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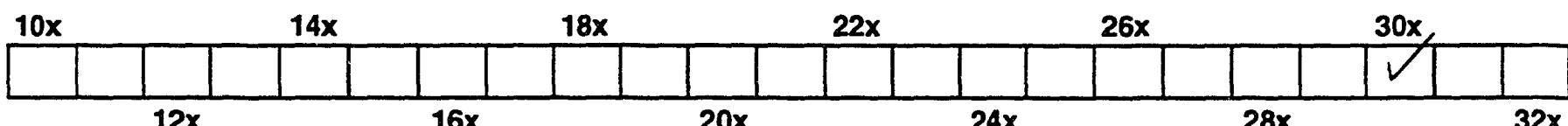
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NORTH AMERICA. No. 3 (1878).

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CORRESPONDENCE respecting Occurrences at  
Fortune Bay, Newfoundland, in January 1878.

*Presented to both Houses of Parliament by  
Command of Her Majesty. 1878.*

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NORTH AMERICA. No. 3 (1878).

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## CORRESPONDENCE

RESPECTING

## OCCURRENCES

AT

FORTUNE BAY, NEWFOUNDLAND,

IN

JANUARY 1878.

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*Presented to both Houses of Parliament by Command of Her Majesty.  
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## Correspondence respecting Occurrences at Fortune Bay, Newfoundland, in January 1878.

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No. 1.

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

Sir,

*Downing Street, March 12, 1878.*

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Earl of Derby, a copy of a despatch from the Governor of Newfoundland, reporting certain differences which had arisen between British and United States' fishermen in Fortune Bay in that island, resulting in the destruction of a seine belonging to an American subject.

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

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Inclosure 1 in No. 1.

*Governor Sir J. Glover to the Earl of Carnarvon.*

My Lord,

*Government House, February 11, 1878.*

I REGRET to have to report the destruction of an American seine by our fishermen in Fortune Bay on the 6th ultimo, the news of which only reached me through a cable telegram from London on the 4th instant.

2. On receipt of this intelligence I at once caused an inquiry to be instituted to ascertain the truth of the report, but the result of the inquiry has not yet reached me from Fortune Bay. I have the honour to inclose the only information I have as yet been able to obtain, viz., the deposition of the master of a vessel who was present at the time.

3. It would appear that the Americans were guilty of three illegal acts, viz.:—

1st. As regards the time in which a seine may be used.

(See Acts 1876, cap 6, in Amendment of Consolidated Statutes, 1872, cap. 102).

2nd. In barring (same Act).

3rd. By putting out nets or seines between 12 o'clock on Saturday night and 12 o'clock on Sunday night.

(Acts 1876, cap. 6, sec. 4.)

4. As two out of the five seines were removed by our people without injury or damage, and two by the Americans themselves, I conclude that opposition was raised on the part of the American owner to the removal of the fifth.

5. I inclose the opinion of the Attorney-General, which that gentleman has placed in my hands, and I hope to be enabled to send full information by the next mail.

I have, &c.  
(Signed) JOHN H. GLOVER.

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## Inclosure 2 in No. 1.

*Deposition of Alfred Noel.*

Newfoundland, Central District, St. John's, to wit.

The examination of Alfred Noel, of St. John's aforesaid, master-mariner, taken upon oath, and who saith:—I am master of the schooner "Nautilus" of this port, and on the 19th day of December last I was at Long Harbour, in Fortune Bay, in the "Nautilus," which was anchored off Woody Island. I had a crew of seven men, and I was there engaged in the herring fishery. There were several American schooners; seven of them were lying off Woody Island, and two French vessels. This island forms the harbour within half a mile of the narrows of Long Harbour; and other American schooners and Newfoundland fishing craft were inside Woody Island, which is the inside part of Long Harbour. All the craft there, English and American, were hauling herrings in seines and nets, and the Americans were purchasing herring from the English. Everything went off quietly, and the greatest harmony prevailed until Sunday, the 6th day of January, when about half-past two o'clock in the afternoon five seines, belonging to the American schooners, were put into the water by their crews at the beach on the north-east side of Long Harbour. I know two of the captains by name, Dago and Jacobs, belonging to Gloster, United States, but do not know the names of their schooners. The whole five seines were barred full of herrings, when the English crews of the crafts belonging to Fortune Bay ordered them to take their seines up or they would take them up for them; and the Fortune Bay men, finding they would not do as they were requested, then hauled up two of the American seines, but without any damage or injury, and two were at the same time taken up by the Americans; and at the same time a seine belonging to Captain Dago was taken up by the Fortune Bay men, the herrings thrown out, and the seine was torn up and destroyed. Before this occurrence on the said Sunday, one of the American schooners had a seine barred with herrings on the beach at Long Harbour for seven days, and it was not at any time meddled with by the Fortune Bay men or any one. Some of the Fortune Bay men had nets out in the water on that Sunday, and the same had been there during the week, but none of the Newfoundland fishermen attempted to haul herrings on Sunday at any time while I was at Long Harbour. The Americans' practice had been until lately to purchase herring from the Newfoundland fishermen in Fortune Bay, but this year and last year the Americans have brought their own seines to haul herring for themselves. The American seines are 30 fathoms deep and 200 fathoms long, whilst those used by our fishermen are 12 or 13 fathoms deep and 120 fathoms long. These American seines are used for barring herring in deep water, such as the Fortune Bay Harbours, viz., Long Harbour, Bay de Nord, and Rencontre. Our fishermen never bar herrings, and herrings have never been barred in Fortune Bay, to my knowledge, until the Americans brought the large seines I have alluded to into Fortune Bay and used them there to the disadvantage of our fishermen. This mode of barring herrings in such harbours as I have mentioned is most destructive and ruinous to the herring fishery in those localities. I do not know the names of the persons who destroyed the seine; there were about eighty vessels from different harbours of Fortune Bay at Long Harbour at the time, and the seine was destroyed by a great lot of people. I left Long Harbour for St. John's on the 31st day of January and arrived here on the 4th instant.

(Signed) ALFRED NOEL.

Sworn before me at St. John's aforesaid, this 8th day of February, A.D. 1878.

(Signed) D. H. PROWSE, J.P. for Newfoundland.

## Inclosure 3 in No. 1.

*Memorandum by the Attorney-General.*

BY the Treaty of Washington the United States' citizens have the right to take, &c., fish on our coasts, irrespective of distance from the shore, in common with the subjects of Her Britannic Majesty (Article XVIII).

By Act, cap. 6, 1876, in amendment of the Consolidated Statutes (1872), cap. 102, "No person shall haul, catch, or take herrings in a seine or such con-

trivance between the 20th October and 25th April in any year, or at any time use a seine or such contrivance for catching herrings, except by way of shooting and forthwith hauling. Proviso: nets may be used, set as usual, and not used for barring or inclosing herrings in a cove, inlet, or other place."

By this same Act, 1876, sec. 4, "No person shall between 12 o'clock Saturday night and 12 o'clock Sunday night haul, &c., herring, &c., with nets, seines, bunts, or any such contrivance, or set or put out the same for the purpose of such hauling, &c."

This deposition discloses, and others may be had in corroboration, that the United States citizens have been guilty of illegal acts.

1st. As regards time in which a seine may be used (see above).

2nd. In barring (see above).

3rd. Hauling on a Sunday (see above).

The United States' citizens have made no complaint to any official in the Colony of having been improperly obstructed in rights under the Treaty, and the first that I heard of any disturbance was in a cable message from London a day or two since.

(Signed)

F. B. T. CARTER, Attorney-General.

February 8, 1878.

### No. 2.

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

Sir,

*Foreign Office, March 13, 1878.*

I TRANSMIT to you herewith, for your information, a copy of a letter from the Colonial Office, respecting the differences which have arisen between British and United States' fishermen in Fortune Bay.\*

I am, &c.

(Signed) DERBY.

### No. 3.

*Sir E. Thornton to the Earl of Derby.—(Received March 18.)*

My Lord,

*Washington, March 4, 1878.*

I HAVE the honour to transmit herewith copy of a note which I have received from Mr. Evarts, informing me of complaints which have been recently made to his Department of interference with American fishermen engaged in the herring fishery on the coast of Newfoundland. Mr. Evarts states that the United States' Consuls at St. John's and other ports have been instructed to collect and forward more detailed and specific information upon the subject to the State Department, which he promises to transmit to me as soon as he shall receive it.

In the meantime I have to-day forwarded a copy of Mr. Evarts' note to the Governor of that Colony, for his Excellency's information, and for any observations which he may think proper to make.

Your Lordship will perceive that Mr. Evarts states that the President has deemed it proper to bring the subject directly to the attention of Her Majesty's Government, through the Minister of the United States at London.

I also inclose two copies of an article upon the same subject published in the "New York Herald" of the 26th ultimo, as well as of a long extract from the same paper, purporting to be a communication from Gloucester, a fishing town on the coast of Massachusetts. The latter contains several affidavits of American fishermen, which are probably some of those alluded to by Mr. Evarts in his note.

It is not improbable that the American fishermen had committed some infraction of the fishery laws of Newfoundland, of which they are not always strict observers. If that be the case, however, it is to be regretted that the authorities should not have prevented such proceedings rather than that the native fishermen should have taken the law into their own hands. But it is doubtful whether it would not

\* No. 1.

be in accordance with the custom of the United States' Government to refer the complaints to the Courts of Justice of Newfoundland for redress.

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

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Inclosure 1 in No. 3.

