that I can see for these evils would be the having a small armed vessel frequently to visit the islands during the summer. Nearly 400 Americans have dried their fish on the Magdalen Islands this year, paying 10 per cent. to the inhabitants, chiefly in goods without duty; and an American man-of-war schooner anchored in the roadstead for two or three days for the purpose of inspecting their fishermen. I learnt here that the fishing season is entirely over on the 28th of September, that being the day to which all the fishermen are hired, and none continuing above a week after it. I therefore intended to have gone to Picton from the islands, but meeting with strong contrary winds and currents, I went to Antigonish, where the Court was sitting, and from thence to Port Hood, from whence after remaining a few days, and finding the season was too far advanced for it to be useful or prudent for me to remain longer in the gulf, I went to Picton for letters, and came direct from there to this place. The cruize being over I return the documents forwarded me by Rear-Admiral Lake, and have, &c.

(Signed) W. P. CANNING.

No. 92.

Mr. Stanley to Mr. Backhouse.—(Received January 1, 1828.)

Sir,

Downing Street, December 31, 1827.

I HAVE laid before Mr. Secretary Huskisson your letter of the 19th instant, together with its inclosures, relative to the practice resorted to by American fishermen of drying and curing their fish upon the Magdalen Islands, which practice is said to have increased of late years to a considerable extent; and I am directed, in reply, to transmit to you a copy of the Minute of the Lords of the Committee of Privy Council for Trade, dated the 26th of April, and communicated to the Earl of Dalhousie, for his Lordship's information and guidance.

The only difficulty appears to be whether the construction of the Treaty claimed by the American fishermen can be admitted or not; and upon this point it might be desirable to be furnished with legal opinion, although it is hardly possible to imagine that it could have been intended by the Convention of 1818, and by the Act of 59 Geo. III, c. 38, to give to the American the right of drying fish upon the Magdalen Islands, under the general terms of "harbours and creeks on the southern coast of Newfoundland," especially as the same instruments grant to them the right of taking fish upon the southern coast of Newfoundland, and upon the shores of the Magdalen Islands, as contradistinguished from it.

Should the construction claimed by the Americans be judged to be incorrect, Mr. Huskisson would suggest to the Earl of Dudley the expediency of furnishing His Royal Highness the Lord High Admiral with instructions to the naval officers upon the station to co-operate with the civil authorities in repressing these illegal encroachments, and of making at the same time a representation to the Government of the United States, requesting their interference with the American fishermen, and stating the measures to which it will be necessary to have recourse, unless an effectual stop is put to such encroachments for the future.

I have, &c.
(Signed) E. J. STANLEY.

Inclosure 1 in No. 92.

Mr. Lack to Mr. Horton.

*Office of Committee of Privy Council for Trade,
Whitehall, April 6, 1827.*

Sir,

IN reference to your letter of the 14th of March last, I am directed by the Lords of the Committee of Privy Council for Trade, to transmit to you the inclosed copy of their Lordship's Minute of this day's date, respecting the measures which it may be proper to adopt for the regulation and protection of the fisheries in the Gulf of St. Lawrence.

I am, &c.
(Signed) THOMAS LACK.

Inclosure 2 in No. 92.

Minute.

AT the Council Chamber, Whitehall, the 26th April, 1827.

By the Right Honourable the Lords of the Committee of Council appointed for the Consideration of all Matters Relating to Trade and Foreign Plantations.

Read. Letter from R. W. Horton, Esq., dated 14th March, inclosing a copy of a despatch from the Earl of Dalhousie, representing the necessity of speedy measures being adopted for the protection and regulation of the fishing vessels of the United States resorting to the coast of Labrador, &c.

The Lords of this Committee are surprised to find it stated by Lord Dalhousie that the only Act which he has seen, and with which the Captains of the Navy are furnished, is the Convention with the United States of 1818. That he has in vain endeavoured to ascertain the exact bounds granted by Treaty to the American fishing vessels, and that he considers the Convention above referred to, of the year 1818, as merely temporary, and now about drawing to a close.

By a simple reference to the 1st Article of the said Convention, his Lordship might have perceived that, as well the rights of fishing granted to the United States, as the renunciations to which they bind themselves, are not for a limited period, but specifically stated and agreed by both Contracting Parties to be "for ever."

It does not appear to the Lords of this Committee that either the limits described in that Article, or the renunciations made by the United States, are obscure, or of such a nature as to raise any difficulty in maintaining by the local authorities, jointly with His Majesty's naval forces, the rights and privileges of fishery, which belong exclusively to His Majesty's subjects.

From the contents of Lord Dalhousie's despatch, the Lords of this Committee are almost disposed to infer that his Lordship is not in possession either of the Act of Parliament (59 Geo. III, cap. 38) which was passed with reference to the Convention of the 20th of October, 1818, or of the Order of His Majesty in Council dated the 19th of June, 1819, or of the instructions given by the Lords Commissioners of the Admiralty to the officer commanding His Majesty's ships on the Halifax and Newfoundland station.

By a reference to the Act in question, Lord Dalhousie would at once have seen "that if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor in any other parts of His Majesty's dominions in America as aforesaid, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours, or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act, every such person so refusing or otherwise offending against this Act shall forfeit the sum of 200*l.*, to be recovered in the Superior Court of Judicature of the Island of Newfoundland, or in the Superior Court of Judicature of the Colony or settlement within or near to which such office shall be committed, or by bill, plaint, or information in any of His Majesty's Courts of Record at Westminster."

In respect to the geographical limits specified in the Convention of the 20th October, 1818, as those within which the citizens of the United States shall for ever have liberty of taking fish, those limits appear to the Lords of this Committee to be accurately defined, in so far as relates to the taking, connected with the drying and curing of fish.

But it may be right to observe to Lord Dalhousie that nothing in this Convention can be understood as implying any renunciation of the mere act of taking fish, except within three marine miles of any of the coasts, bays, or harbours of His Majesty's dominions in America, not being the coasts, bays, or harbours specified in the said Convention as those upon which the American fishermen are not precluded from exercising that right within the above distance. The question, therefore, is one of local consideration merely—whether the acts complained of as committed by the American fishermen are done within three marine miles of the bays or coasts of His Majesty's dominions not specified in the Convention. Lord Dalhousie's letter, although it states that such acts have been done along the shores of Gaspé, and the Bay of Chaleurs, does not contain specific information on this point. If the acts complained of came within the renunciation on the part of the United States, it will be competent for, as it is the duty of, the local authorities acting in concert with any naval force which may be employed in those seas for the protection of our fisheries, to take the means prescribed by the Act of Parliament to prevent such encroachments, by putting in force the penal provisions of that Act against the offending parties, either by proceedings in the Court of Admiralty, or the Common Law Courts of the settlement having jurisdiction under the laws relating to trade and navigation, by the advice of the Advocate-General or the Attorney-General of the Colonial Government.

Perhaps, however, it may be thought advisable by the Secretary of State, before any final orders are given for enforcing generally the penal provisions of the Act upon the whole of the coasts of His Majesty's possessions in North America, upon which the United States have renounced the right of fishery within three marine miles, to require more particular and specific information from Lord Dalhousie, in respect to the nature and extent of the abuses complained of by his Lordship, and also whether there are any competent courts now established for the trial of such cases of abuse, and what are the particular Courts which can conveniently exercise the jurisdiction given by the Act of Parliament.

If it should be thought right to institute this preliminary inquiry, there can be no reason why, in the meantime, directions should not be sent out to the Governor, and to the authorities acting under him, to prevent encroachments and turn away offenders, and to notify by Proclamation the prohibition intended to be maintained, in conformity to the Convention, and under the authority of the Act of Parliament, reserving the actual enforcement of the legal penalties for the further consideration and direction of the American Government.

No. 93.

Sir C. Robinson to the Earl of Dudley.—(Received January 9.)

My Lord,

Doctors' Commons, January 7, 1828.

I AM honoured with your Lordship's commands, signified in Mr. Backhouse's letter of the 3rd instant, transmitting a letter and its inclosures from the Admiralty, together with one from the Colonial Office, to which Department the letter of the Admiralty has been referred, relative to the practice resorted to by American fishermen of drying fish on the Magdalen Islands, which practice is stated to have increased of late years to a considerable extent; and your Lordship is pleased to request that I will take the same into consideration, and report my opinion thereupon, especially as to the proper construction of the Article of the Convention of the 20th of October, 1818, between Great Britain and the United States, which relates to this subject.

In obedience to your Lordship's commands I have the honour to report that the Treaty of the 20th of October, 1818, purports to settle differences which had arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America; and this claim was founded originally on the asserted enjoyment of that right or privilege by such inhabitants, in common with other parts of the British dominions before the separation between the two countries. The Treaty acknowledges the right of fishing on the shores of the Magdalen Islands and other

specified places. It allows the right of drying fish in any of the unsettled bays, harbours, and creeks of the southern parts of the coast of Newfoundland, declaring, "that it shall not be lawful for the said fishermen to dry or cure fish at such portions as shall become settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of grounds;" implying that, with such agreement, fish might be cured and dried in settled places on the said southern coast of Newfoundland, and, consequently, as it is contended, on the Magdalen Islands, being on the said southern coasts. It does not appear when these islands were settled, though they are described as being in a very rude and uncivilized state. If they had been unsettled at the time of the Treaty, the right would have been unquestionable; and considering that the privilege has been hitherto allowed, and that a stipulation of that nature in an amicable and declaratory Convention ought to be liberally and beneficially interpreted, I think the inference to be drawn from the Treaty is, that the concession would extend to the Magdalen Islands. The renunciation of the American Government that follows applies only to places not before enumerated, and, consequently, not to the Magdalen Islands. So far as the Treaty alone is considered, it allows therefore, I think, that on agreement with the inhabitants, proprietors, or possessors of the grounds, fish might be cured on the Magdalen Islands under ordinary circumstances.

The grievance alleged seems to proceed from the number of American fishing-boats resorting to these islands for the purpose of drying fish thereon, and the behaviour of the persons so employed in resisting the regulations of the Custom-house, and defying by force the constituted authorities. It is inconsistent, I conceive, with the rights of Sovereignty, and with the terms of the Treaty requiring the previous agreement of the inhabitants, proprietors, and possessors of the grounds (with whom the territorial authorities must be identified), that a privilege so limited by Treaty should be so exercised; and I am humbly of opinion that the proper redress will be to signify to the American Government the ground of complaint, and to notify that such abuses will be restrained by force, and to apply force accordingly, under and in concert with the local authorities, to repel such abuses. But, I think it would not be consistent with a liberal construction of the Treaty to exclude American fishermen altogether from drying fish on the islands so long as the accommodation contemplated in the Treaty can be afforded without prejudice to the rights of Sovereignty, and the beneficial exercise of those rights with respect to the existing state and condition of the islands.

I have, &c.

(Signed) CHRIST. ROBINSON.

P.S.—It may be proper to add that the 59th of Geo. III, c. 38, "for carrying into effect the Convention of the 20th of October, 1818," empowers His Majesty, by Order in Council, to give such directions, orders, or instructions to the Governor of Newfoundland, or to any officer or officers on that station, or to any other person or persons whomsoever, as shall or may be from time to time deemed proper and necessary to the carrying into effect the purposes of the said Convention with relation to the taking, drying, and curing of fish by the inhabitants of the United States of America in common with British subjects, within the limits set forth in the Convention.

C. R.

No. 94.

Mr. Bankhead to Viscount Palmerston.—(Received February 8.)

(No. 5.)

My Lord,

Washington, January 13, 1836.

I RECEIVED on the 5th instant a despatch from the Earl of Gosford, His Majesty's Governor-in-chief of Canada, inclosing letters from the Collectors of Customs at Quebec and Gaspé, who complain of encroachments which have been made for some time by American fishermen in the River and Gulf of St. Lawrence, on the limits prescribed by the Convention of 1818, for the regulation of the fisheries.

I have the honour to transmit to your Lordship copies of these letters, together with a note which I addressed on the 7th instant to the Secretary of State of the United States, upon the subject of them.

It will be almost impossible for this Government to control these fishermen, or to induce them to confine themselves to the boundaries allotted to them by the Convention; and I think that the measure adopted by Lord Gosford of communicating the

circumstances to the Admiral on the Halifax station, with a view to sending a cruiser to the fishing grounds during the season, will be the only means by which these encroachments can be avoided for the future.

I have, &c.
(Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 94.

The Earl of Gosford to Mr. Bankhead.

Sir,

Castle of St. Lewis, Quebec, December 26, 1835.

HAVING received complaints of encroachments by the fishermen of the United States on the limits of the British fisheries, carried on in the River and Gulf of St. Lawrence, and of the injury thereby occasioned to the British merchants and others engaged in that pursuit, I conceive it to be my duty to transmit, for your information, the inclosed copies of communications made to me by the officers of Customs here, and at Gaspé upon this subject.

I beg leave at the same time to observe that I have forwarded similar copies to His Majesty's Vice-Admiral commanding on this station.

I have, &c.
(Signed) GOSFORD.

Inclosure 2 in No. 94.

Mr. Mc Connell to Messrs. Jessop and Stewart.

Gentlemen,

Custom-House, Gaspé, September 12, 1835.

I BEG leave to acquaint you that, for several years past, numerous complaints have been made by those who carry on the fisheries on the shores of the River and Gulf of the St. Lawrence, against American fishermen who frequent the fishing banks, for having, from time to time, encroached their limits, to the serious injury and prejudice of the British merchants or planters, who have much capital involved in that precarious pursuit.

The circumstance of immense numbers of United States' fishing smacks forming a line, and ranging themselves on the banks, where the cod fish chiefly resort, has been often referred to as a principal cause why the fisheries have visibly retrograded, in as much as the waste, which is thrown overboard in the process of curing, deters the fish from seeking food at their former summer resorts; but as the Convention made in 1818, and ratified by the statute 59 Geo. III, cap. 38, secures to the Republican Government of the United States certain privileges and limits, our merchants have suffered this obstruction without complaint.

The United States' fishermen have not, however, remained content with the great indulgence afforded them by the Treaty; but, under numerous pretexts, approach our shores in direct violation of its restrictions, and, for several years past, have had the temerity to take bait even on our beaches; but in order to elucidate and convey some idea in what manner their infringements can so materially affect the success of our fisheries, it may be desirable to explain, in brief terms, the nature of the process itself, as practised here.

At the commencement of the fishing early in May, an abundant supply of caplin and herrings are obtained for bait, and when the influx of these cease, mackerel make their appearance, and our fishermen, by putting out nets or moorings have, until lately, been amply supplied with that fish, as a substitute to bait their hooks. But the United States' fishermen having adopted a new system of mackerel fishing, by feeding them under their vessels (large schooners of about 100 tons, and generally fifteen to twenty men) not only take immense quantities, but by their proximity to the shores entertain the fish from being taken in the nets; and it is now become a universal practice with them to intrude wherever they please, without reference to any given law or restriction, and I have detected, with various success, several of their vessels under such circumstances.

On a recent voyage in the Custom-house boat, down the Bay of Gaspé, I met three large schooners fishing mackerel between our shores and the fishing barges, not two miles from land, and remonstrated with the master of one, the "Bethel," of

Province Town. They were all in the act of fishing, and although I advised the said master to go off, he declined doing so, offering nothing in vindication but scurrilous contempt, and my means were inadequate to enforce any measures of redress.

As each succeeding year renders the foregoing evils more manifest, coupled with reiterated complaints by the merchants engaged in the trade here, and carrying on fishing, I have considered it my duty respectfully to crave your attention to the case, begging, in behalf of our enterprising settlers, that you will be pleased to lay the same before the Vice-Admiral, Commander-in-chief at Halifax.

For several years after my appointment to this survey we were favoured with at least annual visits of His Majesty's cruizers (and particularly during the commands of Admirals Griffiths and Sir Charles Ogle), and a knowledge of their presence or vicinity was a salutary and efficient protection to the Gaspé fisheries, but for some time past scarce any ship-of-war has called here.

It is unnecessary to remark that the Basin of Gaspé (a harbour which may rank almost the first in His Majesty's dominions) affords safe and convenient anchorage, easy of access, and capable of entertaining any ship of His Majesty's Navy, and if the Commander-in-chief would be pleased to direct a cruizer to be stationed during the summer months between Point Miscou and the entrance of the River St. Lawrence, or as far as the Island of Anticosti (including Gaspé Bay), our fishermen would be very materially protected in their pursuits.

In offering the foregoing imperfect detail, I do so as a duty devolving on me in my public capacity, with a hope that I may be excused, and under a conviction that the Vice-Admiral, Commander-in-chief, will be pleased to take the case into his high consideration, the whole of which is nevertheless most respectfully submitted by, Gentlemen, yours, &c.,

(Signed) D. McCONNELL, *Sub-Collector*.

Inclosure 3 in No. 94.

Messrs. Jessopp and Stewart to the Earl of Gosford.

May it please your Excellency,

Customs, Quebec, November 9, 1835.

WE have the honour to transmit, for your Excellency's information, copy of a letter just received from the Sub-Collector of this Department at Gaspé, with reference to certain complaints made against the United States' fishermen for encroachment on the limits, and otherwise injuring the British fisheries carried on in the Gulf of St. Lawrence, in order that your Excellency may take such measures therein as the circumstances of the case may appear to your Excellency.

We have, &c.

(Signed) HY. JESSOPP, *Collector*.
CHAS. G. STEWART, *Comptroller*.

Inclosure 4 in No. 94.

Mr. Bankhead to Mr. Forsyth.

Washington, January 6, 1836.

THE Undersigned, &c., has the honour to transmit to the Secretary of State of the United States the copy of a letter which he has received from the Earl of Gosford, His Majesty's Governor-in-chief of Canada, inclosing letters from the officers of the Customs at Quebec and at Gaspé, in which serious complaints are preferred against fishermen of the United States, for encroaching on the limits of the British fisheries carried on in the River and Gulf of St. Lawrence. These encroachments have occasioned great injury to the British merchants and others engaged in connection with those pursuits; and, moreover, they are entirely at variance with the restrictions imposed by the Convention which was concluded in the year 1818 for regulating the fisheries carried on by the two nations.