*Mr. Evarts to Sir E. Thornton.*

Sir,

*Department of State, Washington, March 2, 1878.*

I HAVE the honour to bring to your notice the fact that complaints have been recently made to this Department of interference with American fishermen engaged in the herring fishery on the coast of Newfoundland. In some instances these complaints have been forwarded to the Department through the United States' Consuls at St. John's and other ports of that Colony. The representations made by the Consuls are, however, of a general nature based upon statements made to them by the fishermen immediately interested, and consequently the officers in question have been instructed to collect and forward more detailed and specific information, and when further information I will do myself the honour to transmit to you so soon as the reports from the Consuls shall have been received.

Still more recently similar complaints have been received through the collector of the port of Gloucester, Massachusetts, supported by the sworn statements of the masters of eight fishing schooners of that port, and from the statements thus forwarded it appears that in January of the present year those vessels had reached the neighbourhood of Long Harbour, and were actively engaged in the herring fishery, and that most of the seines were full of fish and ready for landing, when, in one instance, two seines belonging to the schooners "Ontario" and "New England" respectively were cut by an enraged crowd of over 200 men, and the whole catch, estimated at not less than 5,000 barrels of herring suffered to run out to sea. Other instances are given, only less in quantity and value, the proceedings resulting in the vessels—eight in number—being obliged to abandon the fishing-grounds on that coast and return to their home port in ballast. When it is remarked at what considerable expense the preparations are made for a season's fishing in these waters, many of the men-mariners, as well as the masters, embarking their all in the enterprise, the serious character of their losses may be partially understood.

The President has deemed it proper, in view of the possible complications to which a continuance of these lawless proceedings might give rise, to bring the subject directly to the attention of Her Majesty's Government with a view to an early investigation of the facts and the adoption of such measures on its part as may be deemed advisable to prevent a recurrence of the acts complained of; and the Minister of the United States at London has been accordingly instructed to take the necessary steps in that direction. Meantime, I have deemed it right to transmit the facts, so far as they are already known, for your information.

I have, &c.  
 (Signed) WM. M. EVARTS.

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Inclosure 2 in No. 3.

*Extract from the "New York Herald" of February 26, 1878.*

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Inclosure 3 in No. 3.

*Extract from the "New York Herald" of February 26, 1878.*

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*Testimony on the Outrage.*

The following are the depositions of masters of schooners who were present during the trouble at Long Harbour. Others will be taken as fast as they come in, and a deputation will wait on Secretary Evarts and present formal claims:—

*Charles Dagle.**"Gloucester, February 19, 1878.*

"I, Charles Dagle, master of the American schooner 'Lizzie and Namari,' of Rockport, do on oath depose and say:—

"That I sailed from Gloucester on the 6th December, 1877, for Fortune Bay, Newfoundland, for a load of herring. The last year (1877) I had sold a seine and boat to parties in Newfoundland, and they were to supply me with herring in payment for the seine and boat. I arrived at Fortune Bay about the 19th December. I was at Long Harbour, Newfoundland, with my vessel on the 6th January. Saw the seines of the American schooners 'New England' and 'Ontario' destroyed by the fishermen of Newfoundland. There is a decided objection to using netted or gill-net herring for freezing purposes, as these herring die in a short time after being taken in gill-nets. When they are seined they can be kept alive on the radius of the seine and taken out alive when the weather is suitable for freezing, while the netted herring, being dead, must be salted or spoil; consequently the seined herring are the best for our purposes and are what the American vessels want for our market. Knowing this fact, the Newfoundland fishermen had endeavoured to obstruct in every way the taking of herring with seines, as they use principally gill-nets; they placed their nets, which are set permanently, so as to hinder the using of seines. On the 6th January, 1878, the herring had come inshore, so that they were inside the gill-nets, thus giving our people an opportunity to seine them without interfering with the gill-nets. On the Americans attempting to put their seines in the water the Newfoundland fishermen threatened to destroy them, and when our fishermen had taken their seines full of herring, the Newfoundlanders came down to the number of 200, seized and destroyed the seines, letting out the fish, and afterwards stole and carried off the remnants of the seines. On account of this violence and the obstructions placed in the way of my men operating the seine, I was unable to procure a cargo, and have returned without a herring. If I had been allowed the privilege guaranteed by the Washington Treaty, I could have loaded my vessel and all the American vessels could have loaded. The Newfoundland people are determined that the American fishermen shall not take herring on their shores. The American seines being very large and superior in every respect to the nets of the Newfoundlanders, they cannot compete with them. These seines are the mackerel seines which are used in summer for mackerel and are setting for herring. When they are plentiful we can take from 2,000 to 5,000 barrels. The seines and boats we use cost 1,200 dollars when new, and are too expensive for the generality of Newfoundland fishermen, and they would have no use for seines only during the herring season, while we can use them both summer and winter, and thus make them pay for their great cost.

"My loss by these acts of violence, and being deprived of my rights under the Washington Treaty, is fully 5,000 dollars, which I claim as indemnity. The netted herring are strangled while caught by the head in the net, and the eyes turn red from suffocation. They will not keep so long as seined herring, which are free to swim inside the seine and are dipped out alive. The netted herring will not sell in the New York market, while the seined herring preserve their bright appearance and sell readily.

(Signed)      "CHARLES DAGLE,  
"Master of Schooner 'Lizzie and Namari.'

"Essex, ss.

"Gloucester, February 19, 1878.

"Personally appeared Charles Dagle, master of schooner 'Lizzie and Namari,' who subscribed and made oath to the foregoing statement:

"Before me,

(Signed)      "ADDISON CENTER, Justice of the Peace."

*William H. McDonald.*

*"Gloucester, February 19, 1878.*

"I, William H. McDonald, master of the American schooner 'William E. McDonald,' of Gloucester, do on oath depose and say:—

"That I have just returned from Newfoundland, where I have been for a load of herring. I was at Long Harbour, Newfoundland, when the seines of schooners 'New England' and 'Ontario' were destroyed. I had gone on shore and was on the beach at the time. The Newfoundlanders were much excited because of our use of the large seines, which for the first time were used last winter there. The Newfoundland fishermen had sunk large rocks off the beach in order to catch the seines and tear them, and had put their 'gill-nets' where they would obstruct the use of the seines. These means failing, as the herring were close in shore, they took to personal violence and destroyed one seine completely, and made the others take them up and release the fish. I had a seine, but was not allowed to use it. The nets they placed in the way and kept there only for the purpose of obstructing our operations with seines, as they took no herring there, but let the nets remain till they rotted. I can fully endorse the statement of Captain Dagle in all particulars. My vessel is a first-class vessel, and with the time and expense, and with the loss of herring, I have sustained a loss of fully 5,000 dollars to myself and owners, and I claim that, under the Treaty of Washington, I have a right to the herring fisheries and claim indemnity for this severe loss."

(Signed) "WILLIAM H. McDONALD.

"Essex, ss.

"Personally appeared William H. McDonald and subscribed and made oath to the above statement.

"Before me,

(Signed) "AARON PARSONS, *Justice of the Peace.*"

*James McDonald.*

*"Gloucester, February 19, 1878.*

"I, James McDonald, master of the American schooner 'F. A. Smith,' of Gloucester, do on oath depose and say:—

"That the said schooner was chartered by George W. Plumer and others, of Gloucester, for a voyage to Newfoundland for herring. I sailed from Gloucester on the 29th November, 1877, and arrived at Long Harbour, Newfoundland, on or about the 15th December, 1877. I carried a large purse seine, such as is used to take mackerel. The seine will take 4,000 barrels of fish. I employed Newfoundland fishermen to operate the seine. I set my seine twice, but without catching anything, as my seine was torn by rocks that had been left off the beach. On the 6th January the herring made their appearance in great numbers, and the opportunity to take a large haul was improved by my men, and we took at least 1,000 barrels, enough to load my vessel and one other. The Newfoundland fishermen came off in their boats and told me to take my seine up, or they would take it up for me, and that they would cut it up. There were about 200 men engaged in this violence, and my own crew consisting of six men I could not resist, but was obliged to take up my seine. I saw the seines of the schooners 'New England' and 'Ontario' destroyed, and knew that mine also would be destroyed if I did not take it up. My seine was not attached to the shore when they came off, and the attack on me was made in boats. After destroying the other seines they all made for me, and my only safety was to gather up my seine. I lost all my fish, and the Newfoundland fishermen put all the obstructions they could in the way, to prevent the use of our seines after that. From my knowledge of the facts I do say that the Newfoundland fishermen are determined to prevent American fishermen from using the shore fisheries. I consider that the loss to the vessel and the charter party at not less than 5,000 dollars, and under the Treaty of Washington I have been deprived of my rights as an American citizen, and full indemnity should be allowed for the outrage. I have read the statement of Captain Dagle, and know it to be true in all its particulars. The effect of this treatment will be to destroy the American fishing for herring at Newfoundland. There are annually about 100 voyages by American vessels made for herring to Newfoundland. The Newfoundland fishermen were taking herring on the same day the outrages before stated occurred.

(Signed) "JAMES McDONALD.

"Essex, ss.

"Gloucester, February 20, 1878.

"Personally appeared the above-named James McDonald, master of the schooner 'F. A. Smith,' who subscribed and made oath that the foregoing statement is true.

"Before me,

(Signed) "ADDISON CENTER, Justice of the Peace."

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*Charles H. Nute.*

"Gloucester, February 19, 1878.

"I, Charles H. Nute, master of the American schooner 'Edward E. Webster,' of Gloucester, do on oath depose and say:—

"That I have just returned from Newfoundland, where I have been for a load of herring. I went for the purpose of co-operating with other American vessels in the use of their seines in taking herring. I was at Long Harbour and saw the destruction of the seines of the American schooners 'New England' and 'Ontario.' I have seen the statement of Captain Dagle, of the American schooner 'Lizzie and Namari,' and substantiate all he has stated. I have returned without a herring for the same reasons. My actual loss in time of vessel and crew, with herring I should have bought had I not been prevented by the inhabitants of Newfoundland, is fully 500 dollars; and, owing to being deprived of my rights under the Washington Treaty, I hereby claim that amount as indemnity for the wrong done me and the owners of the vessel.

(Signed) "CHARLES H. NUTE,  
"Master schooner 'Edward B. Webster.'

"Essex, ss.

"Gloucester, February 20, 1878.

"Personally appeared Charles H. Nute, master of schooner 'Edward E. Webster,' who subscribed and made oath that the foregoing statement is true.

"Before me,

(Signed) "ADDISON CENTER, Justice of the Peace."

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*David Malanson.*

"Gloucester, February 20, 1878.

"I, David Malanson, Master of the American schooner 'Crest of the Wave,' of Gloucester, Massachusetts, do on oath depose and say:—

"That I sailed from Gloucester on the 8th December, 1877, on a voyage to Newfoundland for herring. I arrived at Long Harbour, Newfoundland, on the 23rd December, 1877. I was interested in a seine carried by the schooner 'New England and Ontario.' I was at Long Harbour on the 6th January, 1878, and was on the beach when the Newfoundland fishermen destroyed the seine belonging to these vessels. The herring did not strike inshore until that day, and as it is very uncertain how long they will remain, it is imperative, for successful prosecution of the business, to take them when they are inshore. By means of our large purse seines we can inclose the herring and keep them alive a month, if necessary, as we need to have freezing weather when we take them out, to freeze them, to keep them fresh until we get them to market. On this occasion the herring were entirely inshore of the Newfoundland gill-nets, and, as the sequel proved, if we did not take them then and there we should lose the season catch. The seines were set in no way interfering or injuring the gill-net fishing, and inclosed and held certainly 2,000 barrels of herring, enough to load four vessels. Over 200 men came down to the beach, seized the seine, let out the fish, pulled the seine on shore, tearing and cutting it to pieces with knives. The crews operating the seines were powerless against so many; and after they had destroyed this seine they went for the other American seines, shouting and gesticulating, saying: 'Tear up the damned American seines.' All of the vessels would have been loaded with herring if the Americans could have used their seines.

"My loss by this outrage is not less than 5,000 dollars, which has been taken from me despite the provisions of the Washington Treaty, and which I claim as indemnity.

"The Newfoundland fishermen have for years been in the habit of selling all the

herring to American vessels. I have been there eight years, and I have always bought my herring, or engaged the Newfoundlanders to take them for me, paying them in cash. This has been the universal practice of American vessels. This year we carried the large mackerel seines, which we use in summer for taking mackerel. These seines will take from 2,000 to 5,000 barrels at a haul, and the herring are better taken in this way. As most of the Newfoundlanders fish with gill-nets, our manner of seining would take away from them the monopoly of the herring trade, and hence the feeling which produced the outrage on our vessels. It is apparent that they will obstruct any American fishery on their shores, and are not men who would know much about rights or privileges under a Treaty. I should say that there are at least 100 cargoes of herring taken from Newfoundland yearly by American vessels, and as things are now it would be useless for American vessels to go there for herring unless they bought the herring from the inhabitants at whatever price they may see fit to ask. This American trade has been a great benefit to Newfoundland, and the change in the manner of taking herring will greatly reduce the amount of money paid them for herring. Only three vessels of eighteen that were there got any herring whatever. Captain Jacobs, of the 'Moses Adams,' held his seine with revolvers, and being a native of Newfoundland was allowed to take in the herring he had taken. The feeling was very intense and bitter against the Americans. The Newfoundland fishermen were catching and taking herring with their nets and boats on the same day.

(Signed) "DAVID MALANSON,  
"Master schooner 'Crest of the Wave.'

"Essex, ss.

"Personally appeared before me David Malanson, and subscribed and made oath to the above statement.

(Signed) "AARON PARSONS, Justice of the Peace."

*Edward Stapleton.*

"Gloucester, February 21, 1878.

"I, Edward Stapleton, master of the American schooner 'Hereward,' of Gloucester, do, on oath, depose and say:—

"That I have just arrived from Newfoundland, where I have been for a load of herring. I was at Long Harbour, Newfoundland, when the Newfoundland Fishermen destroyed the seines of the American schooners 'New England' and 'Ontario,' and saw the whole transaction. I carried a seine with me, and employed Newfoundland fishermen to operate it for me. The first time they set it for me they put it out in a strong tide-way, and utterly destroyed it, and after that I had to depend on the other American seines. This was the understanding among the American Captains, that we were to work together and load all our vessels. The setting of the seines on the 6th January did not interfere in any way with their nets or fishing. I think there is a local regulation that does not allow the Newfoundland fishermen to fish on Sundays; but the first seine (a small one) set on that day was one owned and operated by the natives, and they were picking their nets and boating their herring ashore all day. On the arrival of the American fleet the Newfoundlanders put their nets where they would obstruct our seining, but on this day the herring were away inside of their nets, giving us the first chance and only opportunity we had to seine or get herring. Enough were taken, and could have been taken, that day to have loaded the fleet. After that day there was no opportunity to take any. Newfoundland nets were placed where they never took a fish, and placed only for the purpose of preventing our seining. My loss to vessel and owners is not less than 5,000 dollars, and I claim indemnity to that amount. This loss is owing entirely to the hostile acts of the Newfoundland fishermen.

(Signed) "E. STAPLETON."

## No. 4.

*Mr. Welsh to the Earl of Derby.—(Received March 21.)*

My Lord,

*Legation of the United States, London, March 19, 1878.*

I HAVE the honour to acquaint your Lordship that complaints have reached the Department of State at Washington of serious interference with American fishermen, engaged during the present season in the herring fishery on the coast of Newfoundland, especially in the neighbourhood of Long Harbour. The complaints come through various sources—first from the United States' Consuls in that Province—the Consuls confining themselves, however, to general statements based on representations made to them by fishermen immediately affected at the time of the occurrences, which form the grounds of complaints. Still more recently, however these complaints have been preferred in a more specific manner, supported by affidavits of the masters of several fishing vessels, owned and fitted out at Gloucester, Massachusetts. From these statements it appears that about the 6th January last no less than eight schooners from the above-named port, while engaged in the herring fishery, at and in the neighbourhood of Long Harbour, were attacked by the inhabitants, to the number, in one instance, of sixty men, and in another 200 or more, and their seines, which were set, and in most cases full of fish, cut and destroyed, and the fish in one case, to the amount of 5,000 barrels, and in others, only less in quantity and value, run out to sea—resulting, beside the great loss of property, in the vessels being obliged to return to their home port in ballast, and also to abandon their fishing enterprise for the season. When it is remembered at what considerable expense the preparations are made for a season's fishing in these northern latitudes, and that very many of the men, both masters and mariners, embark their all in the enterprise, the serious character of these losses may be partially understood.

Instructions have been sent to the Consuls to transmit fuller information on the subject, and I am advised that this will be furnished to me so soon as it shall have been received by the Department of State.

In the meantime I am instructed to bring the matter to the attention of Her Majesty's Government, and to request that it will cause an investigation to be made into the alleged facts of the case, and adopt such measures as may be found necessary, not only to put an end to the evil, but also to prevent a recurrence of acts which, in addition to the injuries and losses to individuals, may have a tendency to complicate the good relations which so happily subsist between the Government of the United States and that of Her Britannic Majesty.

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

## No. 5.

*Sir J. Pauncefote to Mr. Herbert.*

Sir,

*Foreign Office, March 23, 1878.*

WITH reference to your letter of the 12th instant, I am directed by the Earl of Derby to transmit to you, to be laid before Sir Michael Hicks Beach, the accompanying copy of a despatch from Her Majesty's Minister at Washington, together with its inclosures, relative to the differences which have arisen between British and United States' fishermen on the coast of Newfoundland.\* A copy of your above-mentioned letter has been communicated to Sir E. Thornton.

I am, &c.  
(Signed) JULIAN PAUNCEFOTE.

## No. 6.

*The Earl of Derby to Mr. Welsh.*

Sir,

*Foreign Office, March 25, 1878.*

I HAVE the honour to acknowledge the receipt of your letter of the 19th instant, stating that you have been instructed by your Government to make a

\* No. 3.

representation to Her Majesty's Government relative to the differences which have arisen between British and United States' fishermen on the coast of Newfoundland, and I have to inform you in reply that the matter shall receive due consideration.

I am, &c.  
(Signed) DERBY.

## No. 7.

*Sir J. Pauncefote to Mr. Herbert.*

Sir,

*Foreign Office, March 25, 1878.*

WITH reference to my letter of the 23rd instant, I am directed by the Earl of Derby to transmit to you, to be laid before Sir Michael Hicks Beach, the accompanying copy of a letter from the United States' Minister at this Court,\* stating that he has been instructed by his Government to make a representation to Her Majesty's Government relative to the differences which have arisen between British and United States' fishermen on the coast of Newfoundland, and I am to request that in laying this letter before Sir M. Hicks Beach you will move him to inform Lord Derby what answer should be returned to Mr. Welsh's communication.

I am, &c.  
(Signed) JULIAN PAUNCEFOTE.

## No. 8.

*Mr. Herbert to Lord Tenterden.—(Received March 28.)*

Sir,

*Downing Street, March 28, 1878.*

WITH reference to the letter from this Department of the 12th instant, inclosing a despatch from the Governor of Newfoundland, relating to the destruction in Fortune Bay of a seine belonging to an American subject, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Earl of Derby, a copy of a further despatch from Sir John Glover on the same subject.