The Undersigned begs to call Mr. Forsyth's attention to the repeated acts of irregularity committed by the fishermen from the United States, detailed in the letter from the Sub-Collector of Customs at Gaspé; and he confidently hopes that measures will be taken to prevent their recurrence, and do away with the possibility of collision

taking place on the spot, which might arise should the fishermen insist in encroaching upon forbidden ground.

The Undersigned, &c.

(Signed)

CHARLES BANKHEAD.

No. 95.

Mr. Bankhead to Viscount Palmerston.—(Received February 13.)

(No. 11)

My Lord,

Washington, January 26, 1836.

IN reference to my despatch No. 5 of the 13th instant, transmitting to your Lordship the copy of a note which I addressed to the Secretary of the United States, in consequence of complaints which were made to me by His Majesty's Governor-in-chief of Canada, of encroachments by the Americans on the limits secured by the Convention of 1818, to British fishermen, I have now the honour to inclose to your Lordship the copy of a note which I have received, in answer, from Mr. Forsyth.

I forwarded this note yesterday to Lord Gosford in a letter, a copy of which I likewise inclose.

I am very happy to perceive the prompt and friendly manner in which the President has taken up my complaint, and the measure which he has adopted for preventing any future encroachment on the British fishing grounds.

I have, &c.

(Signed)

CHARLES BANKHEAD.

Inclosure 1 in No. 95.

Mr. Forsyth to Mr. Bankhead.

Department of State, Washington, January 18, 1836.

THE Undersigned has the honour to acknowledge the note addressed to him on the 6th instant by Mr. Bankhead, &c., with its inclosures, complaining of encroachments by the fishermen of the United States on the limits secured by the Convention of 1818, exclusively to British fishermen. Though the complaints thus preferred speaks of these encroachments as having been made from time to time, only one is specifically stated, viz., that of the schooner "Bethel," of Princetown. But the President, desirous of avoiding just ground of complaint on the part of the British Government on this subject, and preventing the injuries which might result to American fishermen from trespassing on the acknowledged British fishing grounds, has, without waiting for an examination of the general complaint, or into that respecting the "Bethel," directed the Secretary of the Treasury to instruct the Collectors to inform the masters, owners, and others, engaged in the fisheries, that complaints have been made, and to enjoin upon those persons a strict observance of the limits assigned for taking, drying, and curing fish by the American fishermen under the Convention of 1818.

The Undersigned, &c.

(Signed)

JOHN FORSYTH.

Inclosure 2 in No. 95.

Mr. Bankhead to the Earl of Gosford.

My Lord,

Washington, January 20, 1836.

ON the receipt of your Excellency's letter of the 26th ultimo, complaining of encroachments on the part of American fishermen in the Gulf of St. Lawrence, I lost no time in addressing a note to the Secretary of State of the United States upon the subject.

I have the honour to transmit to your Excellency a copy of my note, together with the answer which I received thereto and which, I trust, will be satisfactory to your Lordship, inasmuch as it affords a proof of the desire of the American Government, as far as they can, to restrain their fishermen from exceeding the limits prescribed to them by the Convention of 1818.

I cannot but think, however, that the presence of one of His Majesty's cruizers, at the proper season, would be more effectual than anything else to keep these fishermen within bounds:

I have, &c.
(Signed) CHAS. BANKHEAD.

No. 96.

Mr. Bankhead to Viscount Palmerston.—(Received March 3.)

(No. 18.)

My Lord,

Washington, February 5, 1836.

I HAVE the honour to transmit to your Lordship, in reference to my despatch No. 12, of the 21st ultimo, the copy of an instruction which has been issued by the Secretary of the Treasury to the Collectors of Customs, directing them to warn the masters of fishing-vessels from encroaching upon the limits assigned exclusively for the subjects of His Majesty by the Convention of 1818.

The document was printed in the Government newspaper.

I have, &c.
(Signed) CHARLES BANKHEAD.

Inclosure in No. 96.

Circular Instructions to Officers of the Customs residing in Collection Districts where Vessels are licensed for employment in the Fisheries of the United States.

REPRESENTATIONS have been made to our Government, through the Chargé d'Affaires of His Britannic Majesty, of encroachments by the American fishermen upon the fishing-grounds secured exclusively to British fishermen by the Convention between the United States and Great Britain bearing date the 20th day of October, 1818.

The President being desirous of avoiding any just cause of dissatisfaction on the part of the British Government on this subject, and with a view of preventing the injury which might result to the American fishermen from trespassing upon the acknowledged British fishing-grounds, directs that you will inform the masters, owners, and others employed in the fisheries in your district, of the foregoing complaints; and that they be enjoined to observe strictly the limits assigned for taking, drying, and curing fish by the fishermen of the United States under the Convention before stated.

In order that persons engaged in the fisheries may be furnished with the necessary information, the first Article of the Convention, containing the provisions upon this subject, is annexed to this Circular.

(Signed) LEVI WOODBURY.
Secretary of the Treasury.

Extract from the Convention with Great Britain of October 20, 1818.

“ARTICLE I.

“Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands; and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly, indefinitely, along the coast; without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty for ever to dry and cure fish in any part of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof,

shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits: provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein; of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

No. 97.

Viscount Palmerston to Mr. Bankhead.

(No. 3.)

Sir,

Foreign Office, July 20, 1836.

YOUR despatches to No. 14 inclusive have been received and laid before the King.

I have to instruct you to express to Mr. Forsyth the thanks of His Majesty's Government for his prompt attention to your representation respecting the encroachments of American fishermen upon the limits secured to British fishermen, exclusively by the Convention of 1818, as reported in your despatch No. 11 of the 21st ultimo.

I am, &c.

(Signed) PALMERSTON.

No. 98.

Mr. Stephen to Mr. Backhouse.—(Received July 12.)

Sir,

Downing Street, July 11, 1837.

I AM directed by Lord Glenelg to transmit to you herewith, for the consideration of Viscount Palmerston, a copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing a Report drawn up by a Committee of the Provincial Assembly on the subject of the Fisheries in the Gulf of St. Lawrence, and on the coasts of Newfoundland.

I am to request, that in laying this Report before Lord Palmerston, you will convey to his Lordship Lord Glenelg's opinion, that if the complaints of the Assembly of Nova Scotia should appear to founded on a correct understanding of the international rights of this Kingdom, and of the United States of America, the intervention of Her Majesty's Government ought to be employed for the protection of the British subjects engaged in this fishery, against the encroachments of the citizens of the United States.

I have, &c.

(Signed) JAS. STEPHEN.

Inclosure 1 in No. 98.

Sir C. Campbell to Lord Glenelg.

My Lord,

Government House, Halifax, May 23, 1837.

THE Resolution of the House of Assembly, which I have the honour to inclose, relating to the fisheries, was presented to me at the close of the session; but the Report to which it alludes has been only just received by me. The mail is already closed; and though I have not had time to read the Report and annexed documents, and am consequently not prepared to make any observations upon them, yet, as the subject is of high national interest, and of peculiar importance to this province, I am happy to have the opportunity which the detention of the packet by a contrary wind offers of thus bringing the subject under your Lordship's notice, being fully persuaded

that no time will be lost by His Majesty's Government in adopting efficient measures for the protection of the fisheries on the coasts of these provinces.

I have, &c.
(Signed) C. CAMPBELL.

Inclosure 2 in No. 98.

Resolution.

In the House of Assembly, April 17, 1837.

RESOLVED that the Report of the Committee on Fisheries, with the documents annexed thereto, be adopted and printed.

Whereas it may be necessary to correspond with His Majesty's Government during the recess on the subject of the fisheries and the most effectual mode of accomplishing the objects sought in the report of a Committee of this House on that subject:

Resolved, that a Committee be appointed to wait on his Excellency the Lieutenant-Governor, and respectfully request his Excellency to transmit the Report of this House, and the documents thereto annexed, to His Majesty's Colonial Secretary, and to use his influence with His Majesty's Government to insure that protection of the fisheries which the whole of the Province has so earnestly solicited.

Ordered, that Mr. Uniacke, Mr. Desbarres, and Mr. Wm. Young be a committee for the above purpose.

(Signed) J. W. KIDDER, *Clerk.*

No. 99.

The Queen's Advocate to Viscount Palmerston.—(Received November 3.)

My Lord,

Doctors' Commons, October 31, 1837.

I AM honoured with your Lordship's commands, signified in Mr. Fox Strangway's letter of the 19th of September, transmitting the accompanying letter from the Colonial Department, containing copies of a despatch from the Lieutenant-Governor of Nova Scotia, together with copies of the Resolution and Report of the House of Assembly of that Colony, relative to the Fisheries in the Gulf of St. Lawrence and on the Coast of Newfoundland, and requesting that I would take these papers into consideration, and report to your Lordship my opinion thereupon.

In obedience to your Lordship's commands, I have taken into consideration the letter from the Colonial Department, together with the copies of the despatch from the Lieutenant-Governor of Nova Scotia, and of the Resolution and Report of the House of Assembly of that Colony, and have the honour to report that I am of opinion that the intervention of His Majesty's Government ought to be employed for the protection of the British subjects engaged in the North American fisheries against the encroachments of American citizens, so far as the International rights of this Kingdom and of the United States of America will permit.

The 1st Article of the Convention between Great Britain and the United States, signed at London on the 20th of October, 1818, purports to settle and define those rights. The question, therefore, is whether the complaints of the Assembly of Nova Scotia are founded upon a correct interpretation of that Article. In many respects they appear to be so founded. By the Convention the United States renounced not only the right of fishing within three marine miles of the coast, but also of the bays, creeks, or harbours of certain parts of the British dominions in America, and I therefore think that the citizens of America have no right to calculate, as it is asserted they do, their three marine miles as being beyond a line curving and corresponding with the coast.

It is stated in the Report of the House of Assembly that the fishermen of the United States have in many instances set their own nets within the harbours of the Province of Nova Scotia, and that they have on various occasions by force coerced the inhabitants to submit to their encroachment. This is clearly a violation of the Convention. It is also stated that they approach within the prescribed limits, and by the use of bait tole the fish into deep water and then take them by sigs. This likewise

appears to me to be contrary to the provisions of the Treaty. I also think that they cannot claim the privilege of coming within the bays or harbours either to buy bait from the inhabitants or to take it for themselves. By the terms of the Treaty they may enter for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, but for no other purpose whatever.

Another complaint is that the citizens of the United States land on the Magdalen Islands and pursue the fishery therefrom. The stipulation of the Convention in this respect is as follows:—"It is agreed between the High Contracting Parties that the inhabitants of the United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the Southern Coast of Newfoundland which extends from Cape Ray to the Rameau Islands on the Western and Northern Coast of Newfoundland from the said Cape Ray to the Quipon Islands, on the shores of the Magdalen Islands, and also on the coast, bays, harbours, and creeks from Mount Joly on the Southern Coast of Labrador to and through the Straits of Belle Isle, and thence northward indefinitely along the coast." The Contracting Parties may have intended some material distinction when they used the word "shores" as applicable to the Magdalen Islands, and the word "coast" with reference to the other parts of the territories mentioned, and possibly may have meant to confer upon or reserve to American citizens, in common with British subjects, a right to land upon the shores of the Magdalen Islands for the purpose of taking fish, although I am inclined to think otherwise, inasmuch as I conceive that the word shore has not, either in law or in common parlance, a larger signification than the word coast. A reference, however, to any documents showing what passed upon the subject when the Convention was negotiating may perhaps afford the requisite information.

Upon another point the complaint of the House of Assembly does not appear to me to be well founded. I cannot concur in the opinion expressed in the Report that the fishing vessels of the United States may not enter the bays, harbours, and creeks of Nova Scotia for the purchase of wood, or to obtain water, except on proof of having left their own ports sufficiently supplied for the voyage. Such proof may, perhaps, be very properly required from vessels entering an interdicted port on the plea of necessity, but I find no such proof required by the Convention. It provides expressly that the American fishermen shall be permitted to enter such bays or harbours for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, but that they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them."

Under this stipulation I think the privilege of entering the harbours for the purposes mentioned cannot be denied to the fishing vessels of America, although proper restrictions may be imposed upon them when they do enter to prevent an abuse of the privilege.

I have further the honour to observe that the Statute 59 Geo. III, cap. 38, enables the Crown to make regulations for the government of the North American fisheries, according to the Convention, and to prevent the abuse of the privileges thereby conceded to the fishermen of the United States.

In conclusion, I take leave to submit to the judgment of your Lordship whether it may not be advisable to transmit the Report and Resolution of the House of Assembly to the Board of Trade, for their consideration, and for any observations which they may have to offer thereon.

I have, &c.
(Signed) J. DODSON.

Inclosure in No. 99.

Memorandum as to the employment of the words "Shores" and "Coasts" in Article I of the Convention with the United States of 1818.

THERE is nothing in the negotiations, which preceded the Convention of 1818, to induce a supposition that the use of the word "shores," with reference to the American right to take fish off the Magdalen Islands, was intended to grant to them any extension of the privilege, beyond that conceded to them, of a right to take fish on the "coasts" of Newfoundland and Labrador, in the same Article.

The American project of Treaty stipulated that their fishermen should have the right to take fish on certain parts of the coasts of Newfoundland, "on the Magdalen Islands," and also on the coasts of Labrador.

The British counter-project conceded to them the right to fish on certain parts of the coasts of Newfoundland and Labrador, but made no mention of the Magdalen Islands.

The American Plenipotentiaries objected to the coasts, described in the British counter-project, as too limited in extent, but did not propose that the Magdalen Islands should be included.

The British Plenipotentiaries then submitted a second counter-project, in which the American right to take fish, as ultimately agreed upon in the Convention, is described, and in which the words "on the shores of the Magdalen Islands" are, for the first time, introduced.

It is not improbable, therefore, that the word "shores" was used by the British Plenipotentiaries for the mere purpose of avoiding the more frequent repetition of the synonymous word "coasts."

But the question appears to be put completely at rest, by the despatch of the American Plenipotentiaries in London to their Court, which announced the signature of the Convention, in which they stated, with regard to the fisheries, that they had "succeeded in securing, besides the rights of taking and curing fish within certain limits, the liberty of fishing on the coasts of the Magdalen Islands, and of the western coast of Newfoundland."

Annex A to Protocol No. 3. (State Papers, vol. 1819-20, p. 175.)

Annex to Protocol No. 5. (State Papers, vol. 1819-20, p. 195.)

Inclosure in note of October 7, 1818. (State Papers, vol. 1819-20, p. 199.)

Annex to Protocol No. 7. (State Papers, vol. 1819-20, p. 206.)

Despatch of October 20, 1818. (State Papers, vol. 1819-20, page 167.)

No. 100.

Mr. Backhouse to Mr. Le Marchant.

Sir,

Foreign Office, December 4, 1837.

I AM directed by Viscount Palmerston to transmit to you a copy of a letter from the Colonial Department, inclosing a copy of a despatch from the Lieutenant-Governor of Nova Scotia, together with copies of the Resolution and Report of the House of Assembly of that Colony, relative to the fisheries in the Gulf of St. Lawrence, and on the coast of Newfoundland;* and I also inclose a copy of a Report of Her Majesty's Advocate-General thereupon, accompanied by a memorandum on the use of the words "shores" and "coasts" in the negotiations which preceded the Convention with the United States of America of 1818, to which a reference is made in the Queen's Advocate's Report;† and I am to request that you will lay the same before the Lords of the Committee of Privy Council for Trade, and move them to favour Lord Palmerston with any observations which may suggest themselves to their Lordships upon the matters to which these papers relate.

I am, &c.

(Signed) J. BACKHOUSE.

No. 101.

Mr. Stephen to Mr. Backhouse.—(Received May 12.)

Sir,

Downing Street, May 10, 1838.

I AM directed by Lord Glenelg to transmit to you herewith, for the consideration of Viscount Palmerston, the copy of a despatch from Sir C. Campbell, inclosing an address from the Legislative Council and House of Assembly of Nova Scotia, on the subject of the encroachments of citizens of the United States on the fishing grounds reserved by Treaty to British subjects.

Lord Palmerston is aware that these encroachments have on several previous occasions formed a subject of complaint to the British Government, and it appears to Lord Glenelg that no effectual steps can be taken to repress them, except by stationing armed vessels in the vicinity of the fishing grounds, as suggested by the Legislature of Nova Scotia. But before issuing any instructions of this nature to the Lords Commis-

* No. 98.

† No. 99.

sioners of the Admiralty, Lord Glenelg is anxious to be favoured with Viscount Palmerston's opinion on the subject, and more especially as to whether it is probable that a representation to the United States' Government will have any effect in checking the encroachments and violence of the American fishermen.

I have, &c.
(Signed) JAS. STEPHEN.

Inclosure 1 in No. 101.

Sir C. Campbell to Lord Glenelg.

My Lord,

Government House, Halifax, March 26, 1838.

I HAVE the honour to transmit to your Lordship, and to recommend in the most earnest manner to the immediate and favourable consideration of Her Majesty's Government, the inclosed humble address of the Legislative Council and House of Assembly of this Province, complaining of the habitual violation by American citizens of existing Treaties, and praying that, for the encouragement and protection of the commerce and fisheries of those colonies, Her Majesty will be pleased to order small armed vessels to cruize on our coasts, or direct two small steam-boats to be added to the fleet on this station, to prevent the encroachment of foreigners on our fishing grounds.

I have, &c.
(Signed) C. CAMPBELL.

Inclosure 2 in No. 101.

Address.

To the Queen's Most Excellent Majesty.

The humble Address of the Legislative Council and House of Assembly of Nova Scotia in Provincial Parliament.

May it please your Majesty.