I am to state that the Lords Commissioners of the Admiralty have been requested to give instructions to the Senior Naval Officer who may be sent to the Newfoundland coast for the protection of the fisheries during the coming season, to make inquiries into the exact circumstances of the case, and to furnish a report upon the subject for the information of Her Majesty's Government,

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

## Inclosure I in No. 8.

*Sir J. Glover to Sir M. Hicks Beach.*

Sir

*Government House, February 25, 1878.*

I HAVE the honour to inform you that, since writing my despatch of the 11th instant, I have obtained the inclosed sworn statement of the master of a Newfoundland schooner, who was in the harbour when the destruction of the American nets, at Long Harbour, in Fortune Bay, took place. It would appear that he witnessed the destruction of the net, and may have assisted thereat, but does not commit himself, for he states, "I was informed" of what took place, and "I saw the seine next day, Monday."

2. I also inclose copy of a deposition on oath, copied from the "Toronto Globe" of the 14th February, made by "Naus," master of the schooner "Moro Castle," who, it would appear, was one of those who took up his seine, but states he witnessed the destruction of two American seines, and not that of one seine, as stated in the accompanying deposition.

3. This, in some measure, confirms the opinion contained in paragraph four of my previous despatch, viz., that two seines were taken up by their American

\* No. 4.

owners, two without opposition from the American owners by the Newfoundland fishermen, and that the lifting of the fifth being refused or opposed by the American owner, it was taken up and destroyed. There is some discrepancy between the English and American depositions as to whether the destruction of the net or nets took place on Sunday, the 6th January, or Sunday, the 13th January.

4. I consider it very doubtful that I shall be enabled to obtain any further corroborative evidence as to the destruction of one or more seines, until the arrival of the ships-of-war in the spring, when I would suggest that orders should be issued by the Admiralty for full particulars to be obtained for the information of Her Majesty's Government.

5. I shall not fail to impress upon my Government the necessity of obtaining, without loss of time, the fullest possible information on the subject.

I have, &c.  
(Signed) JOHN H. GLOVER.

Inclosure 2 in No. 8.

*Deposition of John Rumsey.*

Central District, St. John's, to wit.

THE examination of John Rumsey, of St. John's, master mariner, taken upon oath, who saith:—

"On or about the 14th November last I sailed from St. John's to Fortune Bay for a cargo of herring. I arrived in Long Harbour, Fortune Bay, about Christmas last. I found about 200 schooners there looking for herring; twelve of the schooners were Americans; my schooner was called the 'Briton,' six hands all told. I got most of my herring between Christmas and the 8th January. Most all the schooners in Long Harbour lay inside of Woody Island. Woody Island is about three miles from the entrance of Long Harbour. On the northern side, rather above the island, there is a fine beach about a mile long. This is the best hauling place in Long Harbour, and most all the herrings were taken there. It is only this year and last year that the American schooners have brought down very large seines for catching herring. I have been informed that some of these seines were 250 fathoms long and 35 fathoms deep. The seines which our Newfoundland fishermen use are about 120 fathoms long and from 8 to 13 fathoms deep. In the first week in January there were four or five American schooners who had the beach above mentioned barred for herring. The mode of barring for herring is as follows: when a place is selected, generally a smooth beach with deep water outside free from rocks, a party is sent ashore with a long line from one end of the seine; the seine-boat then goes off with the seine, makes a long sweep, and the other end of the seine is then brought into the beach also; then the crew begin to haul together on both ends of the seine with long seine lines running fore and aft up and down the beach, four or five seines thus barring herring would cover all the hauling ground on this long beach I have spoken of, and would occupy all the best ground for hauling herring in Long Harbour. On the first Sunday in January the beach was barred by four or five large American seines. On that day, after dinner, a large number of people belonging to the crews of the Fortune Bay schooners then in Long Harbour went over to the beach, and I was informed there were 600 or 700 Newfoundland fishermen there. The Americans had barred the herring, and were hauling on their seines on the Sunday morning. The Newfoundland fishermen told the American captain to take up their seines or they would take them up for them. All the American seines were then taken up which were set on a Sunday except one; this one the American captain, who owned it, refused to take up. The Newfoundland fishermen then hauled it ashore, took the herrings out of the seine, and according as they hauled the seine out of the water they tore it up. I saw the seine the next day, Monday, on the beach, and it was completely destroyed; it was an old second-hand seine and very rotten. I have been for thirteen or fourteen years carrying on the herring fishery in Fortune Bay, and during that time I have never known our Newfoundland fishermen to haul herrings on Sunday. If the American fishermen were permitted to bar herrings in the way that they were doing at Long Harbour Beach, all the rest of the craft would be deprived of the best place in the harbour to haul herrings; and such a mode of fishing for herrings is most injurious to the fishery, and must in time ruin the

herring fishery there. The Americans in hauling their long seines often removed the Newfoundland fishermen's nets when they came in their way. I have known the Americans last year to have herrings barred in for a fortnight. Barring kills a great many herring, and makes those who are barred in very poor. I have seen the bottom covered with dead herring after the seine had been barred for a week. The American schooners heave out their ballast in the Channel between Woody Island and the shore, and if not prevented, will soon destroy the anchorage there.

(Signed) "JOHN RUMSEY, his ✕ mark.

"Sworn before me, at St. John's, this 9th day of February, A.D. 1878, having first been read over and explained,

(Signed) "D. H. PROWSE, J.P. for Newfoundland."

Inclosure 3 in No. 8.

*Extract from the "Toronto Daily Globe" of February 14, 1878.*

THE NEWFOUNDLAND HERRING CASE.

*Affidavit of the Gloucester Captain.*

THE Gloucester, Massachusetts, fisherman who alleges that he was recently attacked by Newfoundland fishermen and compelled to abandon the herring fishery, has transmitted the affidavit printed below to the United States' Government at Washington.

A telegram printed in yesterday's "Globe" from Fortune Bay, at the head of which is situated Long Harbour, where the outrage is said to have been committed, denies that the trouble occurred. Pending the arrival of details from Newfoundland, it would be well to withhold judgment. The Gloucester skipper says:—

"I, Loring B. Naus, on oath, depose and say, that I am master of the schooner 'Moro Castle,' of Gloucester, and was with my vessel at Long Harbour, Newfoundland, the whole of last month, January 1878, having gone there for a cargo of herring; I saw the destruction of the seines of the schooners 'Ontario' and 'New England' at that place by the inhabitants of Newfoundland. This occurred on the 13th ultimo. The facts are as follows:—I went, in company with Captain Jacobs, of the schooner 'Moses Adams,' Captain Poole, of the schooner 'Maud and Effie,' Captain German, of the schooner 'Fred. P. Faye,' Captain Dago of the schooner 'New England,' and others, together with our several crews in our seine-boats for the purpose of setting our seines to haul herring. Some 150 and upwards of the inhabitants had collected on the beach, but did not molest us in any way until they found our seine were full of herring, when I heard some of the crowd on shore exclaim, 'Let's tear up the Yankee seines,' and immediately set to work destroying our seines, which they did most effectually by cutting and tearing them up. There were at the same time two other American seines set which we estimated had in them at least 1,500 barrels of herring. In each case the owners were obliged to let the herring out and take the seines up, as the crowd threatened their destruction if they were not immediately taken up. The setting of our seines did not interfere in any way with their fishing, and they (the inhabitants) were engaged in tending and picking the stationary nets on this day, and landing the herring in the boats. The antipathy of the inhabitants towards us seemed to be occasioned by the fact of our having larger seines and being more successful than themselves. In years past we have always bought our herrings of the inhabitants paying from 1 dollar to 1 dol. 50 c. per barrel for them, and the catching of herring is the principal business of the inhabitants, and they depend upon the American vessels for their trade. If we take our herring with our own crews and our own seines, the cost to us is merely nominal, and they are deprived of one of the principal means of support. Under the Treaty of Washington I regard that I have a right to take herring in the manner which we did, and the interference of the inhabitants was a gross violation of the Treaty stipulations and privileges of that Treaty on the coast of Newfoundland. The inhabitants effectually prevented me from securing my cargo of herring, after I had actually caught them, and I was obliged to return in ballast, at a loss of at least 5,000 dollars to the owners and crew of my vessel.

I therefore claim the protection of the Government of the United States, and indemnity for the loss I have sustained.

(Signed) "LORING B. NAUS,  
"Captain of schooner 'Moro Castle.'"

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No. 9.

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

Sir,

*Foreign Office, March 30, 1878.*

I TRANSMIT to you herewith, for your information, a copy of a letter from the Colonial Office, respecting the alleged destruction, in Fortune Bay, of a seine belonging to an American subject.\*

I am, &c.  
(Signed) DERBY.

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No. 10.

*Mr. Malcolm to Lord Tenterden.—(Received April 26.)*

Sir,

*Downing Street, April 26, 1878.*

I AM directed by the Secretary of State for the Colonies to acknowledge the receipt of your letters of the 23rd and 25th March, inclosing among other papers representations addressed respectively to Her Majesty's Minister at Washington by Mr. Evarts, and to the Secretary of State for Foreign Affairs by the United States' Minister at this Court, together with depositions of American fishermen relating to the alleged destruction of seines belonging to United States' subjects in Fortune Bay, on the coast of Newfoundland.

Sir Michael Hicks Beach has forwarded copies of these papers to the Admiralty, with a suggestion that they should be communicated to the naval officer who may be instructed to inquire into this matter, in pursuance of the request made to the Lords Commissioners of the Admiralty, of which you were apprised by my letter of the 28th March.

Sir Michael Hicks Beach regrets extremely that, under any circumstances, recourse should have been had to violence, or to any measures which could impair the good relations existing between Her Majesty's Government and that of the United States of America; but, pending the result of the inquiries which are being made in the Colony, and which are also to be made by the Senior Naval Officer of the station, it is not possible to return a definite answer to the representations of the United States' Government.

The Marquis of Salisbury will, no doubt, direct Sir E. Thornton to apprise Mr. Evarts of the inquiries which are being made, and will inform the United States' Minister to the same effect.

I am desired to take this opportunity to transmit to you copy of a despatch addressed by Her Majesty's Minister at Washington to the Governor of Newfoundland on the 4th March, together with the reply returned to Sir E. Thornton by Sir John Glover.

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

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Inclosure 1 in No. 10.

*Sir E. Thornton to Governor Sir J. Glover.*

Sir,

*Washington, March 4, 1878.*

I HAVE the honour to transmit herewith, for your Excellency's information, and for any observations which you may deem it expedient to make on the subject, copy of a note which I have received from Mr. Evarts, Secretary of State of the

United States, relative to an alleged interference with American fishermen engaged in the herring fishery on the coast of Newfoundland.\*

Your Excellency will perceive that Mr. Evarts has directed the United States' Consuls at St. John's and other ports to furnish him with further information upon the subject, which he promises to forward to me, and which I shall have the honour to transmit to your Excellency.

Mr. Evarts also states that the President has considered it advisable to bring the subject directly to the attention of Her Majesty's Government through the United States' Minister in London.

As it may be useful that your Excellency should know what sort of evidence has probably been submitted to Mr. Evarts, I inclose a copy of the "New York Herald" of the 26th ultimo, containing affidavits purporting to have been signed and sworn to by American fishermen, as well as a leading article upon the subject.†

I have, &c.

(Signed) EDWARD THORNTON.

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Inclosure 2 in No. 10.

*Governor Sir J. Glover to Sir E. Thornton.*

Sir,

*Government House, Newfoundland, March 23, 1878.*

I HAVE the honour to acknowledge the receipt of your despatch of the 4th instant, with inclosures, relative to the alleged interference with the American fishermen engaged in the herring fishery in Fortune Bay, Newfoundland, in January last.

2. Before receiving your Excellency's despatch I had caused inquiry to be made into the circumstances of the case, and had forwarded a Report, accompanied by copies of the depositions taken, to Her Majesty's Colonial Minister.

3. The American Consul at St. John's having applied to the Government for information, I have permitted him to be furnished with copies of the evidence above alluded to.

I have, &c.  
(Signed) JOHN H. GLOVER.

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No. 11.

*The Marquis of Salisbury to Sir E. Thornton.*

Sir,

*Foreign Office, May 3, 1878.*

I REFERRED to Her Majesty's Secretary of State for the Colonies your despatch of the 4th March, together with its inclosures, as well as a letter from the United States' Minister at this Court,‡ upon the subject of the disputes which had taken place between British and United States' fishermen on the coast of Newfoundland; and I have to state to you that I am informed that inquiries are being instituted into the matter, both by the authorities of Newfoundland and by the Senior Naval Officer on the station.

I have addressed a communication to the United States' Chargé d'Affaires at this Court in the above sense, and I have to request you to take an opportunity of doing the same to the United States' Secretary of State, pending the receipt of fuller information upon the subject.

I am, &c.  
(Signed) SALISBURY.

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No. 12.

*The Marquis of Salisbury to Mr. Hoppin.*

Sir,

*Foreign Office, May 3, 1878.*

I REFERRED to Her Majesty's Secretary of State for the Colonies Mr. Welsh's letter of the 19th March, upon the subject of the disputes which had

\* Inclosure 1 in No. 3.

† Inclosures 2 and 3 in No. 3.

‡ No. 4.

taken place between British and United States' fishermen on the coast of Newfoundland, and I have the honour to acquaint you that I am informed that inquiries are being instituted into the matter, both by the authorities of Newfoundland and by the Senior Naval Officer on the station, on learning the result of which I shall have the honour of addressing a further communication to you.

I am, &c.  
(Signed) SALISBURY.

## No. 13.

*The Secretary to the Admiralty to Lord Tenterden.—(Received July 13.)*

My Lord,

*Admiralty, July 11, 1878.*

I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copies of two letters from Captain Sullivan, of Her Majesty's ship "Sirius," reporting the results of his inquiries into the circumstances connected with the quarrel between the English and American fishermen in Fortune Bay, in January last.

I am, &c.  
(Signed) THOS. WOLLEY.

## Inclosure 1 in No. 13.

*Captain Sullivan to Vice-Admiral Sir E. Inglefield.*

Sir,

*"Sirius," St. John's, Newfoundland, June 19, 1878.*

I HAVE the honour to inform you that, in obedience to your orders, I left Halifax on Saturday the 8th instant, and proceeded to Fortune Bay, for the purpose of inquiring into the circumstances connected with the quarrel between the English and American fishermen in Long Harbour in January last, arriving off Brunet Island on the evening of Monday the 10th. I anchored there for the night, the weather being thick with fogs gathering; and on the evening of the 11th weighed and proceeded to Long Harbour, at the entrance of which the same afternoon I learnt that the "Pert" was at the head of the harbour (about 9 miles off). I therefore proceeded through the narrows and anchored in 6 fathoms about 7 miles from the entrance, and observed the "Pert" anchored about 3 miles further in, when I recalled her, and on the following day anchored in company with her 4 miles further down off Tickle Beach, where we found the disturbance of January last had taken place.

2. On this beach are two huts occupied by fishermen who witnessed the affair, and having taken their evidence, which, with other evidence subsequently taken, will be forwarded with my Report hereafter, we proceeded to Metter's Cove, where a fisherman named Tharnell and another were examined on the same subject.

3. From information given by them I proceeded to St. Jacques the same afternoon where, from Mr. Snellgrove, Sub-Collector of Customs, who was present at Tickle Beach shortly after the disturbance, and others who had witnessed the whole transaction, I obtained further important evidence, which, with my Report, will be forwarded at the earliest opportunity when complete.

4. There have been at these places several complaints made to me on various subjects by some of the witnesses, disputes relative to land property and reports of barring herring, one being that a seine had been laid for this illegal purpose, and had been so for some days, in consequence of which I directed Captain Aitchison to proceed to the spot said to be barred and ascertain the truth of the information.

5. The "Pert" rejoined at St. Jacques, and reported having found the seine as described, and taken possession of it. In other cases of complaint I was only able to take the evidence of those witnesses present at the time; but in the absence of others away fishing, I had to postpone the cases until my return from St. John's.

6. On Monday the 17th I directed the "Pert" to proceed to St. John's to coal, prior to her leaving for the East Coast, and the same afternoon I left St. Jacques in this ship for St. John's, where I arrived yesterday at 7 P.M., the mail from England for Halifax arriving a few hours afterwards, and leaving early this morning.

7. I am unable to forward more than this letter, as the Report on the subject of the American outrage is not complete; but the evidence is most complete, the witnesses

corroborating each other, and goes completely to prove the Americans were entirely in the wrong, and brought the quarrel on themselves, first by illegally fishing and then by threatening them with a revolver.

8. I found on arrival the "Contest" at anchor, and the "Pert" arrived this morning to await further orders.

I have, &c.  
(Signed) GEO. L. SULIVAN.

Inclosure 2 in No. 13.

*Captain Sullivan to Rear-Admiral Sir E. Inglefield.*

Sir,  
IN obedience to your orders dated the 8th instant, in which I am directed to inquire into the differences which arose between British and United States' fishermen in Fortune Bay in January last, I have the honour herewith to inclose the evidence obtained from several witnesses, together with my Report on the subject; and in further remarking thereon desire to call your attention to those points in the evidence which have led me to the conclusions contained in that Report.

It will be seen therein that there are four Statutes which bear on the subject, and which have been infringed by the American fishermen, viz., Act cap. 6, 1876, in Amendment of Consolidated Statutes (1872), cap. 102, the proviso of the same as regards barring.

By the same Act, 1876, Sec. 4 and Art. 18 of the Treaty of Washington—

1. With respect to the first of these, the witness, Silas Fudge, says:—"I witnessed the disturbance at Long Harbour on Sunday the 6th January last: I am certain it was the 6th; I saw the seines in the water, two of them Americans, again. He (i.e., Jacobs, an American) had his in the boat; he had shot once and discharged his seine into Farrel's, who was working for him."

John Cluett stated that he was in Long Harbour on Sunday in January last. "They (the Americans) commenced hauling herring on Sunday about mid-day; the first American seine shot was that of Jacobs; there were two more American seines shot. He (Jacobs) had just hauled herring and shot them into Farrel's seine, who was working for him; we remonstrated about breaking the law and fishing Sundays."

All the evidence of the other witnesses is corroborative of the above; and the fact is even acknowledged by the Americans in their own evidence, as appears by the statements inclosed in the correspondence on this subject. It is therefore evident that they were illegally fishing, using seines, and hauling herring in January last contrary to the above quoted statute, which prohibits the same between the 20th October and 25th April in any year.

2. That the American Captains were setting and putting out seines and hauling and taking herring on Sunday the 6th January, in direct violation of Sec. 4, cap. 6. This is proved by the evidence of all the witnesses.

John Saunders says:—"In January last—one Sunday, I don't know the date—the Americans laid out their seines, assisted by the English employed by them; the Newfoundlanders told them to take them up, as it was not legal their fishing on Sundays; there was no other reason for destroying nets but for fishing on Sundays. They went to McCauley, who had laid his seine out for barring herring; the Newfoundlanders said it should not be done on a Sabbath-day."

3. That the Americans were barring herring, that is, confining them in the seines for a considerable time, instead of forthwith hauling them. By the evidence of Silas Fudge—"He (Captain Jacobs) had shot once, and discharged his seine into Tom Farrel's, who was working for him."

John Saunders says:—"Jacobs upset his seine into Farrel's seine, who was employed by him. Farrel was barring for the Americans, and was not allowed by Jacobs to haul his seine.