THE Council and House of Assembly of your loyal Province of Nova Scotia, humbly approach your Majesty with their complaints against the citizens of the United States of America, who violate with impunity the provisions of Treaties existing between the two nations to the injury and detriment of the inhabitants of this Colony.

Your Council and Assembly humbly refer your Majesty to the Convention made in the year 1818, whereby the American Government obtained, for the citizens of that country, privileges not ceded to them by the Treaty of 1783, and under the effect of which these Provinces have languished ever since, and the operation of which is fully explained in the annexed report and documents.

The commercial eagerness which characterizes the people of the United States of America, aided by the spirit of their Government, has for years caused them to transgress the bounds defined by Treaty, and exercise rights over the fisheries of these Colonies not ceded even by the unfortunate Convention alluded to. Their fishermen, in violation of that Convention, enter the gulfs, bays, harbours, creeks, narrow seas, and waters of the Colonies; they land on the shores of Prince Edward and the Magdalen Islands, and by force, aided by superior numbers, drive British fishermen from banks and fishing grounds, solely and exclusively British, and by carrying on an unlawful intercourse with needy and unprotected fishermen, induce them to violate all the laws of trade, and introduce feelings and opinions destructive to the principles of a well intentioned but secluded and uninformed portion of your Majesty's subjects; thus demoralizing and contaminating the ignorant but loyal inhabitants along our extensive shores, and most essentially injuring the manufacturers of the United Kingdom, the merchants and ship owners of the Empire, and the revenue of this and the other provinces.

Your Council and Assembly solicit your Royal attention to the Address of this Province to His late Majesty George the IVth (hereto annexed), as prophetic of the effects of the Convention of 1818, and urge your Majesty to mark the fulfilment of its anticipations in the Report of 1837. Aware of the solicitude of your Majesty for the

happiness and welfare of your faithful North American subjects, your Council and Assembly humbly pray encouragement and protection of their commerce and fishery, and that your Majesty will order small armed vessels to cruise on the coasts of these Colonies, to prevent such encroachments, or direct two steamboats to be added to the fleet of this station to resort to the various fishing grounds during the season; and the Legislature will cause depôts of fuel to be provided for them at the provincial expense, confident that your Majesty, considering the foregoing facts, and marking the character of the times, will adhere to the enlightened policy which has distinguished your illustrious House, and extend to your faithful and loyal subjects of Nova Scotia that protection of their interests which they ask as Britons, and which may prove consistent with the claims of other portions of your Majesty's extensive dominions.

In Council, March 22, 1838.

(Signed)

J. B. ROBIE,

President of the Legislative Council.

In the House of Assembly, March 20, 1838.

T. G. W. ARCHIBALD,

Speaker of the Assembly.

No. 102.

Mr. D. Le Marchant to Mr. Backhouse.—(Received June 14.)

*Office of Committee of Privy Council for Trade,
Whitehall, June 13, 1838.*

Sir,

I HAVE laid before the Lords of the Committee of Privy Council for Trade, your letter of the 4th December last, with its accompanying papers on the aggressions alleged to have been committed by the citizens of the United States on our fisheries in the Gulf of St. Lawrence and the coast of Newfoundland, and also the Queen's Advocate's opinion thereon.

Their Lordships in reply, direct me to request that you will inform Lord Palmerston that, having, pursuant to his Lordship's desire, at the Queen's Advocate's suggestion, perused the above-mentioned documents, and having likewise communicated with various individuals well acquainted with the matters in dispute, they have to offer the following observations thereon for his Lordship's consideration:—

Their Lordships presume that, after the opinion expressed by the Queen's Advocate upon the international rights of this Kingdom and the United States in respect of the fisheries in question, the recommendation of Lord Glenelg that, the intervention of Her Majesty's Government should be employed for the protection of the British subjects engaged in such fisheries will be adopted, and that Her Majesty's Minister at Washington will be instructed by Lord Palmerston to come to a proper understanding with the Government of the United States upon the subject.

In the instructions that Lord Palmerston may give to Mr. Fox for this negotiation, their Lordships would suggest that his Excellency's attention should be drawn to the depositions of the witnesses attached to the Report of the Committee of the House of Assembly of Nova Scotia, as constituting in conjunction with the remarks of the Queen's Advocate, the case on which his application must be grounded. The case, however, must be brought within a more narrow compass than the Colonists seem to apprehend, for the grievances of which they complain are, in many instances, in no degree imputable to the American Government; and consequently will not enter into the negotiation. That the Americans have succeeded in appropriating to themselves a very valuable portion of the fishing trade, to the serious prejudice of the Colonists is unhappily an incontrovertible fact, but it should be borne in mind, that the above-mentioned report admits the Americans concerned in the trade to abound in capital, enterprise, and skill, whilst the Colonial fishermen are usually poor, ill-provided with vessels, and often following other pursuits besides fishing, which must cause them to be but moderately skilled fishermen, and as long as the competition is carried on upon such unequal terms, the superior prosperity of the fishermen of the United States, over our fishermen, may be sufficiently explained, without resorting to the alleged violation of the Treaty by the former. In fact, the complaints made by the Colonists against the Americans, are too much like those raised by our own fishermen at home against the French, which have so often been brought before the public and the Government without producing a satisfactory result.

The exclusion of the Americans from the Gut of Canso, might, indeed, be of

great service to the colonists, but this has been pronounced by the Queen's Advocate to be impracticable. The acts of aggression with which the citizens of the United States are charged, will probably be disputed, but their Lordships do not entertain a doubt of their having been committed. It may be presumed that, if the French venture upon vexatious and fraudulent practices against our fishermen absolutely on our coasts, the citizens of the United States are not likely to pay scrupulous attention to the exclusive rights of the Nova Scotia fisherman. In the one case the remedy may be said to be in our hands, and to rest mainly with ourselves, but the same argument cannot be used in the other, for the distance of Nova Scotia from this country, and the long line of coast to be watched, makes it incumbent on a friendly power such as the United States, considering their participation in the benefits of the fisheries, which is certainly a serious sacrifice on our part, to co-operate with us in putting down the offences in question, and for that purpose to give the Nova Scotia fishermen the benefit of a liberal construction of the Treaty in their favour. The points which Mr. Fox will have to establish are—

1. The three marine miles within which the citizens of the United States are, by the Convention prohibited from fishing, must be calculated from the headlands of Nova Scotia, and not, as the Americans contend, beyond a line curving and corresponding with the coast.

2. The fishermen of the United States are to be restrained from setting their nets within the bays or harbours of Nova Scotia and Newfoundland.

3. They are to be restricted from the use of gigs upon the coasts of Nova Scotia and Newfoundland.

4. They are to be restrained from coming within the bays or harbours of Nova Scotia or Newfoundland, the Magdalen Islands not excepted, for any other purpose than obtaining shelter or repairing damage, or purchasing wood, or procuring water, and the provision in the 1st Article of the Convention, by which such limitation is expressed, should be strictly enforced.

How these restrictions are to be carried into effect will be a most important subject of consideration, and one involved in much difficulty, but under the circumstances stated in the Report of the Committee above mentioned, their Lordships think that additional facilities should be required from the Government of the United States for the detention of offenders, with perhaps a more summary mode of punishment than the Admiralty Court affords, but the negotiation will probably lead to the suggestion that measures for this purpose on which their Lordships will be ready to give an opinion when the same shall have been brought before this Board.

Their Lordships direct me further to inclose for Lord Palmerston's information, the opinion of the Queen's Advocate upon a case submitted to him by this Board with reference to some parts of the Report of the Committee which their Lordships had reason to believe might otherwise be supposed to have escaped his attention.

I am, &c.

(Signed) DENIS LE MARCHANT.

Inclosure in No. 102.

The Queen's Advocate to Mr. D. Le Marchant.

Sir,

Doctors' Commons, March 10, 1838.

I AM favoured with your letter of the 20th of January, stating that the Lords of the Committee of Privy Council for Trade direct you to inform me that they have received from Lord Palmerston, my Report of the 31st of October, 1837, on the questions that have arisen out of the interference of the citizens of the United States with the fisheries in the Gulf of St. Lawrence, the same having been transmitted with the accompanying papers to the Board by his Lordship, pursuant to my recommendation.

And you are pleased to state that their Lordships, feeling the importance which is attached to the matter in Nova Scotia, have attentively considered the above-mentioned papers as well as consulted other sources of information, and the result has been to raise doubts in the minds of their Lordships on the following points, to which my attention has not yet been drawn with the preciseness that the light in which they are regarded by the Colony appears to their Lordships to require:—

First. Concurring as their Lordships do in the opinion expressed in my Report that the Americans cannot under the Treaty come beyond a line of three miles from the

coast, such coast line running a direct course from headland to headland, their Lordships are still apprehensive that the question raised by the reference to the House of Assembly in Nova Scotia to this part of the Treaty remains in some degree unanswered. The Gulf of Canseau, through which the Americans claim, and at present exercise the right of sailing in their route to the Gulf of St. Lawrence, is not more than a mile in breadth, and the exclusion of the Americans from it is represented to the Board as most essential to the interests of the Colonial fisheries, and both shores being in the possession of Great Britain, it has been contended by some of the authorities in the Colony that it must not be regarded as the high sea, and therefore coming under the above-mentioned clause of the Treaty, or else as the maritime way of the province, and as such by the principles of international law under the exclusive jurisdiction of Great Britain, the Americans having sufficient access left to the shores of the Colony by going round Cape Breton to satisfy the general words of the Treaty. That their Lordships therefore direct you to submit the point to my consideration, and to report my opinion whether Great Britain has the power to close the gut or strait in question to the Americans.

The second point to which their Lordships direct you to draw my attention relates to the Magdalen Islands. That it appears from the information which their Lordships have obtained on the subject, to be extremely doubtful whether the Committee of the House of Assembly of Nova Scotia intended to found any distinction upon the use of the two terms of "coast" and "shores" in the Article of the Treaty so far as these islands were concerned, it being understood in the Colony that no right of landing on the shores of these islands had been claimed by the Americans, although the practice had prevailed to some extent surreptitiously. That the nature and limit of the restriction to which the Americans subject themselves on entering the harbours of these islands are represented to their Lordships to constitute the chief object of interest with the Colony on this head. And you are therefore directed to request that I would report to the Board my opinion whether, under the same construction of the Treaty, the Americans have the right of entering the harbours of these islands upon other conditions than are imposed upon them when entering those of Nova Scotia and Cape Breton.

In obedience to the directions above contained, I have the honour to report that, having carefully perused and considered the documents, and also the Convention between Great Britain and the United States of the 20th October, 1818, with reference to the points to which my attention has now been directed, I am of opinion that the terms of the Convention do not deprive the citizens of America of the right of passing through the Strait of Canseau, for the purpose of taking fish, in common with British subjects in the Gulf of St. Lawrence.

Upon the other point I think that the British Government have the right of imposing the same restrictions upon Americans entering the harbours of the Magdalen Islands, as are imposed upon them when entering those of Nova Scotia and Cape Breton.

I have, &c.
(Signed) J. DODSON.

No. 103.

Mr. Fox-Strangways to Mr. Stephen.

Sir,

Foreign Office, September 13, 1838.

I HAVE laid before Viscount Palmerston your letter of the 10th of May last, transmitting, for his Lordship's consideration, the copy of a despatch from Sir Colin Campbell, inclosing an address from the Legislative Council and House of Assembly of Nova Scotia, relative to the encroachments of the citizens of the United States on the fishing grounds reserved by Treaty to British subjects.

I am directed to state to you, in reply, for Lord Glenelg's information, that Lord Palmerston is of opinion that the best thing which could be done, would be to station some small vessels of war on the coast of Nova Scotia, with orders to protect British fisheries against the encroachments complained of; taking care that the commanders of those vessels should not themselves overstep the bounds of the Treaty.

Lord Palmerston is further of opinion, that notice of this measure should be given to the Government of the United States; and with this view his Lordship proposes to address to His Majesty's Minister at Washington an instruction, of which a draft is

herewith transmitted for Lord Glenelg's consideration, together with copies of the Reports of the Queen's Advocate, and the letter from the Board of Trade, referred to in the draft to Mr. Fox.

These last-mentioned papers contain the answers to references which were made to the Queen's Advocate, and to the Board of Trade by this Department, in consequence of your letter of the 11th of July, 1837.

Agreeably to your request, I herewith return the papers which accompanied the Address from Nova Scotia.

I am, &c.
(Signed) W. FOX-STRANGWAYS.

No. 104.

Viscount Palmerston to Mr. Fox.

(No. 16.)

Sir,

Foreign Office, October 6, 1838.

AN Address of the Legislative Council and House of Assembly of Nova Scotia having been transmitted to Her Majesty, complaining of the habitual encroachments of American citizens on British fishing ground, in violation of existing Treaties between Great Britain and the United States, and praying that Her Majesty would be pleased to adopt measures for the protection of the commerce and fisheries of Her Majesty's subjects in that Colony, Her Majesty's Government have deemed it expedient to direct that some small vessels of war should be stationed on the coast of Nova Scotia for this purpose.

I have consequently to instruct you to give notice of this precautionary measure to the Government of the United States; and, at the same time, to invite that Government to take such steps on its part as may be necessary to warn American citizens of the illegality of their proceedings in transgressing the bounds defined by Treaty.

The chief matter of complaint is, that American citizens, in violation of the Convention of 1818, enter the gulfs, bays, harbours, creeks, narrow seas, and waters of the Colonies, and that they land on the shores of Prince Edward and the Magdalen Islands, and by force, aided by superior numbers, drive British fishermen from banks and fishing-grounds solely and exclusively British.

I inclose, for your information and guidance, in your communications with the American Government upon this subject, copies of a despatch from Sir Colin Campbell to Lord Glenelg, inclosing the Address of the Legislative Council and House of Assembly of Nova Scotia;* and also copies of two Reports from Her Majesty's Advocate-General, and of a letter from the Board of Trade, founded upon representations received from Nova Scotia last year, to the same effect as those now immediately under consideration.†

If you should find the Government of the United States disposed to aid and co-operate with Her Majesty's Government in forcing the observance of Treaties on the part of the American citizens on the coasts in question, by affording greater facilities for the detection and punishment of offenders, or by the adoption of any mutual measures which might be suggested for the better attainment of the object in view, you will avail yourself of such disposition to endeavour to come to some agreement upon this subject. You will observe that the points which Her Majesty's Government have to enforce are:—

1. That three marine miles within which the citizens of the United States are by the Convention prohibited from fishing, must be calculated from the headlands of Nova Scotia, and not as the Americans contend, from a line curving and corresponding with the coast.

2. That the fishermen of the United States are to be restrained from setting their nets within the bays or harbours of Nova Scotia and Newfoundland.

3. That they are to be restricted from the use of jigs upon the coasts of Nova Scotia and Newfoundland.

4. That they are to be restrained from coming within the bays or harbours of Nova Scotia or Newfoundland, the Magdalen Islands not excepted, for any other purposes than to obtain shelter or to repair damage, or to purchase wood, or to procure water, agreeably to the provisions of the 1st Article of the Convention.

You will report to me for the information of Her Majesty's Government any

communications which you may have with the Government of the United States upon this subject.

I am, &c.
(Signed) PALMERSTON.

No. 105.

Mr. Stephen to Mr. Buchhouse.—(Received June 7.)

Sir,

Downing Street, June 7, 1839.

I AM directed by the Marquis of Normandy to transmit to you herewith, for the information of Viscount Palmerston, the copy of a despatch from Sir John Harvey, accompanied by a report from a Committee of the Assembly of New Brunswick, relative to the encroachment of American fishermen on the British fishing grounds. I am at the same time, to state that Lord Normandy has requested the Lords Commissioners of the Admiralty to issue such instructions to the officer in command of Her Majesty's ships on the North American Station, as shall secure to Her Majesty's subjects the enjoyment of the rights and privileges, in respect to fishing grounds, guaranteed to them by the Treaties subsisting between Great Britain and the United States.

I have, &c.
(Signed) JAS. STEPHEN.

Inclosure 1 in No. 105.

Sir J. Harvey to Lord Glenelg.

My Lord,

Government House, Fredericton, March 19, 1839.

I HAVE the honour herewith to transmit to your Lordship copy of a report of the House of Assembly of this province relative to the encroachments, which continue to be made on the fishing grounds of this Province. A copy of this report will also be transmitted by me to the Naval Commander-in-chief upon this station and to Her Majesty's Minister at Washington.

I have, &c.
(Signed) J. HARVEY.

Inclosure 2 in No. 105.

Report.

House of Assembly, March 18, 1839.

THE Select Committee, to whom was referred that part of the petition of Wilford Fisher, James Chaffey, I. Snelt, Esquires, and 181 others of the parishes of Grand Manan, West Isles, and Campo Bello, in the county of Charlotte, relating to the encroachments which continue to be made on the fishing grounds of this province by vessels of the neighbouring states, report—

That the affidavits of ten credible persons, residents of Grand Manan, sundry certificates of the overseers of the fisheries of the same island, with a mass of other evidence, have been laid before your Committee and had most deliberate consideration from them. That it manifestly appears that the aggressions so often complained of and so frequently brought under the notice of the Legislature of this province not only have not ceased, but have actually increased to a degree which calls loudly for the immediate interposition of Government. It distinctly appears from the affidavits and certificates that from ten to twenty sail of American fishing vessels are almost continually to be found at anchor catching fish within one mile of the shores of Grand Manan, in audacious violation of the rights of the people of this province, and in open and avowed defiance of any force which the inhabitants could possibly bring against them; that those persons, restrained by no fishery regulations, either British or American, carry on their lawless practices in a most reckless manner to the great and lasting injury of the fisheries, and that they do not hesitate to have recourse to violence in repelling the fishermen of Grand Manan from their own fishing grounds: by means

of which, and of many other outrages, this valuable source of provincial wealth is almost wholly arrested from its natural possessors.