Mark Bolt says:—"The Americans do not bar fish; this was the first time I ever knew them to do so."

Richard Hendriken says:—

"Samuel Jacobs would persist in hauling, and hauled once and barred them in Farrel's net. Farrel was working for them, and had been barring herring for several pays, perhaps about a fortnight, by the Americans' orders. I believe it is illegal barring herring, but we have no power to stop it; it is no good telling a magistrate; they take no notice of him."

4. That they were interfering with the rights of British fishermen in their peaceable use of that part of the coast occupied by them, &c. By all the evidence given, it occurred on Tickle Beach, Long Harbour, on which, as was seen by us, was a Newfoundland fishing settlement, the land being granted by Government, as stated by Mark Bolt, who says:—

"I have been in the neighbourhood fourteen or fifteen years. The ground I occupy, 150 feet, was granted me for life by Government, and for which I now pay a fee; there are two families on the beach; there were three in the winter; our living is dependent on our fishing off this settlement."

The above are the main points in the evidence on which my Report is founded.

In conclusion, I beg to inform you that I have forwarded a copy of the Report to his Excellency the Governor of Newfoundland, and the duplicate direct to their Lordships, in order to insure their receiving it at the same time as the Colonial Office will.

I have, &c.  
(Signed) GEO. L. SULIVAN.

Inclosure 3 in No. 13.

*Report on Differences that arose between British and United States' Fishermen in January 1878, by Captain Sullivan, of Her Majesty's ship "Sirius."*

HAVING carefully weighed the evidence given on oath before me by Newfoundland fishermen present at the time, together with that inclosed in the correspondence forwarded for my perusal, I am of opinion—

1. That the Americans were using seines for catching herring on the 6th January, 1878, in direct violation of Title XXVII, chap. 102, sec. 1, of the Consolidated Statutes of Newfoundland, viz.: "No person shall haul or take herring by or in a seine or other such contrivance on or near any part of the coast of this Colony or of its dependencies, or in any of the bays, harbours, or other places therein, at any time between the 20th day of October and the 25th day of April."

2. That the American Captains were setting and putting out seines, and hauling and taking herring on Sunday the 6th January, in direct violation of sec. 4, chap. 7, of the Act passed 26th April, 1876, entitled "An Act to amend the law relating to the Coast Fisheries," viz.: "No person shall, between the hours of 12 o'clock on Saturday night and 12 o'clock on Sunday night haul or take any herring, caplin, or squid, with net seines, bunts, or any such contrivance, or set or put out any such net seine, bunt, or contrivance, for the purpose of such hauling or taking."

3. That they were barring fish in direct violation of the continuance of the same Act, Title XXVII, chap. 102, sec. 1, of the Consolidated Statutes of Newfoundland, "or at any time use a seine or other contrivance for the catching or taking of herrings except by way of shooting and forthwith hauling the same."

4. That, contrary to the terms of the Treaty of Washington, in which it is expressly provided that they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose (see Article XVIII of the above-named Treaty), they were fishing illegally, interfering with the rights of British fishermen, and their peaceable use of that part of the coast then occupied by them, and of which they were actually in possession, their seines and boats, their huts, gardens, and land granted them by Government being situated thereon (see Mark Bolt's evidence).

5. It is distinctly shown in the evidence that the cause of the difference commenced with the Americans by their persisting in shooting their seines on the Sunday, as the Englishmen who worked for them would not do it on that day, not only on account of its being illegal, but of their religious regard for the Sabbath, which is always strictly kept by them; and although it must be observed that the result of this illegal fishing would have been that the Americans would have secured the whole of the herring in the bay on that day to the exclusion of the rights and fair chances of all the others during the week, yet there is no evidence to prove that this, or anything else but the fact of its being Sunday, and the law and custom among themselves regarding it, prompted them to demand that the seines should be withdrawn.

6. It is shown by the evidence of all those witnesses present at the time that the Americans were remonstrated with, and told to take their seines up prior to any serious steps being taken, and it is also distinctly proved that no violence was resorted to until

after the exasperating conduct of Captain Jacobs, the American master of a schooner, concerned in this illegal fishing, who threatened them with a revolver if they prevented him or interfered with his seine.

7. It does not appear that the native fishermen were aware of the illegality of hauling a seine in the month of January ; it is, therefore, to be presumed that the Americans were also ignorant of that law, although their ignorance cannot exonerate them from the breach, nor does it exonerate John Hickey, an Englishman, who is charged with the same offence, and whom it is my intention to summons before me to answer to that charge.

8. The statement of the Americans, that they were compelled to leave the harbour and leave off fishing, is entirely without foundation, which is proved by the evidence of those examined before me, among whom was Mr. Snellgrove, Collector of Customs, who was there a week after the occurrence, and communicated with them, and by the evidence of others to the effect that they remained for about a fortnight or more, "until the herrings slacked," and with respect to their loss of the haul of herring by the seine being emptied, the fish were not their lawful property, having been illegally caught.

In support of this view of the conduct of the Americans, I am not only borne out by the evidence of the Fortune Bay fishermen, who made their statements in a remarkably frank and straightforward manner, but by the self-convicting evidence of those very Americans themselves, whose depositions, given on oath, show them to have been illegally fishing, and who were liable thereby to the forfeiture of their seines, nets, &c., by chap. 102, sec. 12, of the Consolidated Statutes.

(Signed)

GEO. L. SULIVAN,

*Captain and Senior Officer.*

Inclosure 4 in No. 13.

*Deposition of John Saunders.*

THE examination of John Saunders, of Tickle Beach, Long Harbour, taken upon oath, and who saith :—

In January last there were a great number, close on 100, schooners and boats fishing for herring, both American and Newfoundlanders. The Americans were employing the English to haul their seines for them. There were some English schooners who had seines also. One Sunday, I do not know the date, John Hickey laid out a seine and was told by the English or Newfoundlanders to take it up, as it was Sunday, which he did. The Americans laid out their seines, assisted by the English employed by them. The Newfoundlanders told them to take them up, as it was not legal their fishing on that day, being Sunday ; J. McDonald took his up. Jacobs upset his net into Farrel's seine, who was employed by him. Farrel was barring for the Americans, and was not allowed by Jacobs to haul his seine until the hard weather came. After Jacobs had upset his seine into Farrel's he took it up to shoot again, and threatened with the revolver anyone who interfered. Then they told McCauley to take his up, but he didn't, so the people hauled it in and tore it up.

I don't know any man concerned in the destruction of the net that I could swear to but one, John Pitman, a servant to Samuel Pardy, who was at "Jack Fountain."

There was no other reason that I know of destroying nets but for fishing on Sunday, and because they would not take them up when they were told. The Americans never hauled a seine before that day ; they always employed the English to use their seines and bought fish from the English. The only reason that the Americans laid their seines out that day was because there were plenty of herrings, and no Englishman would haul them, being Sunday, excepting Hickey, who had been compelled to take his seine up.

Q. Where does Philip Farrel live ?—A. In Bay-de-North, and so does Thomas Farrel.

Q. Was any obstruction or hindrance placed in the way of the Americans before or after that Sunday ?—A. No.

Q. Did they remain in the harbour until the close of the season : until the herrings slacked away were any Americans compelled to leave the coast after this circumstance ?—A. No ; there was nothing to prevent their remaining, and they remained for some days, until the weather became soft, and there were no more herrings in the bay. Most of them left, but one American schooner remained about three weeks after that, when

another lot of herrings came into the bay, and he filled up and went away the next fair wind. Jim Boy was the Captain's name.

Q. Do you know any American of the name of Dago?—A. Yes; he has part in this seine. The Americans hauled their seine on the beach immediately in front of my property.

Q. Do you know the names of the schooners?—A. No.

Q. Do you know the names of the owners of the seine?—A. Yes; Captain Dago and McCauley.

Q. Do you know anything the Americans did by way of revenge?—A. The Americans, in revenge for the destruction of the net, afterwards drifted their vessels all about the bay or river with their anchors hanging, and so hooked and destroyed many nets, about fifty or sixty I should think. The name of one of these Captains was Smith—but I don't know the name of his vessel—and the other was Pool. We all believe that this was done in revenge. They were pretending to be at anchor, where there was about fifty fathoms of water, but were drifting all over the bay and hooking the nets; there was no weather to cause them to drift. Our small boats were anchored off the beach. We had never any difficulty with the Americans before this, but were always on good terms with them.

(Signed) JOHN SAUNDERS, his ✕ mark.

Sworn before me at Tickle Beach, Long Harbour, this 13th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

#### Inclosure 5 in No. 13.

#### *Deposition of Mark Bolt.*

THE examination of Mark Bolt, of Tickle Beach, Long Harbour, taken upon oath, and who saith:—I am a native of Dorsetshire, England. I have been in this country twenty-one years, and have been fishing all that time. I have lived in this neighbourhood fourteen or fifteen years, and at Tickle Beach since last fall. The ground I occupy (150 feet) was granted me for life by Government, and for which I have to pay a fee. There are two families on the beach; there were three in the winter. Our living is dependent on our fishing off this Settlement. If these large American seines are allowed to be hauled, it forces me away from the place.

One Sunday in January last, John Hickey, Newfoundland, came first, and hove his seine out. Five Newfoundlanders came and told him to take it up, and he did not; then others came and insisted upon it; then he took it up. If he had then refused to take it up it would have been torn up.

Then Jacobs, an American, came and laid his seine out and hauled about 100 barrels of herring in the big American seine, and capsized into Tom Farrel's seine—a Newfoundland fisherman employed by Jacobs and fishing for him.

Philip Farrel was also fishing for the Americans, being master of McCauley's seine. The Newfoundlanders then capsized Tom Farrel's seine of fish, who was only fishing for the Americans. After this Jim Macdonald, another American, threw out his seine. Then the people went and told Macdonald that he was not allowed to fish on Sundays, and he must take his seine up, and he took up his seine and carried it on board his vessel. Jacobs would not allow his seine to be touched, but drew a revolver. They then went to McCauley, an American, who had laid his seine out for barring herring; this American also employed a Newfoundland to lay his seine out. The Newfoundlanders said it should not be done on a Sabbath-day, and they resolved to tear up all the seines they could get hold of. They managed to seize McCauley's and tore it up. They would have torn up any they could have got at if laid out, whether English or American, because it was Sunday. The Americans do not bar fish. This was the first time I ever knew them to do so; they usually buy the fish from the Newfoundlanders, and also barter flour and pork for them, and I have never known anything to complain of against them previous to this.

Q. Did the American schooners continue to fish after the destruction of McCauley's seine?—A. Yes.

They (the Americans) continued to fish, and left about the usual time, the 10th March. I do not know any reason for the conduct towards the Americans except that they were fishing on Sunday. I do not know what became of the nets that were

torn up ; it was left on the beach for some days and then taken away. I do not know who took it away ; the Americans, perhaps, but I don't know.

The Americans were often set afterwards, but not on Sunday ; the Americans did not leave off catching herring after this on other days. The English did not prevent the Americans hauling their seines, but the Americans usually employed the English to haul them, as their crews were not sufficient in number and are not acquainted with the work. The American crews are employed salting and freezing the fish, while the English employed by them with the American seines are catching them. The seine torn up was being worked by an Englishman for McCauley, the American, namely, Philip Farrel.

Jacobs' seine was in the water a night and a day. I was not aware that it was illegal to haul or catch herring by or in a seine at that time of the year, nor that barring is prohibited at all seasons, nor that the seine must be shot and forthwith hauled, but have heard some reports to that effect.

The nearest magistrate is at St. Jacques, about 25 or 30 miles from this, and there is no means of communicating with him excepting by a sailing boat.

The seine that was destroyed belonged to men called Dago and McCauley, who I believe were each of them Captains of schooners, but the names of the vessels I do not know.

(Signed) MARK BOLT.

Sworn before me at Tickle Beach, Long Harbour, this 13th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

Inclosure 6 in No. 13.

*Deposition of Richard Hendriken.*

THE examination of Richard Hendriken, of Hope Cove, Long Harbour, taken upon oath, and who saith :—

I have been nine years in Long Harbour. I was here in January last, when the American seine was destroyed. It was destroyed on account of barring herring on Sunday. I was watching their proceedings from the point opposite ; they laid their seine out and went to haul it in because the English would not haul it in on Sunday, and the bay was full of fish. The fish would have remained. The Americans generally employ some Englishmen to work with their own crew ; they don't generally lay out their own seines. Captain Dago and Samuel Jacobs would persist in hauling, and hauled once and barred them in Farrel's net. Farrel was working for him, and had been barring herrings for several days, perhaps about a fortnight, by the Americans' orders. I believe it is illegal to bar herrings ; it destroys the fish, but we have no power to stop it. It is no good telling a magistrate ; the Americans take no notice of them. The nearest magistrate to this place is at Harbour Briton, twenty-five or thirty miles off. The only thing to let people know what is right and what is wrong is to have a notice board in each harbour, and some heavy fine imposed on law-breakers.

James Tamel is harbour-master.

I don't know if he is a special constable or not ; but Mr. Enburn told me he was to see the Yankees did not heave their ballast over, and that their measures were correct, but they would not listen to him. They hove their ballast overboard, and had tubs 22 inches in depth instead of 16 inches ; in these tubs they measured the fish they bought from the Newfoundlanders, and they would not alter them. The fish are sold to the Americans by the barrel ; for 100 barrels it is usual to pay for 90, which is considered fair, but a flour barrel cut down to 16 inches in depth is the proper measure ; they only cut them to 22 inches or more, and insist on having them filled. The vessels from St. John's and Halifax always take the proper size tubs, but the Americans constantly overreach us, and choose the most ignorant to deal with, or those who are not so sharp as themselves. They generally otherwise behave well, and we have never had any quarrel with them before, but have always been on good terms. If the natives did not see the laws carried out themselves there might as well be no laws, for there is often no one else to enforce it. It is the only way I know, and is pretty well understood by both foreigners and natives.

(Signed) RICHARD HENDRIKEN, his ✘ mark.

Sworn before me at Tickle Beach, Long Harbour, this 14th day of June, A.D. 1878.  
 (Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

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## Inclosure 7 in No. 13.

*Deposition of Ambrose Pope.*

THE examination of Ambrose Pope, of Stone Cove, Long Harbour, taken upon oath, and who saith :—I was at Tickle Beach on a Sunday in January last. I don't know the date. I saw the Newfoundlanders hauling a seine and leave it on the beach; it was torn in hauling it on shore. It was evening when I saw the seine hauled on the beach, and it was laying there when I left the beach.

I don't know if any was carried away. I don't know anything more about it. The Americans we thought had no right to haul their seines on Sunday.

(Signed) AMBROSE POPE, his ✕ mark.

Sworn before me at Anderson Cove, this 15th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

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## Inclosure 8 in No. 13.

*Deposition of James Tharnell.*

THE examination of James Tharnell, of Anderson's Cove, Long Harbour, taken upon oath, and who saith :—I am a special constable for this neighbourhood. I did not see anything of the alleged outrage last January, but I heard something about it. I believe some of the men named Pope were on the beach, but which I do not know.

Q. Have you formed any opinion as constable as to the cause of the dispute ?—  
 A. Mr. Snellgrove, of the Customs, and myself, from what we were informed of the circumstances, were of opinion that the Americans were acting illegally in shooting their seines, but notwithstanding that nothing would have been said to them for that had it not been on the Sabbath day. The men forbid them hauling seines on the Sabbath day, and told them to take them up or they would take them up for them, and what annoyed them so much was that the Americans drew their revolvers; probably if it had not been for the threat of the revolvers, the seines would only have been taken up and not torn. They asked him three times to take them up before they did so themselves.

The people were not aware that it was illegal to set the seines that time of the year, and were only prompted to their act by the fact that it was Sunday. We all consider it to be the greatest loss to us for the Americans to bring those large seines to catch herring. The seines will hold 2,000 or 3,000 barrels of herring, and, if the soft weather continues, they are obliged to keep them in the seines for, sometimes, two or three weeks, until the frost comes, and by this means they deprive the poor fishermen of the bay of their chance of catching any with their small nets, and then, when they have secured a sufficient quantity of their own, they refuse to buy of the natives.

If the Americans had been allowed to secure all the herrings in the bay for themselves, which they could have done that day, they would have filled all their vessels, and the neighbouring fishermen would have lost all chance on the following week-days. The people believed that they (the Americans) were acting illegally in thus robbing them of their fish. If the natives had not defended themselves by enforcing the law, there was no one else to do it. I was sworn in as a special constable by Mr. Herbert, the magistrate of Harbour Briton, last October.

On the arrival of the Americans I showed my authority, signed by Mr. Herbert, and they laughed at it, and said it had no stamp, and they didn't, therefore, recognize it.

I told them the lawful size of a tub—sixteen gallons—and they said they required a brand on it. I have no means of branding tubs; there is no means to brand on the coast, and it is not the custom. I don't know if it is the custom at St. John's to brand them. I have cautioned the Americans about throwing ballast out inside Hoodey's Island, where it is very shallow; but they have continually done so notwithstanding up to this. There are now several shallow places there and in the cove, where the Americans

have been in the habit of throwing out their ballast, and small vessels now, of twenty-eight to thirty tons, repeatedly ground on this ballast there thrown out by the Americans. I believe there was less thrown out last winter after I spoke to them about it; but I have no power, moral or otherwise, to enforce any Rules, and they don't seem to care much about me.

(Signed) JAMES THARNELL, his ✕ mark.

Sworn before me at Tickle Beach, Long Harbour, this 14th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

Inclosure 9 in No. 13.

*Deposition of George Snellgrove.*

THE examination of George Snellgrove of St. Jacques, Fortune Bay, taken upon oath, and who saith:—I am sub-collector of Customs for the district of Fortune Bay. I went to Long Harbour on the 8th January, two days after the dispute between the Americans and Newfoundland fishermen had taken place.

Captains Jacobs and Dago informed me that an American seine had been taken up by the Newfoundland fishermen on the Sunday previous and destroyed; that the seine belonged to Dago and McCauley, and that they had other seines out, but they had taken them up when they found that the other was destroyed. One of these Captains said that the fishermen had threatened to take up the seine if they didn't themselves. Captain Jacobs showed me a revolver, and said that he had threatened them with it. I remonstrated with him for doing so, when he replied that I couldn't suppose that he was really going to use it; that he only did it to frighten them; he had taken care there were no charges in it. I said to him, "Do you suppose that you would have got off that beach alive if you had used it;" and he said he never intended to use it.

Captain Warren told me that on the fishermen coming to haul in the seine that Captain Dago hailed them to say that they would take the seine in themselves if they waited; and that he (Warren) said to Dago, "It is too late now; you ought to have done it when they told you first; they are too excited now."

I then communicated with the natives of the place, who related the circumstances, and gave their reasons that the Americans were fishing illegally, and would have secured the whole of the fish which they considered part of their property; and that they would have been distressed for the winter. They told me that they had at first told them to take up their seines, and they refused; that Captain Jacobs had threatened them with a revolver, but, notwithstanding this, they had taken up one and destroyed it.