It has been satisfactorily shown to your Committee that the overseers of the fisheries of Grand Manan, in the due execution of their public duty, have frequently endeavoured to prevent these proceedings, but in vain; that they have been threatened with corporal violence by the American fishermen, who on several occasions have attempted to capture and carry them off to the States.

From undoubted information laid before your Committee it is manifest that American aggressions of this nature are not confined to the southern shores of this province. The Bay of Chaleur and the adjacent harbours are annually infested by American fishing vessels carrying on an illicit trade with the inhabitants, and committing such depredations upon the fisheries as ought no longer to be endured.

Your Committee earnestly submit the subject to the grave consideration of the House, and cannot forbear expressing their hope that the wisdom of the House may suggest such prompt measures as will immediately remove the grievances complained of.

(Signed) W. F. W. OWEN.
JAMES BROWN, Jun.
W. EVIT.

Committee Room, March 16, 1839.

This Report being accepted by the House, resolved—

That an humble Address be presented to his Excellency the Lieutenant-Governor communicating the foregoing Report, and requesting that his Excellency will be pleased to take such measures therein as to him shall seem expedient.

No. 106.

Mr. Stephen to Mr. Backhouse.—(Received May 15.)

Sir,

Colonial Office, May 13, 1840.

I AM directed by Lord John Russell to transmit to you the copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing an address to Her Majesty from the House of Assembly, on the subject of the continued encroachments of American fishermen on the fishing grounds of the province and the adjoining colonies; and I am to request that you will move Viscount Palmerston to take such measures as may appear to him to be requisite on this Address.

I have, &c.
(Signed) JAS. STEPHEN.

Inclosure 1 in No. 106.

Sir C. Campbell to Lord J. Russell.

My Lord,

Government House, Halifax, April 11, 1840.

I HAVE the honour to request that your Lordship will lay at the foot of the Throne, the inclosed address of the House of Assembly to Her Majesty, complaining of the continued encroachments of American fishermen on our fishing grounds, and praying that Her Majesty will be pleased, under the authority of the Act of 59 Geo. III, chap. 38, to establish, by an order of Her Majesty in Council, general regulations for the protection of the fisheries, according to the code annexed to the Address which the Assembly consider as well adapted for such important purpose.

The Assembly further pray that Her Majesty will be graciously pleased to order some small armed vessels to aid the revenue cutters which this Government employ on that service.

I have, &c.
(Signed) C. CAMPBELL.

Inclosure 2 in No. 106.

Address.

To the Queen's Most Excellent Majesty.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the representatives of your Majesty's loyal people of Nova Scotia, humbly approach your Majesty with their complaints, against the citizens of the United States of America, who continue to disregard the terms and provisions of Treaties existing between the two nations, by encroaching on the reserved fishing-grounds of this province, and the adjoining Colonies, to the detriment and injury of the inhabitants thereof.

Your Majesty's Council and Assembly in 1838, approached your Majesty's Throne with an Address humbly referring your Majesty to the Convention of 20th October, 1818, between your Majesty's Government and that Republic, and to the Report of this House of 1837, as exhibiting the gross violation of the rights of the inhabitants of the Lower Provinces, and your people regret that the defective state of the regulations for the protection of the British North American fisheries, still permits such infringements with comparative impunity.

Although the Convention of 1818, secured to the people of Great Britain and your Majesty's Dominions in America certain rights of exclusive fishery on the shores of such provinces, and the citizens of the United States renounced for ever any liberty enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish within three marine miles of any of the coasts, bays, creeks, or harbours not included within certain limits mentioned in said Convention, no rules or regulations were adopted to prevent the abuse of the privileges added to the United States until 1836, when His late Majesty King William IV, signified his Royal assent to a statute of this province embodying rules and regulations for the fishery thereof, the operation of which has been most wholesome, and has curbed the illegal trespasses of foreigners by subjecting their vessels to forfeiture or detection and condemnation in the Court of Admiralty of Nova Scotia.

That no regulations having been adopted (as your House of Assembly believe) for the same salutary purposes in the provinces of New Brunswick, Prince Edward Island, the Canadas, and Newfoundland, the revenue vessels employed by the Government of this province cannot make seizures, because the encroachments are beyond the operation of the said law, which is confined to the province, and therefore it becomes indispensable for the preservation of the valuable source of wealth with which Providence has blessed these Colonies, that similar regulations should be granted by your Majesty for all the Colonies. And your Assembly solicit your Royal attention to the accompanying code as well adapted for such important purpose.

That the citizens of the United States pass through the Strait of Canso, a narrow strip of water, completely within and dividing several counties of this province, whereby they violate the letter and spirit of the Treaty or Convention of 1818, to the detriment of your Majesty's people; and on the shores of the Magdalen Islands they conduct the fishing in a manner destructive thereof by taking herring which swarm on those shores at the time they are casting their spawn.

Aware of the solicitude of your Majesty for the happiness and welfare of your faithful North American subjects, your Assembly humbly prays encouragement and protection of their commerce and fishery, and, as they have appointed revenue cutters for such service, that your Majesty will order armed vessels to aid them in such laudable undertaking, and extend to your loyal subjects of Nova Scotia that protection which may be consistent with the claims of other portions of your Majesty's extensive dominions.

In the House of Assembly, March 27, 1840.

(Signed)

J. E. W. AVEMBALD, *Speaker.*

No. 107.

Mr. Stephenson to Viscount Palmerston.—(Received March 29.)

32, Upper Grosvenor Street, March 27, 1841.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honour to acquaint Lord Viscount Palmerston, Her

Majesty's Principal Secretary of State for Foreign Affairs, that he has been instructed to bring to the notice of Her Majesty's Government, without delay, certain proceedings of the Colonial Authorities of Nova Scotia, in relation to the seizure and interruption of the vessels and citizens of the United States, engaged in intercourse with the ports of Nova Scotia and the prosecution of the fisheries on its neighbouring coasts, and which, in the opinion of the American Government, demand the prompt interposition of Her Majesty's Government. For this purpose the Undersigned takes leave to submit to Lord Palmerston the following representation:—

By the 1st Article of the Convention between Great Britain and the United States, signed at London, on the 20th October, 1818, it is provided—1st. That the inhabitants of the United States shall have, for ever, in common with the subjects of Great Britain, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands; on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands; on the shores of the Magdalen Islands; and also on the coasts, bays, harbours, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to the exclusive rights of the Hudson Bay Company. 2ndly. That the American fishermen shall also have liberty, for ever, to dry and cure fish in any part of the unsettled bays, harbours, and creeks of the southern portion of the coast of Newfoundland before described and of the coast of Labrador; the United States renouncing any liberty before enjoyed by their citizens to take fish within three marine miles of any coasts, bays, creeks, or harbours of the British dominions in America, not included within the above limits, *i.e.*, Newfoundland and Labrador. And, 3rdly. That American fishermen shall also be admitted to enter such bays, creeks, and harbours, for the purpose of shelter, and of repairing damages therein; and also of purchasing wood and obtaining water, under such restrictions only as might be necessary to prevent their taking, drying, or curing fish therein, or abusing the privileges reserved to them. Such are the stipulations of the Treaty, and they are believed to be too plain and explicit to leave room for doubt, or misapprehension, or render the discussion of the respective rights of the two countries at this time necessary. Indeed, it does not appear that any conflicting questions of right between them have as yet arisen, out of differences of opinion, regarding the true intent and meaning of the Treaty. It appears however that, in the actual application of the provisions of the Convention (committed on the part of Great Britain to the hands of subordinate agents, subject to and controlled by local legislation), difficulties, growing out of individual acts, have unfortunately sprung up, from time to time, amongst the most important of which have been recent seizures of American vessels for supposed violations of the Treaty. These have been made, it is believed, under colour of a Provincial Law, of the 6 Will. IV, c. 8, 1836, passed, doubtless, with a view to restrict rigorously, if not intended to aim a fatal blow, at the fisheries of the United States on the coasts of Newfoundland. It also appears, from information recently received by the Government of the United States, that the Provincial Authorities assume a right to exclude the vessels of the United States from all their bays (even including those of Fundy and Chaleurs), and likewise to prohibit their approach within three miles of a line drawn from headland to headland, instead of from the indents of the shores of the Provinces. They also assert the right of excluding them from British ports, unless in actual distress; warning them to depart, or get under weigh and leave harbour, whenever the Provincial Custom-house or British naval officer shall suppose that they have remained a reasonable time, and this without a full examination of the circumstances under which they may have entered the port. Now, the fishermen of the United States believe (and it would seem that they are right in their opinion, if uniform practice is any evidence of correct construction) that they can with propriety take fish anywhere on the coasts of the British Provinces, if not nearer than three marine miles to land, and have the right to resort to their ports, for shelter, wood, and water; nor has this claim, it is believed, ever been seriously disputed, based, as it is, on the plain and obvious terms of the Convention. Indeed, the main object of the Treaty was not only to secure to American fishermen, in the pursuit of their employment, the right of fishing, but likewise to insure to him as large a proportion of the conveniences afforded by the neighbouring coasts of British Settlements, as might be reconcileable with the just rights and interests of British subjects and the due administration of Her Majesty's dominions. The construction, therefore, which has been attempted to be put upon the stipulations of the Treaty by the authorities of Nova Scotia is

directly in conflict with their object, and entirely subversive of the rights and interests of the citizens of the United States, It is one, moreover, which would lead to the abandonment, to a great extent, of a highly important branch of American industry, which could not for a moment be admitted by the Government of the United States.

The Undersigned has also been instructed to acquaint Lord Palmerston that the American Government has received information that, in the House of Assembly of Nova Scotia, during the Session of 1839-40, an Address to Her Majesty was voted, suggesting the extension to adjoining British Colonies, of rules and regulations relating to the fisheries, similar to those in actual operation in that Province, and which have proved so onerous to fishermen of the United States; and that efforts, it is understood, are still making to induce the other Colonies to unite with Nova Scotia in this restrictive system. Some of the provisions of her code are of the most extraordinary character. Amongst these is one which declares: That any foreign vessel preparing to fish within three miles of the coast of any of Her Majesty's dominions in America; shall, together with her cargo, be forfeited; that, in all cases of seizure, the owner or claimant of the vessel, &c., shall be held to prove his innocence, or pay treble costs; that he shall be forced to try his action within three months; and give one month's notice at least to the seizing officer, containing everything intended to be proved against him, before any suit can be instituted, and also prove that the notice has been given. The seizing officer, moreover, is almost wholly irresponsible, inasmuch as he is liable to no prosecution if the Judge certifies that there was probable cause, and the plaintiff—if successful in his suit—is only to be entitled to two-pence damages, without costs, and the defendant fined, not more than one shilling. In short, some of these rules and regulations are violations of well-established principles of the Common Law of England, and of the principles of the just laws of all civilized nations, and would seem to have been designed to enable Her Majesty's Authorities to seize and confiscate with impunity American vessels, and embezzle indiscriminately the property of American citizens employed in the fisheries on the coasts of the British Provinces.

It may be proper also on this occasion to bring to the notice of Her Majesty's Government, the assertion of the Provincial Legislature "that the Gut, or Strait, of Causo is a narrow strip of water completely within and dividing several counties of the Province," and that the use of it by the vessels and citizens of the United States is in violation of the Treaty of 1818. This strait separates Nova Scotia from the Island of Cape Breton, which was not annexed to the Province until the year 1820. Prior to that, in 1818, Cape Breton was enjoying a Government of its own, entirely distinct from Nova Scotia, the strait forming the line of demarcation between them, and being then, as now, a thoroughfare for vessels passing into, and out of, the Gulf of St. Lawrence. The union of the two Colonies cannot therefore be admitted as vesting in the Province the right to close a passage which has been freely and indisputably used by the citizens of the United States since the year 1783! It is impossible, moreover, to conceive how the use, on the part of the United States, of this right of passage, common (it is believed) to all other nations, can in any manner conflict with the letter or spirit of the existing Treaty stipulations. The Undersigned would therefore vain hope that Her Majesty's Government will be disposed to meet, as far as practicable, the wishes of the American Government in accomplishing, in the fullest and most liberal manner, the objects which both Governments had in view in entering into the Conventional arrangement of 1818. He has accordingly been instructed to bring the whole subject under the consideration of Her Majesty's Government, and to remonstrate on the part of his Government against the illegal and vexatious proceedings of the Authorities of Nova Scotia against the citizens of the United States engaged in the fisheries, and to request that measures may be forthwith adopted by Her Majesty's Government to remedy the evils arising out of the misconstruction, on the part of its Provincial Authorities, of their Conventional obligations, and prevent the possibility of the recurrence of similar acts.

The Undersigned, &c.

(Signed)

A. STEPHENSON.

No. 108.

Mr. Rush to Mr. Backhouse.—(Received March 31.)

32, Upper Grosvenor Street, March 30, 1841.

MR. RUSH presents his compliments to Mr. Backhouse, and is directed by Mr. Stevenson to say that, in an official note to Lord Palmerston of the 27th instant,

which was sent to the Foreign Office yesterday, the year "1838" was inadvertently written for the year 1818. The passage in which the inadvertence occurs is on the last page of the note. The words are, "The conventional arrangement of 1838." It should be, "The conventional arrangement of 1818." Mr. Rush is directed to ask that Mr. Backhouse will be good enough to have this alteration made, regretting to give him the trouble.

No. 109.

Viscount Palmerston to Mr. Stephenson.

Foreign Office, April 2, 1841.

THE Undersigned, Her Britannic Majesty's Secretary of State for Foreign Affairs, has the honour to acknowledge the receipt of the note from Mr. Stevenson, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, of the 27th ultimo, bringing under the notice of Her Majesty's Government certain proceedings of the Colonial authorities of Nova Scotia, in relation to the seizure and interruption of the vessels and citizens of the United States engaged in intercourse with the Ports of Nova Scotia, and the prosecution of the fisheries on its neighbouring coasts; and the Undersigned has lost no time in referring Mr. Stevenson's representation to the Secretary of State for the Colonial Department.

The Undersigned, &c.

(Signed)

PALMERSTON.

No. 110.

Viscount Palmerston to Mr. Stevenson.

Foreign Office, April 28, 1841.

THE Undersigned, Her Britannic Majesty's Secretary of State for Foreign Affairs, with reference to the note which he addressed to Mr. Stevenson, Envoy Extraordinary and Minister Plenipotentiary for the United States of America, dated the 2nd instant, stating that he had referred to the Secretary of State for the Colonial Department Mr. Stevenson's note of the 27th ultimo, respecting certain proceedings of the Colonial authorities of Nova Scotia, in relation to the seizure and interruption of the vessels and citizens of the United States of America, engaged in intercourse with the ports of Nova Scotia and in the prosecution of the fisheries on its neighbouring coasts, has the honour to inform Mr. Stevenson that he has since received from the Colonial Department a letter informing him that copies of the papers received from Mr. Stevenson would be forwarded to Lord Falkland, with instructions to inquire into the allegations contained therein, and to furnish a detailed Report upon the subject.

The Undersigned, &c.

(Signed)

PALMERSTON.

No. 111.

Mr. Stephen to Mr. Backhouse.—(Received May 26.)

Sir,

Downing Street, May 25, 1841.

I AM directed by Lord John Russell to transmit to you herewith the copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing the copy of a Report of a Committee of the House of Assembly on the Fisheries of the Province, and I am to request that you will lay these papers before Viscount Palmerston, and move his Lordship to take such measures as the case may seem to require.

With reference to the allusion in Lord Falkland's despatch to the inadequacy of the naval protection to the fisheries of Newfoundland, Lord John Russell requests that you will inform Viscount Palmerston that, upon a requisition from this Office, the Lords Commissioners of the Admiralty have instructed Vice-Admiral Sir Thomas Harvey to send two ships for the protection of those fisheries, if they can be spared.

I have, &c.

(Signed)

JAS. STEPHEN.

Inclosure 1 in No. 111.

Viscount Falkland to Lord J. Russell.

My Lord,

Government House, Halifax, April 28, 1841.

I TRANSMIT a copy of a Report of a Committee on the Fisheries of Nova Scotia, which Report has been adopted by the House of Assembly, and to which I have been requested to call your Lordship's attention.

The greatest anxiety is felt by the inhabitants of this Province that the Convention with the Americans, signed at London on the 20th of October, 1818, should be strictly enforced, and it is hoped that the consideration of this Report may induce your Lordship to exert your influence in such a manner as to lead to the augmentation of the force (a single vessel) now engaged in protecting the fisheries on the Banks of Newfoundland, and the south shore of Labrador, and the employment in addition of one or two steamers for that purpose.

The people of this Colony have not been wanting in efforts to repress the incursions of the natives of the United States upon their fishing grounds, but have fitted out with good effect some small armed vessels adapted to follow the trespassers into shoal water, or chase them on the seas (and the expediency of this measure has been corroborated by the testimony of Captain Milne, R.N., in his Report on the Fisheries of Newfoundland), but finding their own means inadequate to the suppression of this evil, the Nova Scotians earnestly entreat the further intervention and protection of the mother country.

I have the honour to forward herewith, in accordance with the request made to me in the same Resolutions, a case stated (raising the necessary questions as to the right of fishery which the people of these Colonies possess) for the purpose of being referred to the Crown Officers in England, in order that the existing Treaties, and the rights of these North American Provinces under them, may be more strictly defined.

I shall feel obliged to your Lordship's allowing the opinion of the Crown Officers to be taken on the said case, and I am authorised by the House of Assembly here to defray any expense that may be incurred in obtaining such opinion.

I have, &c.

(Signed) FALKLAND.

Inclosure 2 in No. 111.

Report of the Committee on the Fisheries.

THE Committee on the Deep Sea Fisheries of Nova Scotia report that they have given the fullest consideration to the important subject referred to them, and are gratified at being able to state, that this branch of industry, notwithstanding the many obstacles which are cast in the way of the industrious class engaged in it, continues to prosper, but not with that vigour which ought to characterize this principal export of the Colony.

The frequent appeals of the Legislature of Nova Scotia to the Home Government for protection against the encroachment of foreigners, to ensure to the inhabitants of this country the full enjoyment of their reserved rights of fishery, your Committee hope have been partly instrumental in calling forth a spirit of inquiry on this subject, of such momentous importance to the lower provinces; and the Report of Captain Milne, of Her Majesty's ship "Crocodile," relative to the fisheries of Newfoundland, and which is herewith submitted to the House, shows that the intercourse with foreigners injures our fishery on those grounds, and clearly points to some of the means by which such abuses may be redressed, the existence of which is so prejudicial to the true interests of those pursuing that avocation. Captain Milne considers the naval force employed for the protection of our fisheries too limited to ensure a vigilant and effective superintendence; and there is one paragraph of his Report worthy of perusal by all interested, and which is marked by the frankness which characterizes that gentleman, and which your Committee hopes will rouse the attention of Government to furnish a remedy: "as only one vessel is employed on the Newfoundland fisheries, it must be obvious, on consideration, that so vast a range of coast as there is included within its limits, extending around the Island of Newfoundland, along the south shore of Labrador, from 64° west longitude to the straits of Belleisle, and from thence indefinitely to the northward, cannot possibly be efficiently controlled or even visited by Her Majesty's ship

employed on that service." This has been the cause, in a great measure, of the boldness of foreigners in transgressing the conventional limits on our shores—it has not been a want of energy on the part of Her Majesty's ships of war, but the inability to discharge the onerous duty imposed on their Commanders, for unless the protection is ample, the oppressed fears to complain, lest he may be visited with the wrath of the accused, when no friendly Power is near to guard him, and by degrees he becomes a participator in the illicit conduct of those very people who are doing him and his country the greatest injury. By the same Report it appears that illicit trade prevails between the French Islands and Newfoundland—the fishermen of the latter exchanging bait for spirits and other merchandise, which is consumed without contribution to the revenue—a traffic demoralizing to those engaged in it, and destructive to the fishery, by converting the British fisherman into a supplier of an article indispensable to the foreigner, and thus enabling him to prosecute with greater success this more profitable fishery, while his dupe remains supinely on shore, satisfied with the reward for which he rashly barter his birthright. This evil your Committee knows exists in our more immediate fisheries, and it is difficult to eradicate it—the foreigner must have bait; if restricted to the limits prescribed he cannot obtain it, or conduct successfully his voyage. Hence a disproportioned price is offered, and the temptation to the poor man is irresistible—perhaps the dissemination of that knowledge which convinces the intelligent of the prejudicial tendency of such trade, is likely to prove the most permanent and effectual check. "I have also" (says Captain Milne) "been made acquainted that smuggling to a very considerable extent is carried on along the south shore at Labrador by American vessels resorting to that coast for the fishery. This illegal trade consists of provisions brought from the United States in a greater quantity than is sufficient for their own consumption during the season, and therewith secretly carrying on illicit trade in every port and river on the above shore; nor do I see any means by which so extensive an evil to the British merchant, and to the Colonies, can be possibly suppressed, unless by the interference of the Home Government." To aid in breaking up this system, he recommends employment by the Colonies of small fast sailing-vessels, which can approach these violators of the law with greater facility, and follow them into shoal water, or chase them on the seas; and, in confirmation of that gallant officer's views, your Committee have satisfaction in reporting, that such has been the result of employing similar craft by this Colony for that service; but it is in vain to attempt the total suppression of such destructive and contaminating intercourse without the vigorous interposition of the Home Government, for whilst this Colony has established cutters to protect the fisheries, the adjoining Provinces appear indifferent to this great object, as far as your Committee can gain information; and on their shores and in their waters, when driven from ours, the foreign fisherman violates existing Treaties with impunity.

To the Home Government your Committee, concurring with the writer of the Report, turns for redress, with the full conviction that, when rightly informed, that Government will extend its protection to the British subject, however remote his residence or humble his occupation. Your Committee further report that the export of fish from Nova Scotia, by the official returns made under order of this House, in the year ending the 5th January last, amounts to 327,026 quintals of dry fish; 71,676 barrels, and 1,137 tierces, and 3,643 kits of pickled fish; 27,755 boxes of smoked fish; 2,553 barrels, and 4,661 casks of oil; and 17,735 seal skins, and 2 casks of seal skins, the value of which exceeds 500,000*l.*, and the taking of which employed upwards of 60,000 tons of shipping. The Committee regret that there is no mode of ascertaining the number of persons actually engaged in the fishery, and in curing and packing such a valuable export, but annex a Statistical Table, showing the ports to which shipments have taken place, whence it appears that this commodity is a valuable staple of the province, and the chief support of our foreign commerce. The Committee suggest that some means should be adopted to procure accurate accounts of the numbers engaged in that pursuit, for when they reflect that the above quantity has been exported, and no account furnished of the home consumption, which is at least equal, and when compared with the fishery of the United States, it becomes apparent that these fisheries are of incalculable national benefit, and ought to be fostered in every manner by the Legislature.

The Committee have procured a Statistical Table, showing the extent of the fishing interest in Massachusetts, the State principally engaged in this branch of commerce, whence it appears, that for the year ending 1st April, 1837, (since which no authentic Report appears to have been made,) the catch was 510,554 quintals of cod-fish, valued at 1,569,517 dollars: and 234,059 barrels of mackerel, valued at 1,639,042

dollars, employing 1,290 vessels, and 11,146 hands; and this business is increasing yearly, being cherished by the Government, as tending to advance the commerce of the Republic, and to furnish seamen for its defence, while the British fisheries receive no pecuniary encouragement, but little protection, and are left entirely to individual enterprise, subject to fluctuation, and deprived by the local Legislature of obtaining provisions and supplies duty free, a boon intended by the Imperial Government.

The Committee conceive it their duty again to press on the consideration of the House, the advantages of extending a fostering hand towards a class of subjects having just and strong claims for Legislative protection—they exceed 10,000 in number—their employment strengthens manly vigour—the mine of wealth in which they labour is inexhaustible, it lies contiguous to their home, for 450 miles of ocean, which laves the rugged shores of Newfoundland, is the favourite resort of the cod, and the clear waters of the Lower Provinces the favoured habitation of mackerel and herring—it affords a nursery for seamen, without whom these Provinces can never be elevated to national importance. Nova Scotia, with her tributary isles, must use the ocean for her highway, and she cannot maintain her right to traverse its waters unless her sons are trained to a profession which enables them to combat with the elements, and renders them conversant with the dangers of the deep.

Your Committee further report, that the encroachment of American citizens on the reserved fishing grounds of the Province continues, although partially checked by the exertions of those in command of the Revenue cutters; the system of fishing adopted by them at the Magdalen Islands, unless suppressed, will, as has already been reported to this House, destroy the fishery altogether, the herring quit the Arctic Regions, resort to and swarm in those waters. This migration is for the purpose of spawning, as, after this process is completed, they quit the temperate latitudes and repair to the north; the spawn, after being discharged by the parent fish, floats on the waves for a portion of the spring, and, in the beginning of summer, the small fry are seen in myriads. The fish taken in the early part of the season are pregnant with eggs,—a destructive cause of diminution, but the Americans land on those islands, and add to this Seine fishing, by which the fructifying spawn and small fry are destroyed, while yet too weak to descend to the deep, or to escape the voracity of the tribes of the ocean.

Your Committee further report that foreign vessels, engaged in the Bank Fishery, resort to those islands and the shores of the Gulf to procure bait—they dig clams, and sweep seines in those waters, in violation of the terms of the Treaty, to the prejudice of the inhabitants, and, as has been shown, to the injury of the fishery—that they will continue to do so is manifest, for they cannot obtain bait with equal facility elsewhere; and, therefore, they recommend that an address should be transmitted to Her Majesty on the subject, humbly praying Her Majesty to pass Rules and Regulations for the fishery in those waters, or to place those islands under the Government of some of the Lower Provinces interested in the protection of the fishery, so that such encroachments may be repelled, and the destructive system of fishery be prohibited.

The Committee further report that the demand for pickled fish, particularly mackerel, increases beyond the supply produced by shore fishing; and that great benefit would result by inducing many of those engaged in the coasting trade to return to the occupation they have been trained to, and therefore recommend that a tonnage duty should be allowed on all vessels employed in catching mackerel in deep water, thus offering competition to the Americans in the fishery, and producing a force to aid in checking their lawless practices on our shores.

The Committee have examined the accounts of expense of Revenue Cutters for the last year, and find them correct:—

	£	s.	d.
The "John and Louisa Wallace" cost.	692	4	10½
The "Rival"	617	19	4
The "Victory"	767	12	9

500*l.* was voted for the support of each, and the deficiency to be provided is . . 681 15 6

The accounts are herewith returned, numbered 1, 2, 3, and 4; also an account of the seizures and vessels detained by said cutters, numbered 5, 6, and 7, by which it appears that twenty-eight vessels have been seized for violation of the Fishery Regulations, and for illicit trade, of which number eleven fishing vessels of the United States have been condemned in the Court of Vice-Admiralty of Nova Scotia, and the rest restored on payment of penalties. Extensive seizures of goods have also been made in consequence of the detention of the "Glory" at Arichat, a proportion of which, together with one moiety of the above seizures, after deducting the expenses of condemnation, remains to the credit of this branch of the service. They therefore recommend a

continuation of those vessels for another year, being satisfied that much good has and will continue to result from their employment.

The Committee do not report favourably to the petition of Daniel Gallagher. They sympathize with those who have sustained heavy losses during the gales of last autumn, amounting, as your Committee are fully convinced, to upwards of 20,000*l*, but cannot urge upon this House the granting of any money, as it would establish a precedent sanctioning applications for all private losses, and occasion a perversion of the Provincial Revenue.

The Committee recommend that Her Majesty's Government should be urged to make Orders, Rules, and Regulations for the proper government of the fisheries of the British North American Provinces, particularly at the Magdalen Island—that the existing Treaties, and the right of the inhabitants of the Provinces under them, should be more distinctly defined—that his Excellency the Lieutenant-Governor should be authorized to obtain the opinion of Her Majesty's Law Officers of the Crown in England on a case stated—raising all the necessary questions as to the right of fishery which the people of these Colonies possess—that those rights should then be protected by the Government, which can only be accomplished by the use of steam-boats, or such vessels as can approach the violators of the Treaties at all times.

That the Revenue Cutters should cruise on the same grounds as last year, and the Masters be instructed to make seizures in the Gut of Canso and Bay of Fundy—that a formal adjudication may be made as to the right of fishing vessels to pass through the former, or take fish in the headlands of the latter, your Committee being convinced that strenuous exertions should be made at this crisis to repel encroachments on the reserved fishery of the Lower Provinces, and to awaken the people to their rights and the vital importance of this subject, so that in any future adjustment of the momentous causes of dissatisfaction now open between Great Britain and the adjoining Republic, no concessions may be made to sanction further participation in this inexhaustible mine of wealth, the products of which expand our commerce over the broad surface of the world—give employment to thousands of every age and sex—foster a class of intelligent and brave men, who in peace are the chief stay of commerce, and in war a formidable force—to combat the enemy on the ocean, which laves our almost insular shores.

(Signed)

JAMES B. UNIACKE, *Chairman*.
W. F. DESBARRES.
R. CLEMENTS.
PETER SPEARWATER.
JOHN J. MARSHALL.

Port of Halifax, Nova Scotia.

MEMORANDUM of the Quantity of Fish, Fish Oil, and Seal Skins exported from this Province in the Year ended January 5, 1841.

To Where.	Fish.					Oil.		Seal Skins.	
	Dry.	Pickled.		Smoked.		Casks.	Barrels.	No.	Casks.
	Quintals.	Tierces.	Barrels.	Kits.	Boxes.				
Great Britain ..	56	..	140	2	119	2,019	150	..	2
British N. A. Colonies .	12,555	..	11,262	..	14,250	665	356	..	..
British W. Indies ..	232,541	888	38,393	3,113	11,547	972	1,999	..	..
United States ..	..	249	13,182	281	1,637	..	..	17,557	..
Foreign W. Indies ..	14,065	..	1,001	45	62	45	24	..	..
Brazils ..	17,063	..	..	..	..	..	..	..	..
Mauritius ..	247	..	108	49	..	..	..	..	..
Africa ..	42	..	27	216	140	..	..	..	..
Foreign Europe ..	5,335	..	..	..	..	..	..	..	..
Western Islands ..	288	..	1	..	..	..	24	..	..
From Cape Breton ..	44,807	..	7,562	..	..	960	..	178	..
Total ..	327,026	1,137	71,676	3,643	27,755	4,661	2,553	17,735	2

Extent of the Fishing Interest in Massachusetts.

Statement, compiled from the Statistical Tables, published by order of the Legislature of Massachusetts, indicating the extent of the fishing interest of the Commonwealth, for the year ending 1st April, 1837. The whale fishery not included:—

Vessels employed in the cod and mackerel fishery	1,290
Tonnage of the same	76,089
Number of quintals of codfish caught	510,554
Value of the same	\$1,569,517
Number of barrels of mackerel caught	234,059
Value of the same	\$1,639,042
Number of bushels of salt used in cod and mackerel fishery	837,141
Hands employed	11,146
Capital invested	\$2,683,176

Received and adopted.

In the House of Assembly, April 8, 1841.

Resolved that his Excellency the Lieutenant-Governor be respectfully requested to call the attention of Her Majesty's Government to the Report adopted by this House on the subject of the fisheries, and to urge Her Majesty's Government to give effect to the suggestions therein contained.

(Signed) JOHN WHIDDEN, *Clerk.*

Inclosure 3 in No. 111.

Case.

CASE stated by direction to the Right Honourable Lord Viscount Falkland, Lieutenant-Governor of Nova Scotia, at the request of the House of Assembly of that Province, for the purpose of obtaining the opinion of the Law Officers of the Crown in England.

At the peace of 1783 a Treaty was entered into between the United States and Great Britain, by which the people of the former obtained the right "To take fish on the Grand Bank and all other banks of Newfoundland, in the Gulf of St. Lawrence, and all other places in the sea where the inhabitants of both countries had been used to fish before; and the liberty to fish on such part of the coast of Newfoundland as British fishermen used (but not to dry or cure fish there), and on the coasts, bays, and creeks of all other British dominions in America;" they also obtain liberty to dry and cure fish in any unsettled bays, harbours, and creeks of Nova Scotia, Magdalen Islands, and Labrador, but as soon as any of them were settled this liberty was to cease, unless continued by agreement with the inhabitants. The United States declared war against Great Britain in 1812; peace was subsequently proclaimed, and a Convention was entered into between Great Britain and the United States, and signed at London October 20, 1818, the first Article of which is as followed:—

"Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the High Contracting Parties that the inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Ramean Islands on the Western and Northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but, so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portions so settled without previous agreements for such purposes with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof,

to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours, of His Britannic Majesty's dominions in America not included within the above-mentioned limits, provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

An Act, passed in the fifty-ninth year of the reign of His late Majesty George the Third, cap. 38, entitled an "Act to enable His Majesty to make regulations with respect to the taking and curing fish on certain parts of the Coast of Newfoundland, Labrador, and His Majesty's other Possessions in North America, according to a Convention made between His Majesty and the United States of America; and in the year 1836, His late Majesty William the Fourth, in the sixth year of his reign, by an Order in Council, assented to and made the clauses of a certain Act of the Assembly of Nova Scotia the rules, regulations, and restrictions respecting the fisheries on the coasts, bays, creeks, or harbours of the province of Nova Scotia; by the first section of which it is enacted "that any ship, vessel, or boat, which shall be foreign, and not navigated according to the laws of Great Britain and Ireland, which shall have been found fishing, or preparing to fish, or to have been fishing, within three marine miles of coasts, bays, creeks, or harbours of this Province, such ship, vessel, or boat, and their respective cargoes, shall be forfeited."

Nova Scotia is indented with bays, many of which reach from 60 to 100 miles into the interior, such as the Bay of Fundy, St. Mary's Bay, the Bras D'Or Lake, and Manchester Bay; the land on the shores is entirely British territory, and Nova Scotia Proper is separated from the Island of Cape Breton by a narrow strait, called the Gut of Canso, in some parts not wider than three-quarters of a mile. In the Bay of Fundy, St. Mary's Bay, and the Straits of Canso, Americans conduct the fishery, and their vessels pass also through the Strait of Canso, or anchor there, and not only fish, but, by using bait, tole the mackerel into deep water, thereby injuring the profitable seine fisheries of Fox Island, Crow Harbour, Arichat, St. Peter's Bay, and other stations in the neighbourhood of Canso, which formerly were the most productive fisheries of Nova Scotia. They also land on the Magdalen Islands, set nets, and sweep seines in the spring of the year, at a time when the herring resorts to those waters to spawn, thereby destroying the spawn and young fish, and consequently ruining the fishery.

The opinion of the Law Officers of the Crown in England is requested on the following points:—

1. Whether the Treaty of 1783 was annulled by the war of 1812, and whether the citizens of the United States possess any right of fishery in the waters of the Lower Provinces other than ceded to them by the Convention of 1818, and if so, what right?

2. Have American citizens the right under that Convention to enter any of the bays of Nova Scotia to take fish, if, after they have so entered, they prosecute the fishery more than three marine miles from the shores of such bays; or should the prescribed distance of three marine miles be measured from the headlands at the entrance of such bays, so as to exclude them?

3. Is the distance of three marine miles to be computed from the indents of the coasts of British America or from the extreme headlands, and what is to be considered a headland?

4. Have vessels of the United States of America, fitted out for fishing, a right to pass through the Gulf of Canso, which they cannot do without coming within prescribed limits, or to anchor there, or to fish there; and is casting bait to lure fish in the track of their vessels fishing within the meaning of the Convention?

5. Have citizens of the United States of America a right to land on the Magdalen Islands, and conduct the fishing from the shores thereof by using nets and seines; or what right of fishery do they possess on the shores of those islands, and what is meant by the term shore?

6. Have fishermen of the United States of America the right of entering the bays or harbours of the Province of Nova Scotia for the purpose of purchasing wood and obtaining water, having provided neither of these articles at the commencement of their voyages in their own country, or have they the right only of entering such bays and harbours in cases of distress, or to purchase wood and obtain water after the usual stock of those articles for the voyage of such fishing craft has been exhausted or destroyed?

7. Under existing Treaties, what rights of fishing are ceded to the citizens of the United States of America, and what reserved for the exclusive enjoyment of British subjects?

No. 112.

Mr. Backhouse to the Law Officers of the Crown.

Gentlemen,

Foreign Office, June 8, 1841.

WITH reference to my letters to Her Majesty's Advocate-General, of the 26th of May, 1840, and of the 19th of April, 1841, relative to the encroachments of American fishermen on the fishing grounds of Nova Scotia and the adjoining Colonies, and to certain proposed regulations for the protection of those fisheries, I am directed by Viscount Palmerston to transmit to you the accompanying copy of a letter from the Colonial Office,* together with a copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing a copy of a Report of the House of Assembly on the subject of the fisheries of that Province, and also inclosing a case for opinion, as to what rights have been ceded to the citizens of the United States of America, and as to what rights have been exclusively reserved to Her Majesty's subjects; and I am to request that you will take these papers into your consideration, and report to Lord Palmerston your opinion upon the several questions stated in the case above-mentioned.

I am, &c.

(Signed) J. BACKHOUSE.

No. 113.

Mr. Backhouse to the Queen's Advocate.

Sir,

Foreign Office, July 5, 1841.

WITH reference to my two letters of the 26th of May, 1840, and 19th of April, 1841, and also with reference to my letter to Her Majesty's Law Officers of the 8th of June, 1841, respecting the continued encroachments of American fishermen on the coast of Nova Scotia, and respecting certain proposed regulations for the protection of the fisheries on that coast, I am directed by Viscount Palmerston to transmit to you a correspondence, as marked in the margin,† which has passed between this Office and Mr. Stevenson, the American Minister at this Court, and the Colonial Department, on the subject of a Remonstrance addressed by Mr. Stevenson against the proceedings of the Authorities of Nova Scotia towards American fishing vessels, encroaching on the fisheries on that coast; and I am to request that you will take these papers into your consideration, and favour Lord Palmerston with your opinion thereupon.

I am, &c.

(Signed) J. BACKHOUSE.

No. 114:

The Law Officers of the Crown to Viscount Palmerston.—(Received September 1.)

My Lord,

Doctors' Commons, August 30, 1841.

WE are honoured with your Lordship's commands signified in Mr. Backhouse's letter of the 26th of May, 1840, stating that he was directed to transmit to us the accompanying letter from the Colonial Office, inclosing the copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing an address to Her Majesty from the House of Assembly of that Province, complaining of the continued encroachments of American fishermen on the fishing ground of Nova Scotia and the adjoining colonies, and praying that Her Majesty would establish, by an Order in Council, general regulations for the protection of the fisheries according to the code annexed to the address.

Mr. Backhouse is pleased to request that we would take these papers into con-

* No. 111.

† Mr. Stevenson, March 27; to Mr. Stevenson, April 2 and April 28; to Colonial Office, April 2; Colonial Office, April 12 and June 18, 1841.

sideration, and report to your Lordship our opinion, whether there is anything in the proposed regulations which would be inconsistent with the stipulations of the Convention of the 23th of October, 1818, between Great Britain and the United States of America.

We are also honoured with Mr. Backhouse's letter of the 19th April, stating that he was directed to transmit to us a further letter from the Colonial Office, dated the 16th instant, inclosing the copy of a despatch from the Lieutenant-Governor of Nova Scotia, covering a copy of an address from the Legislative Council of that Province, objecting to one of the above-mentioned regulations proposed by the House of Assembly in the session of 1810, and to request that we would take these papers into consideration, in addition to those referred to in his letter of the 26th of May last, and that we would report to your Lordship, at our early convenience, our opinion thereupon.

We are also honoured with Mr. Backhouse's letter of the 8th of June, stating that he was directed to transmit to us the accompanying copy of a letter from the Colonial Office, together with a copy of a despatch from the Lieutenant-Governor of Nova Scotia, inclosing a copy of a Report of the House of Assembly on the subject of the fisheries of that province, and also inclosing a case for opinion as to what rights have been ceded to the citizens of the United States of America, and as to what rights have been exclusively reserved to Her Majesty's subjects; and to request that we would take these papers into consideration, and report to your Lordship our opinion upon the several questions stated in the case above mentioned.

We are also honoured with Mr. Backhouse's letter of the 5th ultimo, stating that he was directed to transmit to us a correspondence, as marked in the margin, which has passed between the Foreign Office and Mr. Stevenson, the American Minister at this Court, and the Colonial Department, on the subject of a remonstrance addressed by Mr. Stevenson against the proceedings of the authorities of Nova Scotia towards American fishing vessels encroaching on the fisheries of that coast, and to request that we would take these papers into consideration, and report to your Lordship our opinion thereupon.

In obedience to your Lordship's commands, we have taken these papers into consideration, and have the honour to report that we are of opinion that the Treaty of 1783 was annulled by the war of 1812, and we are also of opinion that the rights of fishery of the citizens of the United States must now be considered as defined and regulated by the Convention of 1818; and, with respect to the general question "if so, what right," we can only refer to the terms of the Convention, as explained and elucidated, by the observations which will occur, in answering the other specific queries.

Except within certain defined limits to which the query put to us does not apply, we are of opinion that, by the terms of the Convention, American citizens are excluded from any right of fishing within three miles of the coast of British America, and that the prescribed distance of three miles is to be measured from the headlands, or extreme points of land next the sea of the coast, or of the entrance of the bays, and not from the interior of such bays, or indents of the coast, and, consequently, that no right exists on the part of American citizens to enter the bays of Nova Scotia, there to take fish, although the fishing being within the bay may be at a greater distance than three miles from the shore of the bay, as we are of opinion that the term "headland" is used in the Treaty to express the part of the land we have before mentioned, excluding the interior of the bays and the indents of the coast.

By the Convention of 1818 it is agreed that American citizens should have the liberty of fishing in the Gulf of St. Lawrence (and within certain defined limits), in common with British subjects; and such Convention does not contain any words negating the right to navigate the passage or Gut of Canso, and, therefore it may be conceded that such right of navigation is not taken away by that Convention; but we have now attentively considered the course of navigation to the Gulf of Cape Breton, and likewise the nature and situation of the passage of Canso, and of the British diminutions on either side; and we are of opinion that, independently of Treaty, no foreign country has the right to use or navigate the passage of Canso; and attending to the terms of the Convention relating to the liberty of fishery to be enjoyed by the American citizens, we are also of opinion, that that Convention did not, either expressly, or by necessary implication, concede any such right of using or navigating the passage in question. We are also of opinion that, casting bait to lure fish in the tract of any American vessels navigating the passage, would constitute a fishing within the negative terms of the Convention.

With reference to the claim of a right to land on the Magdalen Islands, and to

fish from the shores thereof, it must be observed that, by the Convention, the liberty of drying and curing fish (purposes which could only be accomplished by landing) in any of the unsettled bays, &c. of the southern part of Newfoundland, and the coast of Labrador, is specifically provided for; but such liberty is distinctly negatived in any settled bays, &c.; and it must, therefore, be inferred, that if the liberty of landing on the shores of the Magdalen Islands had been intended to be conceded, such an important concession would have been the subject of express stipulation, and would necessarily have been accompanied with a description of the inland extent of the shore over which such liberty was to be exercised, and whether in settled or unsettled parts, but neither of these important particulars are provided for even by implication; and these, among other considerations, leads us to the conclusion, that American citizens have no right to land or conduct the fishery from the shores of the Magdalen Islands. The word "shore" does not appear to have been used in the Convention, in any other than the general or ordinary sense of the word, and must be construed with reference to the liberty to be exercised upon it, and would therefore comprise the land covered with water as far as could be available for the due enjoyment of the liberty granted.

By the Convention, the liberty of entering the bays and harbours of Nova Scotia for the purpose of purchasing wood, and obtaining water, is conceded in general terms, unrestricted by any condition expressed or implied, limiting the enjoyment to vessels duly provided with those articles at the commencement of their voyage; and we are of opinion, that no such condition can be attached to the enjoyment of the liberty.

The rights of fishery ceded to the citizens of the United States, and those reserved for the exclusive enjoyment of British subjects, depend altogether upon the Convention of 1818, the only existing Treaty on this subject between the two countries; and the material points arising thereon have been specifically answered in our replies to the preceding queries.

We have, &c.
(Signed) J. DODSON.
THOS. WILDE.

No. 115.

Mr. Sidney Herbert to Viscount Canning.—(Received November 13.)

My Lord,

Admiralty, November 12, 1841.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Aberdeen, copies of a letter from Vice-Admiral Sir Charles Adam, dated the 22nd of October last, and its inclosures, relative to the fisheries in the Bay of Fundy.

I am, &c.
(Signed) SIDNEY HERBERT.

Inclosure 1 in No. 115.

Vice-Admiral Sir C. Adam to Mr. Sidney Herbert.

Sir,

"Winchester," at Halifax, October 22, 1841.

I HAVE the honour to transmit, to be laid before the Lords Commissioners of the Admiralty, copy of a Report from Lieutenant Chambers, the commanding officer of Her Majesty's sloop "Racer," relative to the fisheries, &c., in the Bay of Fundy.

I have, &c.
(Signed) CHARLES ADAM.

Inclosure 2 in No. 115.

Lieutenant Chambers to Vice-Admiral Sir C. Adam.

Sir,

"Racer," at Sea, October 9, 1841.

I BEG leave to inform you that Her Majesty's sloop has, in the execution of the orders of the late Vice-Admiral and Commander-in-Chief Sir Thomas Harvey, been in constant communication with all the fishing stations, and her boats actively employed in the protection of the fisheries.

The fishing has been very good; and the fishermen, owing to the presence of a man-of-war, have not been in any way molested.

The difficulty of finding any competent authority at the stations to communicate with, renders it impossible to collect any statement of the number of vessels and people employed in the fisheries.

I could not find that any increase had taken place this season; it appeared to me, that the energy necessary to prosecute the fisheries, so as to render them a source of increasing wealth, was wanting.

I did not detect a single instance of encroachment on the part of the American fishermen: the reports from the boats of Her Majesty's sloop on so many points at the same time, satisfied me that our fishing grounds were free from all encroachments. With the in-shore fisheries in Passamaquoddy Bay, it was different; the Pollock comes in at very uncertain periods, but always on our side; from Head Harbour to Indian Islands, the shoals are very large, and remain stationary; every man, on both shores, who has a boat, immediately begins to fish; the boats are very small, and may amount to 300 or 400.

The Americans are supposed to out-number ours; and the shoals that would employ our people ten days, with their aid, disappear in two or three; complaints are made that they land on our islands in the night, drain the wells, cut and carry away wood belonging to the inhabitants; but, on inquiry, I did not find any well-authenticated case.

In the present state of affairs a man-of-war can be of very little service to this branch of our fisheries.

Independent of having to watch over a tract so extreme as the Bay of Fundy, if she even happened to be on the spot at the time of this encroachment, it would be impossible to distinguish an American from an English boat. The Americans, on being questioned, declare themselves British subjects, residing within certain places in the British dominions; and the appearance, language, manners, and habits of our people render it very difficult to distinguish between them. I think that the local authorities have a remedy in part for this in their own hands, by causing every British fisherman to provide himself with a written pass or license, under their hands, to be renewed yearly; the boats of men-of-war could then act with certain effect. I believe that collusion exists between the fishermen of both countries, to a great extent, and that Americans are fishing in English bottoms, and American vessels employ English fishing boats to fill them with fish, the American Government having, till lately, given a premium.

The trade of the Bay of Fundy is considerable—one branch (plaster of Paris) employs a great many vessels, chiefly from Windsor to Eastport and Subic and the United States. The timber trade was not so active, from the fluctuating state of the markets, and many failures to a great amount have taken place at St. Johns.

With regard to the state of the lights, the only change that has taken place in them this summer is the one at Head Harbour, Campo Bello, which has within the last month been fitted with a new set lamps and reflectors; it remains, as formerly, a single fixed light, though much improved in power.

The lights seen by us during our sojourn in the Bay of Fundy are—

Cape Sable, Seal Islands.—Very fair.

Bryer Islands.—Indifferent; it ought to be a very good one, as so many vessels take that passage in running for St. John's.

Annapolis.—Indifferent, but sufficient for its purpose.

Quaco.—Very fair.

Partridge Island Beacon Light, St. John's.—Very good.

Point Laprean.—Very good.

Head Harbour.—Lately good.

St. Andrew's Harbour Light.—Sufficient for its purpose.

The lights on the New Brunswick Shore are much more brilliant than those of Nova Scotia.

I am of opinion that a revolving light placed on the Southern Wolf would be of great advantage for the security of vessels proceeding up the Bay, and is much required.

From the foggy and misty state of the weather during the time we were making passages, I am prevented from stating with accuracy the number of miles the before-mentioned lights can be seen off.

I have, &c.

(Signed) WILLM. CHAMBERS.

Mr. Norman to the Earl of Aberdeen.—(Received August 8.)

*Gaspé Fishery and Coal Mining Company, 2, New Broad Street,
August 7, 1845.*

My Lord,

I TAKE the liberty of laying before your Lordship the copy of a letter which, on behalf of the Directors of this Company, I had the honour of addressing to Lord Stanley on the 1st of August.

To its contents I take the liberty of bespeaking your Lordship's favourable attention; not only by reason of the important national interests which, I respectfully submit, are directly involved in the question to which it refers; but as well on account of the ruin which any further extension of rights of privileges accorded to the fishermen of the United States, and especially that of fishing within the bays found along the coasts of the British territories, would inevitably bring upon this Company—a Company, as your Lordship will observe, incorporated by a Canadian and Imperial Acts of Parliament, for the purpose, and in the hope, that its large capital and influence might afford that effectual check to the lawless interference of the Americans, which is gradually destroying the Colonial fishing trade.

To enable the Directors more satisfactorily and fully to establish these facts, they respectfully but earnestly request that your Lordship will be pleased to grant them an interview; and I am further desired to express their hope that the urgency of the case will plead their excuse for entreating that your Lordship will make as early an appointment for that purpose as the important calls on your Lordship's valuable time may render practicable.

I have, &c.
(Signed) RICHD. NORMAN.

Inclosure in No. 116.

Mr. Norman to Lord Stanley.

*Gaspé Fishery and Coal Mining Company, 2, New Broad Street,
August 1, 1845.*

My Lord,

ON behalf of the Directors of the Gaspé Fishery and Coal Mining Company, and as well on the part of the Colonists of Lower Canada, connected with us in the fishing trade, I take the liberty of earnestly soliciting an interview with your Lordship on the subject, in which our welfare and that of our Canadian fellow-subjects is deeply and vitally concerned.

It has been represented to us that your Lordship, as Secretary of State for Her Majesty's Colonies, has it in contemplation to recommend to Her Majesty's Government to allow the fishermen of the United States to fish within those limits of the shores of the British territory from which, by Treaty, they have been heretofore excluded. The consequence of such permission, we beg leave respectfully to assure your Lordship, would be disastrous not alone to the Company which I represent, but to all engaged, directly or indirectly, in the fishing trade in its various branches—the most important, I submit, in the Colonies in a national point of view. Nor can I omit to call your Lordship's serious attention to the fact that, by allowing the Americans free ingress to the shores, the system of smuggling, which, as your Lordship is doubtless aware, is now carried on to a vast extent, will be greatly increased, to the ruin of the fair trader and loss to the revenue of the British provinces.

But as an additional reason for encroaching on your Lordship's valuable time, I take the liberty of stating that in the summer of last year Her Majesty's Government granted an Act of Incorporation to the Gaspé Fishery and Coal Mining Company, under circumstances most flattering and encouraging to the Directors; that the principal object which the Company had in view was the employment of a large capital in the prosecution of the fisheries in the Bay of Chaleurs and the Gulf of St. Lawrence generally—a branch of trade which, for some years past, has more and more languished under the encroachment of the Americans, to the proportionate exclusion of the Colonists.

That to prosecute this great national object with all possible effect, Her Majesty's Government as before mentioned, granted to the Company an Act of Incorporation,

with unusual powers, in consequence of which the Directors have issued the shares, representing the capital of the Corporation, and received subscriptions from an influential body of proprietors, who have invested a large capital in the purchase of estates in the Province of Gaspé, with a view to prosecute those fisheries; have engaged with and sent out agents and officers; and taken all necessary steps to carry out those objects in consideration of which Her Majesty's Government were pleased to grant them the privileges referred to.

These objects, I beg leave to represent to your Lordship, will be entirely frustrated should your Lordship's alleged intentions be adopted even in part. It is impossible, even with the existing Law, for the Colonists to resist the inroads of the Americans, who are in the habit of practising that lawless violence which power and numbers enable them to use without fear of reprisal; and it was essentially and permanently to combat the injury thus sustained by British subjects, that Her Majesty's Government conferred such powers on the Company. These the Directors, unanimously and gratefully supported by the Canadian Legislature and the Colonists, have taken steps, at a great expense, to render as effectual as possible; but their past and future efforts will be rendered entirely abortive, and the capital so expended will be entirely lost, if the measure, which it is reported that your Lordship has in contemplation, pass into law; for not only will the prosperity of every capitalist, connected with the trade, and fisherman throughout the British American possessions, receive a death-blow, from which recovery will be impracticable, and an industrious maritime population, whose importance in time of war has been universally acknowledged, be assuredly dispersed, but, I would submit to your Lordship, that a tacit agreement, if I may be allowed so to call it, entered into between Her Majesty's Government and this Company, which I have the honour to represent, will be completely abrogated, to our utter ruin, in common with the many thousands of Her Majesty's subjects, who depend for subsistence entirely upon those waters, to whose supplies, within certain fixed limits, however inefficiently protected, they have heretofore looked up to as sacredly secure to them.

It is to lay before your Lordship further information in reference to this important subject that I respectfully entreat your Lordship to grant us the interview I ask for, and trusting the anxiety we must naturally feel in a manner involving as it does our ruin or prosperity may plead my excuse for earnestly requesting your Lordship's early attention to my communication.

I have, &c.
(Signed) RICHARD NORMAN.

No. 117.

Viscount Palmerston to Mr. Crampton.

(No. 28.)

Sir,

Foreign Office, May 18, 1849.

I TRANSMIT herewith to you copies of a letter and of its inclosures, which have been received from the Colonial Office, requesting, for the information of the Legislature of Newfoundland, a statement, showing what bounties and drawbacks are granted by the United States' Government in support of their fisheries on the coast of Newfoundland.

And I have to instruct you to procure and transmit to me the most authentic information which you may be able to obtain, in answer to the questions, on this subject asked by the authorities of Newfoundland.

I am, &c.
(Signed) PALMERSTON.

No. 118.

Mr. Crampton to Viscount Palmerston.—(Received July 11.)

(No. 60.)

My Lord,

Washington, June 25, 1849.

I HAVE the honour to inclose herewith a copy of the reply which has been made by the Treasury Department of the United States to the application which, in obedience to the instructions contained in your Lordship's despatch No. 28 of the 18th ultimo, I addressed to that Department for a statement showing, for the information of the

Legislature of Newfoundland, what duties and drawbacks are granted by the United States' Government in support of their fisheries on the coast of Newfoundland.

Mr. McClintock Young informs me that no returns are made which would enable the Department to designate the number of American vessels engaged in the cod and mackerel fisheries at each particular place where those fisheries are carried on; he furnishes me, however, with a statement, showing the total amount of bounties on salt fish exported, and of allowances to vessels engaged in bank and cod fisheries, generally, during the years 1844, 1845, 1846, 1847, and 1848, together with a statement of the total amount of American tonnage employed in cod and mackerel fishing during those years, the rates of bounties or allowances to vessels so employed, and extracts from the Acts of Congress of the 24th of February, 1828, and the 20th of April, 1836, containing regulations regarding the mackerel fishing.

I have, &c.

(Signed) JOHN F. CRAMPTON.

Inclosure 1 in No. 118.

Mr. Young to Mr. Crampton.

Sir,

Treasury Department, Washington, June 14, 1849.

I HAVE the pleasure of inclosing to you a statement respecting our cod fisheries. You will perceive that we have no returns to enable us to designate our fisheries as to where the vessels were employed.

I have, &c.

(Signed) Mc CLINTOCK YOUNG,
Chief Clerk.

Inclosure 2 in No. 118.

STATEMENT exhibiting the Amount of Bounties on Salted Fish exported, and of Allowances to Vessels employed in the Bank and Cod Fisheries annually, for the Years ending 30th June, 1844, 1845, 1846, 1847, and 1848.

Years ending—	Payments for—			
	Bounties on Pickled Fish Exported.		Allowances to Vessels employed in the Bank and Cod Fisheries.	
	Dols.	c.	Dols.	c.
30th June, 1844	6,663	60	249,074	25
.. 1845	4,174	20	289,840	07
.. 1846	5,540	60	274,942	98
.. 1847	6,488	20	276,429	38
.. 1848	747	80	243,432	23

(Signed) ALLEN A. HALL, *Registrar.*

Treasury Department, Registrar's Office, June 6, 1849.

TONNAGE of Vessels Enrolled and Licensed for the Mackerel and Cod Fisheries, from 1844 to 1848 inclusive.

Years ending—	Mackerel Fishery.	Cod Fishery.	Rate of Allowance to Vessels in the Cod Fishery.	Dols.	c.
30th June, 1844 ..	Tons. 16,171	Tons. 75,179	If 5 tons and not above 30 tons, per ton..	3	50
.. 1845 ..	21,413	69,826	If above 30 tons, per ton ..	4	00
.. 1846 ..	36,463	72,516	If above 30 tons, and having a crew of 10 persons		
.. 1847 ..	31,451	70,178	and employed at sea for 3½ months at least, but		
.. 1848 ..	43,539	82,632	less than 4 months	4	00
			Allowance to any vessel not to exceed	360	00

(Signed) ALLEN A. HALL, *Registrar.*

Treasury Department, Registrar's Office, June 6, 1849.

Mackerel Fishery.

THE Act of the 24th February, 1828, authorizes the issuing of licenses to vessels for carrying on the mackerel fishery, subject to the provisions of the Act of the 18th of February, 1793, entitled "An Act for enrolling and licensing ships or vessels employed in the coasting trade and fisheries, and for regulating the same."

The Act of the 20th of April, 1836, provides that vessels employed in the mackerel fishery shall not be liable to the penalties and forfeitures imposed by the 5th and 32nd sections of the Act of 1793, in consequence of any such vessels whilst licensed as aforesaid having been engaged in catching cod or fish of any other description whatever. Provided, however, that this Act shall not be deemed or considered as authorizing or entitling the owner or owners of any vessel licensed for the mackerel fishery to receive the bounty allowed by law to vessels employed in the cod fishery.

No. 119.

Mr. Merivale to Mr. Addington.—(Received September 6.)

Sir,

Colonial Office, September 4, 1849.

I AM directed by Earl Grey to transmit to you, for the information of Viscount Palmerston copies of a despatch and of its inclosures from the Lieutenant-Governor of Nova Scotia, in which it is proposed that a conference should be held by delegates from the respective provinces of North America, for the purpose of devising measures for securing a full reciprocity in trade between those provinces and the United States of America.

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 119.

Lieutenant-Governor Sir J. Harvey to Earl Grey.

My Lord,

Government House, Halifax, August 10, 1849.

I HAVE the honour to transmit copies of an official letter from the Provincial Secretary of New Brunswick, addressed to the Secretary of this province, accompanied by a Minute of Council suggesting a friendly conference by delegates from the North American Governments to be holden at Halifax on the 1st of September next. I also inclose a copy of the Minute of Council adopted by my Government on receipt of those communications, and shall give your Lordship the earliest information of any measures which may result from the deliberations proposed.

I have, &c.

(Signed) J. HARVEY.

Inclosure 2 in No. 119.

Mr. Partelow to Mr. Howe.

Sir,

Secretary's Office, Fredricton, July 31, 1849.

BY direction of his Excellency the Lieutenant-Governor I have the honour to inclose herewith a Minute of Council passed this day, with a view of effecting some united action of the provinces, whereby such measures may be devised as will be best adapted to acquire and carry into effect a full reciprocity of trade between the whole of the British North American provinces and the United States. For this purpose the Honourable L. A. Wilmot and myself have been appointed to meet such persons as may be deputed from the sister Colonies of Canada, Nova Scotia, Newfoundland, and Prince Edward Island, at Halifax, on the 1st day of September next.

Trusting that the scheme will meet with the approval of your Government, I have to request that you will submit this communication to their consideration and favour me with an answer so soon as it may be in your power.

I have, &c.

(Signed) J. R. PARTELOW.

Inclosure 3 in No. 119.

Minute.

In Council, July 31, 1849.

Present:

His Excellency the Lieutenant-Governor, &c.

WHEREAS the commercial depression prevailing in the British North American provinces imperatively require that the respective Governments should immediately adopt some united action for the purpose of devising such remedial measures as may be considered necessary. The Government of New Brunswick would propose that a Conference should be held at Halifax, at as early a day as practicable, to consist of two members from each Government to deliberate upon the commercial interests of the Colonies, and to devise such measures as, in their opinion, may be best suited to the present emergency, that the result of such Conference be reported to the respective Governments and, if approved, transmitted to the Secretary of State for the Colonies.

That this Government, impressed with the value and importance of a reciprocal trade with the United States, would, if necessary for its attainment, readily consent to such modifications of the existing Treaties relating to fisheries, as would admit the United States to a full participation therein.

Extract from the Minutes.

(Signed) R. FULTON.

At a Council held at the Government House at Halifax on the 8th day of August,
A.D. 1849.

Present:

His Excellency the Lieutenant-Governor, &c.

HIS Excellency having laid before the Council a letter addressed to the Provincial Secretary of New Brunswick inclosing a Minute of Council passed in that province, suggesting a Conference to be held at Halifax on the 1st of September next, to consider whether any and what measures can be devised to revive and extend the trade of the North American provinces.

The Provincial Secretary is instructed to acquaint Mr. Partelow that the Government of Nova Scotia assent to the conference proposed, and will be prepared to enter upon the discussion of intercolonial questions in a fair and friendly spirit, but that, in assenting to such conference, it must be clearly understood that no pledge is given by the Government of Nova Scotia to approve the policy of throwing open the fisheries as the price of reciprocal trade with the United States.

No. 120.

Mr. Elliot to Mr. Addington.—(Received September 25.)

Sir,

Colonial Office, September 24, 1849.

WITH reference to my letter of the 17th instant, I am directed by Earl Grey to transmit to you, for the information of Viscount Palmerston, copies of two despatches from the Lieutenant-Governor of Nova Scotia, in the former of which is inclosed a copy of the proceedings of the Conference of Delegates, held at Halifax, on the 3rd and 4th instant, on the subject of the commercial affairs of the British North American Provinces; and, in the latter, a Report of a Committee of the House of Assembly of Nova Scotia on the subject of the fisheries of that Province. With regard to the latter, Lord Grey thinks it right to call Lord Palmerston's attention to the evidence it affords of the difficulty of enforcing against the fishermen of the United States the exclusive rights of fishery which have been reserved to British subjects on the coasts of the British Provinces in America, and of the fact that the sympathy of the inhabitants of

these Provinces is excited in favour of the fishermen of the United States who are persecuted for the infringement of these exclusive rights.

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

Inclosure 1 in No. 120.

Lieutenant-Governor Sir J. Harvey to Earl Grey.

My Lord,

Government House, Halifax, September 7, 1849.

REFERRING to my despatch of the 10th August and its inclosures, I have now the honour to transmit a copy of the proceeding of the Conference therein reported. The gentlemen present represented the Government of Canada, New Brunswick, Nova Scotia, and Prince Edward Island, that of Newfoundland declining to send Delegates. As regards myself, I have no further interfered with the late discussions than to suggest to the Members of my own Council on no account to give a premature assent to any resolutions which might, before Her Majesty's Government and the Provincial Legislature were consulted, pledge this Province to the surrender of rights involving the security of a staple trade, and perhaps a question of national importance.

I have, &c.
(Signed) J. HARVEY.

Inclosure 2 in No. 120.

Report.

AT a Conference of Delegates from the Executive Government of the Provinces of Canada, New Brunswick, and Prince Edward Island, held in Halifax, on the 3rd and 4th September, 1849, in compliance with a proposition forwarded by the Government of New Brunswick on the 31st July, at which the Members of the Executive Council of Nova Scotia were present, the following resolutions were passed:—

Present:

The Honourable Mr. Lafontaine.	The Honourable Mr. Uniacke.
„ Mr. Merritt.	„ Mr. McNab.
„ Mr. Wilmot.	„ Mr. Howe.
„ Mr. Partelow.	„ Mr. Huntington.
„ Mr. Hensley.	„ Mr. Bell.
„ Mr. Thornton.	„ Mr. Young.

1. Resolved: "That in consequence of the recent changes in the commercial policy of the British Empire, it is the opinion of this meeting that it has become necessary to obtain a more extended market for the natural products of the British North American Colonies, and that a reciprocal free exchange of such products between those Colonies and the United States of America would be highly advantageous to both."

2. Resolved: "That Her Majesty's Government be moved to negotiate with that of the United States for the removal of existing duties on certain articles, the growth and production of the British North American Colonies, allowing the like articles to be imported from the United States into these Colonies duty free."

3. Resolved: "That the following be the articles to be so imported, viz.: grain and bread stuffs of all kinds, vegetables, fruits, seeds, hay and straw, animals, salted and fresh meats, butter, cheese, lard, tallow, hides, horns, wool, undressed skins and furs of all kinds, ores of all kinds, iron in pigs and blooms, copper, lead in pigs, grindstones and stones of all kinds, earth, coals, lime, ochres, gypsum (ground or unground), rock salt, wood, timber and lumber of all kinds, firwood, ashes, fish; fish-oil, viz., train oil, spermaceti oil, head matter and blubber, fins and skins the produce of fish or creatures living in the water."

4. Resolved: "That it be recommended to the respective Colonial Governments of

British North America to propose to the Legislatures the removal of all duties on their natural products as above enumerated."

(Signed)

L. H. LAFONTANE, *President.*
JOSEPH HOWE, *Secretary.*

Inclosure 3 in No. 120.

Lieutenant-Governor Sir J. Harvey to Earl Grey.

My Lord,

Government House, Halifax, September 7, 1849.

REFERRING to my despatch of this date, transmitting a copy of the proceedings of the Colonial Delegates, I have now the honour to submit for your Lordship's information the inclosed Report of a Committee of the House of Assembly of Nova Scotia on the subject of the fisheries of this Province, and conveying the views of that Body in reference to reciprocal trade with the United States.

I have, &c.

(Signed) J. HARVEY.

Inclosure 4 in No. 120.

Report.

THE Committee on the fisheries of Nova Scotia report, that they are gratified at being able to state that this branch of industry, notwithstanding the many difficulties the industrious classes of our people engaged in it have to contend with, continues to prosper, but not so vigorously as the Committee desire.

The trade in pickled fish into Republican America increases, and is advantageous. From the 1st January, 1848, to 30th December, 1848, the large quantity of 100,800 barrels were shipped to that country, of which 96,500 were mackerel. The Tables annexed also show that the general fish trade of the Province is stable and prosperous.

The Committee of the last Session, in their Report to this subject, called the attention of the Assembly to the concessions made by the British Government to the people of the United States, in relation to the Bay of Fundy, and expressed their opinion that fishing privileges in that bay would lead to abuse, and in this anticipation they have not been disappointed. It having been represented that American vessels manned by foreigners, were conducting that fishery within the conceded limits, Captain Darby, in the "Daring," was ordered to those waters, and finding the information correct, pursued and seized the United States' schooner "Hyades," which (for the sake of example and to restrict the fishermen of the United States to the terms of the concession, whereby they are permitted to enjoy the right of fishing in the bay) was prosecuted in the Admiralty Court, under the provisions of the law for the protection of the fishery, condemned and sold—that owing to the circumstance of such vessels not being entitled to registers and sympathy for the owners—who crossed from Maine and attended the sale, in person; biddings were kept down and the vessel sold for 13*l.* 5*s.*, insufficient to pay the expense incurred. As, therefore, no further seizures are likely to be made, it is probable that the fishery of the Bay of Fundy will be fully participated in by the American people, until the inhabitants of that portion of the Province appreciate more justly their exclusive rights.

The Committee have reported a Bill for the inspection of pickled fish, being fully sensible of the importance of raising the character of that article in foreign markets. Formerly, pickled fish of provincial brand sold for a higher price in the United States' market than their own catch; now it is the reverse, and the difference is attributed to defective inspection. Much expense is thereby incurred, and depreciation from 50 to 100 cents a barrel, which, on so large an exportation, amounts to an intolerable tax on the fishermen, and burthen on the trade. The Committee, therefore, recommend that the Government should adopt such measures as may lead to a reduction of duties on the products of the fishery of Nova Scotia exported to the United States of America by free communication on that subject, through the British Government or direct with the Government of the Republic, and should bring before the proper authorities the privileges conceded in the fishery, and the use permitted of the passage of Canso—a relaxation of the terms of the Convention accompanied by no corresponding concession;—and should press the fact that, while our law admits the chief export of the

United States, bread stuffs, duty free, the staple of this Province is subject to an excessive tax of 20 per cent.

(Signed)

JAMES B. UNIACKE.
JOSHUA SNOW.
HUGH Mc DONALD.
JOHN CAMPBELL.
HENRY MARTELL.
FRANCIS BOURNEUF.
J. W. JOHNSTON.

Halifax, February 1849.

Inclosure 5 in No. 120.

Port of Halifax, Nova Scotia.

AN Account of the Import of Fish and Fish Oil during the Year 1848.

Ports.	Dry Fish.	Pickled Fish.						Smoked Fish.		Fish Oil.
		Alewives.	Herrings.	Mackerel.	Salmon.			Herrings.	Mackerel.	
					Tcs.	Bbls.	Kits.				Bxs.	Bxs.
Halifax (and including the several out-ports in the province)	74,233	2,656	6,631	5,436	82	3,219	75	7,582	22	233

(Signed)

HENRY TREW, *Controller.*

Custom-House, February 27, 1849.

Inclosure 6 in No. 120.

Port of Halifax, Nova Scotia.

AN Account of the Export of Fish and Fish Oil during the Year 1848.

Ports.	Dry Fish.	Pickled Fish.						Smoked Fish.	Fish Oil.
		Alewives.	Herrings.	Mackerel.	Salmon.			Herrings.	
					Tcs.	Bbls.	Kits.			Boxes.
Annapolis	105	12	..	30	..	..	..	3,033	9
Argyle	601	455	168	588	..	..	..	..	3
Barrington	9,084	..	..	6,943	..	..	..	..	47
Cornwallis	40	..	..	18	..	..	..	..	3
Digby	572	..	..	95	..	..	..	8,714	3
Halifax	201,182	4,665	26,744	129,929	49	2,011	1,278	16,066	815
Liverpool	14,528	..	..	7,062	..	..	..	770	23
Lunenburg	5,721	..	..	6,993	..	..	..	..	..
New Edinburgh	556	..	..	1,198	..	..	..	281	..
Pansborough .. .. .	..	..	..	169	..	..	..	..	..
Suelburne	24,642	..	..	6,093	..	..	..	..	8
Windsor .. .. .	..	..	..	..	..	..	..	1,000	..
Yarmouth	13,734	..	..	7,215	..	..	..	4,293	10
Pictou	710	..	..	695	..	..	..	..	2
Total	271,475	5,132	26,912	167,028	49	2,011	1,278	34,157	920

(Signed)

HENRY TREW, *Controller.*

Custom-House, February 27, 1849.

No. 121.

Viscount Palmerston to Sir H. Bulwer.

(No. 3.)

Sir,

Foreign Office, November 1, 1849.

IN my other instructions of this day's date, I have explained the nature of the communication which Her Majesty's Government wish you to make to the Government of the United States upon the subject of the removal of the restrictions to which British vessels and vessels of the United States have hitherto been reciprocally subjected in trading to the ports of the United States, on the one hand; and to those of the United Kingdom and of its Dependencies on the other. I now proceed to give you

some instructions on the subject of the commercial-intercourse between the United States and the British Provinces in North America, a matter to which Her Majesty's Government attach great importance.

You will find by referring to the archives of Her Majesty's mission at Washington, that communications have already taken place with the United States' Government upon a proposal for the reciprocal free admission into the United States and into the British North American Provinces of certain articles of the produce of each. Mr. Crampton, in his despatch to me No. 63 of the 3rd of July of this year, reports that, assisted by a member of the Canadian Government, he had opened a communication on the matter with the United States' Government, and that a proposition had been made on our part for a fair reciprocity of trade in agricultural produce between Canada and the United States.

To this proposal a guarded reply was made by the United States' Secretary of State, who intimated that the United States' Government wished, before giving any definite answer, to wait to see the result of the proceedings then still pending in the British Parliament on the subject of the Navigation Laws.

But Mr. Clayton stated verbally to Mr. Crampton that, unless all the British North American Provinces were to be included in the arrangement to be made, and also, unless the cod fisheries in the waters of the British North American Colonies were thrown open to the fishermen of the United States, the President could not take upon himself to recommend the Congress to adopt the British proposal.

I have now to state to you that Her Majesty's Government regard it as of the very highest importance, both commercially and politically, that free admission to the markets of the United States should be obtained for those articles the produce of British America which are enumerated in an Act passed in the last Session of the Canadian Parliament, of which I inclose a copy for your information. You will observe that the articles to which this Act applies are exclusively either articles of agricultural produce or raw materials, such as timber and metallic ores. It is not proposed that the arrangement should be carried further, because the free admission of manufactures and various other articles could not be permitted either into the United States or into the British Provinces without interfering with the Revenue and commercial policy of both States.

You will not fail to observe that, as regards the British Colonies, the main object to be gained by the proposed arrangement is the free introduction of their agricultural produce, and especially of their grain and flour, into the United States. Considering that these articles, being the produce of the United States, are now admitted into the United Kingdom on the payment of a merely nominal duty, Her Majesty's Government think themselves fairly entitled to expect that, in return for this great advantage enjoyed by the United States, the agricultural produce of British America should be admitted into the markets of the Union on equally favourable terms. But however reasonably this reciprocal concession might be expected from the United States, yet as the Government of the United States seems unwilling to grant it without receiving some further commercial advantages from Great Britain, Her Majesty's Government are not indisposed to make to the United States some further concessions which they believe might be made without injury to British interests.

Her Majesty's Government are accordingly prepared, in the first place to consent, with one single exception, to Mr. Clayton's proposal that the arrangement to be made should extend to all the British Colonies in North America, the single exception would be Newfoundland, to which, for reasons I will hereafter state, Her Majesty's Government consider that the arrangement ought not to apply. In the next place Her Majesty's Government are also prepared, on certain conditions and with certain reservations, to make the concession to which so much importance seems to have been attached by Mr. Clayton, namely, to throw open to the fishermen of the United States the fisheries in the waters of the British North American Colonies, with permission to those fishermen to land on the coasts of those Colonies for the purpose of drying their nets and carrying their fish, provided that in so doing they do not interfere with the owners of private property or with the operations of British fishermen.

Her Majesty's Government, however, would require, as an indispensable condition in return for this concession, that all fish, either fresh or cured, imported into the United States from the British North American Possessions in vessels of any nation or description, should be admitted into the United States duty free, and upon terms, in all respects of equality, with fish imported by citizens of the United States.

Her Majesty's Government would also feel it necessary to attach to this concession the reservation that, as the concession applies solely to the sea fishery, the fisheries in

estuaries and in the mouths of rivers, of which the salmon fishery is the most important, must be reserved exclusively for British fishermen, such fisheries being more or less of the nature of local or private property.

To the concession above-mentioned Her Majesty's Government would be prepared, if necessary, to add the admission of United States' vessels and citizens to a full and free participation in the navigation of the river St. Lawrence, and of certain canals to be specified, which are connected with that navigation, with the reservation, however, that the British Government must retain the right of suspending this privilege; on giving due notice thereof to the Government of the United States, whenever political considerations, of which the British Government must be the sole judge, in its opinion render such a measure necessary.

Her Majesty's Government might also possibly, if it should be necessary, be willing to enter into an agreement with the Government of the United States for giving up that right to navigate the River Columbia, which was reserved to British subjects by the 11th Article of the Treaty of June 15, 1846, about the Oregon Territory.

But as such a concession would involve considerations connected with the interests of the Hudson's Bay Company, Her Majesty's Government could not enter into any agreement with the United States on this matter without previous consultation with that Company; and I mention this matter now, not in order that you should make any suggestion about it to the United States' Government, but in order that if they should make any proposal thereupon to you, you may feel yourself at liberty to refer it for the consideration of Her Majesty's Government.

Such, then, are the commercial advantages which Her Majesty's Government are desirous of obtaining from the United States, and such another concession which they are willing, if necessary, to make in order to obtain those advantages.

You will, of course, understand that, in stating to you at once the full extent of these concessions, Her Majesty's Government do not mean that you should go further in regard to them than you may find to be necessary for the attainment of the objects in view. It is probable that, in reply to your application for the free admission of the produce of the British Provinces into the United States, the United States' Government will ask for the admission of the United States' fishermen to a participation in the British North American fisheries; and it is possible that you may be able to conclude an agreement on those terms. This, of course, you should in the first place endeavour to do; but if you should find this impossible, you will then proceed to add the offer of the free navigation of the St. Lawrence.

With reference to the arrangement for the free admission of the produce of the British Provinces into the United States, I have to say that Her Majesty's Government are very desirous that coals should be included in the list of articles to be admitted free of duty from the United States into the British Provinces, and from the British Provinces into the United States.

To the Provinces of Nova Scotia such an arrangement would be an object of very great importance, but as there is reason to believe that such proposal would be likely to meet with much objection on the part of the Government of the United States, as being injurious to the private interests of influential parties in the Union, I have to instruct you not to stand out upon this point if you should find that it would throw any insurmountable difficulty in the way of the speedy conclusion of the negotiation.

I have stated that it does not appear to Her Majesty's Government that any part of the proposed arrangement ought to apply to Newfoundland.

The reason for this exception is that Newfoundland stands upon a footing different from that of the other British Provinces, and because Her Majesty's Government would wish for the present to exclude Newfoundland from the proposed agreement, and to reserve the case of that Colony for separate consideration.

I have only to add that, in conducting this negotiation, you will communicate freely with the Governor-General of the British North American Provinces in all points affecting their interests.

Lord Elgin will be instructed to afford you all the information and assistance in his power.

I am, &c.
(Signed) PALMERSTON.

No. 122.

Viscount Palmerston to Sir H. Bulwer.

(No. 4.)

Sir,

Foreign Office, January 25, 1850.

IN my despatch No. 3 of the 1st of November last, I stated the reasons why Her Majesty's Government were of opinion that any arrangement which might be concluded with the United States for extending the commercial intercourse between Her Majesty's North American Possessions and that country, ought not to apply to Newfoundland, I have now to inform you that Her Majesty's Government have lately received a despatch from the Governor of Newfoundland stating that he is of opinion that it will be expedient, in any negotiation which may be entered into with the United States in this matter, to reserve, for future consideration, the question respecting Newfoundland, so that that Colony may hereafter either be included or excluded in any arrangement which may be settled between Great Britain and the United States.

I have accordingly to instruct you to treat the question of Newfoundland in the manner above pointed out by the Governor of that Colony.

I am, &c.

(Signed) PALMERSTON.

No. 123.

Mr. Merivale to Mr. Addington.—(Received July 4.)

Sir,

Downing Street, July 3, 1850.

I AM directed by Earl Grey to transmit to you the inclosed despatch from Sir Edmund Head, and to request that you will move Viscount Palmerston to favour Lord Grey with his opinion as to the steps which it may be advisable to take on it.

I am at the same time to state that, according to the last opinion which Lord Grey has been able to form of the terms of the Convention of the 20th October, 1818, as explained by the Queen's Advocate and Attorney-General in their opinion of August 30, 1841, it seems to his Lordship very questionable whether those terms would not be too much strained against the right of American citizens by the adoption of the line drawn in the inclosed map as marking off their right of fishery. It may be true that the prescribed distance of three miles is "to be measured from the headlands, or extreme points of land next to the sea, of the coast, or of the entrance of bays or indents of the coast," and yet, by taking the main headlands only, and drawing the lines across long distances from one to another, as appears to be done in this map, the Americans might be excluded not only from the interior of bays, but from large spaces forming parts of the sea not usually designated as "bays or gulfs."

I am, &c.

(Signed) HERMAN MERIVALE.

Inclosure 1 in No. 123.

Sir E. Head to Earl Grey.

My Lord,

Government House, Fredericton, June 4, 1850.

I AM desirous of calling your Lordship's attention to the inclosed Memorandum and sketch furnished to me by Mr. Perley with reference to the fisheries on these coasts in connection with the despatches of Lord Stanley to Sir W. Colebrooke of May 19, 1845, and to Lord Falkland of September 17, 1845. It appears to me at the present moment important that the privileges granted to the American fishermen on these coasts should be defined somewhat accurately, and that the instructions given to the officers commanding any of Her Majesty's vessels here, should be carried out in such a manner as to show the value of the rights of fishery which England is possessed of on the coasts of British North America. At the same time, I feel that the subject is so important and so delicate, as affecting the relative positions of the two Governments, that I am unwilling to do more at present than call your Lordship's attention to it, and recommend the officers employed off the shores of New Brunswick, to attend to those portions of the coast which are most likely to be encroached on.

The opinion of the Law Officers in England referred to by Mr. Perley, was given on a case dated 28th of April, 1841, and the opinion itself is printed at length in the Appendix to Mr. Perley's Report on the Fisheries of the Gulf of St. Lawrence, which is already in your Lordship's hands.

I have, &c.
(Signed) EDMUND HEAD.

Inclosure 2 in No. 123.

Memorandum.

*Government Emigration Office, St. John, New Brunswick,
May 27, 1850.*

BY Article I of the Convention of October 20, 1818, between Great Britain and the United States, it is stipulated that the citizens of the United States shall have liberty to take fish on the southern and western coasts of Newfoundland, from the Ramcau Islands to Cape Ray, and thence northwardly to the Quirpon Islands; on the shores of the Magdalen Islands; and from Mount Joly on the southern coast of Labrador, northwardly to and through the Straits of Belle Isle. And the United States thereby renounced for ever, any liberty theretofore enjoyed or claimed by the citizens thereof, to take, dry, or cure fish, in or within three marine miles of any of the coasts, bays, creeks, or harbours of the British dominions of America, not described in the above limits.

The Crown Officers in England, upon a case submitted to them by the Legislature of Nova Scotia, have given their decided opinion that the prescribed distance of three marine miles is to be measured from the headlands or extreme points of land, and not from the interior of bays or indents in the coast. This opinion has been acted upon in Nova Scotia, and has not been denied or disputed by the people of the United States.

The base lines which should form a boundary for American fishermen in the Gulf of St. Lawrence are shown in black on the annexed sketch.

Commencing at the North Cape of Cape Breton a line is drawn to the east point of Prince Edward Island; thence to North Cape of the same island; thence to Miscou, the north-eastern extremity of New Brunswick; thence to Cape Despair in Gaspé, between which and Point Miscou is the entrance to the Bay of Chaleur; thence to the East Point of Anticosti; thence to Mount Joly, on the Coast of Labrador, the point on that coast to which American fishermen are restricted by the express terms of the Convention.

The prescribed distance of three marine miles from these base lines is shown by the red line on the annexed sketch. Within, or to the westward, of that line the fishing vessels of the United States ought not to pass; yet they are found every season in large numbers within that limit. The American mackerel vessels obtain their fares almost wholly westward of the red line, especially in the Straits of Northumberland between the West Point and Richibucto, and thence northwardly to Escuminac, in the Bay of Miramichi, and northwardly to Miscou, and within the Bay of Chaleur, which they have no right to enter.

The injuries done by American fishermen to the cod and mackerel fisheries of New Brunswick in the localities last mentioned are stated in the Report of the Undersigned for 1849.

It is but justice to British fishermen that the Americans should no longer be permitted to commit these injuries without question or hindrance; and, in a national point of view, it is of great importance that the spirit of the Convention of 1818 should be strictly enforced and maintained until other arrangements are made.

(Signed) M. H. PERLEY.

No. 124.

Mr. Addington to the Queen's Advocate.

Sir,

Foreign Office, July 15, 1850.

I AM directed by Viscount Palmerston to transmit to you the accompanying letter from the Colonial Department,* inclosing a copy of a despatch from Sir Edmund Head, the Governor of New Brunswick, referring to the Treaty of Great Britain and the United

* No. 123.

States of the 20th of October, 1818, relative to the fishery limits on the coasts of the British North American possessions, and transmitting a sketch showing the limits within which it is proposed that an exclusive right of fishery should be claimed for Her Majesty's subjects.

And I am to request that you will take the inclosed papers into your consideration, and that you will report to Lord Palmerston your opinion whether Her Majesty's Government would be borne out in extending the fishery limits in question to the lines laid down on the accompanying sketch.

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

No. 125.

The Queen's Advocate to Viscount Palmerston.—(Received August 31.)

My Lord,

Doctors' Commons, August 30 1850.

I AM honoured with your Lordship's commands signified in Mr. Addington's letter of the 15th ultimo, stating that he was directed to transmit to me the accompanying letter from the Colonial Department, inclosing a copy of a despatch from Sir Edmund Head, the Governor of New Brunswick, referring to the Treaty between Great Britain and the United States of the 20th of October, 1818, relative to the fishery limits on the coasts of the British North American Possessions, and transmitting a sketch showing the limits within which it is proposed that an exclusive right of fishery should be claimed for Her Majesty's subjects.

And Mr. Addington is pleased to request that I would take the inclosed papers into consideration, and report to your Lordship my opinion whether Her Majesty's Government would be borne out in extending the fishery limits in question to the lines laid down on the accompanying sketch.

In obedience to your Lordship's commands I have taken the papers into consideration, and I have the honour to report that I concur in the view of this matter taken by Earl Grey, as expressed in Mr. Merivale's letter of the 3rd of July last. I do not think that Her Majesty's Government would be borne out in extending the fishery limits in question to the lines laid down in the sketch sent by Sir Edmund Head.

I have, &c.
(Signed) J. DODSON.

No. 126.

Mr. Addington to Mr. Merivale.

Sir,

Foreign Office, September 4, 1850.

I AM directed by Viscount Palmerston to state to you, for the information of Earl Grey, that your letter of the 3rd of July last, inclosing a copy of a despatch from the Governor of New Brunswick, on the subject of the fishery limits on the coasts of the British North American Possessions, was referred to Her Majesty's Advocate-General, and that officer has reported that he concurs in the view of this matter taken by Earl Grey, and has accordingly stated that he does not think that Her Majesty's Government would be borne out in extending the fishery limits in question to the lines laid down in the sketch sent home by the Governor of New Brunswick.

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

No. 127.

Mr. Janvrin to Viscount Palmerston.—(Received September 10.)

My Lord,

24, Royal Crescent, Bath, September 3, 1851.

I TAKE the liberty of addressing your Lordship on a case of gross infraction of Treaty existing between Great Britain and the United States of America with respect to the fisheries on the coast of Bay Chaleurs, in Lower Canada, which infraction has

been committed with open impunity by a large fleet of American schooners, who, according to existing Treaties, are forbidden to carry on the fishery within three leagues of the shore.

By letters I have just received under date of 1st August from my Agent at Gaspé, in Lower Canada, it appears that eighty-five American schooners were at that time employed fishing in the Bay of Gaspé, which is not five miles across from shore to shore, consequently these American schooners are infringing the Treaty, and as Halifax is the station of our cruizers which seldom or never visit these important fishing grounds, I beg to solicit your Lordship's earliest attention to this important subject, feeling persuaded that this violation of Treaty on the part of the Americans, if not timely checked by your Lordship will further extend over all British possessions on that coast, to the great detriment of those British subjects who like myself (now eighty years carrying on the fishery at Gaspé) have embarked all their fortune in the fisheries which have always been protected and fostered by the Crown of England as the best nursery for her seamen.

I beg to apologize to your Lordship for this intrusion.

I have, &c.

(Signed) FREDERICK JANVRIN.

No. 128.

Mr. Addington to Mr. Janvrin.

Sir,

Foreign Office, September 10, 1851.

I AM directed by Viscount Palmerston to acknowledge the receipt of your letter of the 3rd instant, stating that eighty-five vessels belonging to the United States have been fishing in the Bay of Gaspé in violation of a Treaty between Great Britain and the United States; and I am to state to you that your representation upon this matter ought to be addressed to Her Majesty's Secretary of State for the Colonial Department.

I am, &c.

(Signed) H. U. ADDINGTON.