I saw Captain Jacobs several times afterwards, and in the course of conversation with him I said, if I had been there you would not have been allowed to shoot your seine. "What!" he said, "could you prevent me?" I said "Yes;" I should have seen the law carried out and taken your seine and boat, which you forfeited for breaking the law, and I told him I would take the fine as well of 200 dollars, at which he said—"Do you think I care about paying the fine; I could pay the fine," by which I understood him to mean that the fine was not worth considering, as the quantity of fish would have more than paid for it.

Q. Was there anyone in Long Harbour on the Sunday referred to who could have enforced the law, and protected the interests of the fishermen?—A. No.

Q. Is it not illegal shooting seines at all at that time of the year?—A. There is an Act to that effect, but it has never been carried out in Fortune Bay, nor are the natives aware of its illegality at that time of the year, nor would they have molested the Americans had it not been Sunday, and which they knew it to be not only the law but the infallible custom to desist from fishing on that day.

Q. Has there ever been, to your knowledge before, quarrelsome disputes or ill-feeling between the Americans and native fishermen?—A. No, never; always on the best terms.

Q. How long did you remain in Long Harbour?—A. I remained till the 12th January.

Q. Did you observe during your stay in Long Harbour whether the three American Captains remained and continued to fish or not?—A. I did, and I know that they continued to fish; they were not molested as far as I know.

Q. Was there anything to cause them to leave the harbour, or to cease fishing?—

A. No, and they had not left it when I left; there were no further disputes to my knowledge afterwards.

(Signed) GEO. THOS. SNELLGROVE,  
Sub-Collector of Her Majesty's Customs.

Sworn before me at St. Jacques, Fortune Bay, the 17th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

Inclosure 10 in No. 13.

*Deposition of Silas Fudge.*

THE examination of Silas Fudge, of Bellaram, Fortune Bay, taken upon oath, and who saith:—

I am mate of my father's schooner. I witnessed the disturbance at Long Harbour on Sunday the 6th January last. I am certain that it was on the 6th January it happened.

I saw the seines in the water; two of them American and one English. We told them to take them up.

John Hickey, the Englishman, took his up; McCauley, the American, who owned the other, refused to take his up. There was another seine, which I did not see, in the water, belonging to Captain Jacobs. He had his in the boat at the time. He had shot once and discharged his seine into Thomas Farrel's, who was working for him, and was going to shoot his seine out again. I saw it in the boat ready for shooting when the crowd came over. The first spoke to McDonald, and asked him if he would take his seine up, and he said, "Yes, if I am forced;" and they then went to Hickey, and told him to take his up, and he took it up; then they went to McCauley and asked him to take his up, and he said he would not. They then told him that if he didn't they would take it up for him. They then went to Jacobs, and told him they would let go the herring out of the seine of Tom Farrel, who was an Englishman. Jacobs then drew a revolver, and threatened to shoot any man who touched his property. The crowd were very excited. I saw them haul McCauley's seine in, and tear it up. That was the end of the row that day. Farrel had, during the previous week, secured herring in the American seine, and then had placed his own round them, and taken up the American's. This was done before Sunday. It was in this seine of Farrel's that Jacobs emptied his own seine.

Q. You knew that the American fish were in the Englishman's seine; why was Farrel's seine allowed to remain?—A. Because he had not shot it on the Sunday, but on the week-day.

Q. Are you aware that it was illegal to use seines to catch herrings that time of the year?—A. No; I don't know.

Q. Did you believe it to be lawful to use seines for herring that time of the year?—A. Yes, I thought so, as far as I could understand. I suppose the Americans thought, with reference to the destruction of the seine, that we did it in envy of them, but it wasn't; but it was from regard to the Sabbath, on which day we never fish.

Q. How far from the beach were the American seines shot?—A. Close to the beach; the hauling lines were on the beach.

The Americans remained in the bay after the occurrence for several days; they were never molested or interfered with afterwards; they continued to fish until they left the harbour; they were not compelled to leave the harbour, but I believe they were unsuccessful on account of the bad weather and for want of frost.

(Signed) SILAS FUDGE

Sworn before me at St. Jacques, Fortune Bay, the 17th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,  
*Captain and Senior Officer on the Coast of Newfoundland.*

Inclosure 11 in No. 13.

*Deposition of John Cluett.*

THE examination of John Cluett, of Bellaram, Fortune Bay, taken upon oath, and who saith:—

I was in Long Harbour one Sunday in January last.

Q. Did you see anything of the quarrel between the Americans and other fishermen?—A. I did.

Q. Tell me what you know of it.—A. They commenced hauling herrings on Sunday, about mid-day. The first American seine shot was Captain Jacob's; there were two more American seines shot. There was an Englishman working for the Americans who had a seine moored there for several days, but it was not shot or attempted to be hauled on the Sunday.

The first seine we came to was Captain McDonald's; they asked him if he was going to take his seine up. He said, "If we are forced to take it up we will;" and we told him if he didn't take it up we would take it up for him.

The next we came to was a man belonging to Fortune Bay, called John Hickey, an Englishman, and we told him to take up the seine, and he said he would take it up and he did. The next we came to was Peter McCauley, and we told him the same as the others, and he refused to take it up. Then we went on to Captain Jacobs, and when we got to him he was in his skiff, a little off the shore: he had just hauled herring and shot them into Farrel's seine, who was working for him; they remonstrated about breaking the law and fishing on Sunday; there was an altercation between us; he said he would defend his seine if they touched it in a threatening way. I don't know what he said: there was a great crowd, and he was in an awful rage, and I heard that he drew a revolver, but I didn't see it; he then took his seine on board; then all the seines were taken up but Farrel's and McCauley's. Farrel's seine was not touched because it was not laid on that day, and they therefore let it alone, although Jacobs' fish were in it; but McCauley's seine was taken up and destroyed, and that is all I know.

Q. Did the American Captain remain in the harbour after?—A. Yes; I think about a fortnight, but perhaps more. They continued to fish and haul herring on weekdays but not on Sunday again.

Q. Were they ever molested or interfered with in any way subsequently or not?—A. Not to my knowledge; they remained there as long as they chose, and there was never any more dispute. I don't know that it is illegal to haul seines that time of the year. I have heard of the law, but I have never seen it carried out; it had nothing to do with this dispute. The only cause of it was on account of its being Sabbath. I never saw herrings hauled on a Sunday before, either by American or Englishman.

The Americans, by hauling herring that day when the Englishmen could not, were robbing them of their lawful and just chance of securing their share in them, and, further, had they secured all they had barred they could have, I believe, filled every vessel of theirs in the bay. They would have probably frightened the rest away, and it would have been useless for the English to stay, for the little left for them to take they could not have sold.

The Americans would have a better chance than the English any day on account of the size of their nets, but the English would have had their fair chance the next day, and they thought they were justified, in the absence of any proper authority or power to enforce the law, to defend their rights themselves. There is no power or authority to enforce the law on all parts of the coast, and none nearer to Long Harbour than about 30 or 40 miles.

If there was not a good feeling and mutual understanding between all fishermen, whether foreigners or Englishmen, there would be no law carried out or upheld at all, but there was always prior to this a very good feeling and a mutual understanding between the Americans and ourselves, and I don't know anything to prevent the same in future. After the destruction of McCauley's seine some of the American schooners, one of which was Peter Smith's, drifted about the harbour among the fishermen's nets when blowing hard, with their anchors hanging to their bows, and destroyed several nets. I don't know if this was done out of revenge or not. I don't think it was done purposely.

(Signed) JOHN CLUETT.

Sworn before me at St. Jacques, Fortune Bay, this 17th day of June, A.D. 1878.

(Signed) GEO. L. SULIVAN,

Captain and Senior Officer on the Coast of Newfoundland.

## No. 14.

*Sir J. Pauncefote to Mr. Malcolm.*

Sir,

*Foreign Office, July 29, 1878.*

WITH reference to your letter of the 26th April last, I am directed by the Marquis of Salisbury to transmit to you, to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying letter, together with its inclosures, which has been received from the Admiralty, addressed to Vice-Admiral Inglefield by Captain Sulivan, of Her Majesty's ship "Sirius," who had been directed to hold an inquiry on the spot into the circumstances connected with the quarrel which took place in January last between English and American fishermen in Fortune Bay;\* and I am to request that, in laying these papers before Sir M. Hicks Beach, you will move him to favour Lord Salisbury with his opinion as to what instructions should now be addressed to Her Majesty's Minister at Washington upon the subject.

I am to request that the inclosures to this letter, which are sent in original, may be returned to this Office with your reply.

I am, &amp;c.

(Signed) JULIAN PAUNCEFOTE.

## No. 15.

*Mr. Herbert to Sir J. Pauncefote.—(Received August 5.)*

Sir,

*Downing Street, August 3, 1878.*

WITH reference to the letter from this Department of the 26th April and to previous correspondence, respecting the interference with United States' fishermen by fishermen of Newfoundland which took place in January last at Long Harbour, Fortune Bay, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Secretary of State for Foreign Affairs, a copy of a further despatch from the Governor of Newfoundland on the subject, inclosing a Report from Captain Sulivan, R.N., the Senior Naval Officer on that station, of the result of his inquiry into the matter, together with copies of the depositions on which the Report is founded.

I am also to inclose copies of two letters from Captain Sulivan to the Commander-in-chief on the North American station in explanation of the Report, which have been communicated to this Department by the Admiralty. Sir Michael Hicks Beach desires me to suggest, for the consideration of the Marquis of Salisbury, that such of the papers in the case as his Lordship may think proper should now be communicated to the United States' Minister, in answer to the representation which he has made to Her Majesty's Government on the subject, and that it should be pointed out to him that on the occasion referred to the United States' fishermen would appear to have been committing three distinct breaches of the laws of the Colony, but that, nevertheless, no violence was used by the fishermen of Newfoundland, except in the case of one vessel, whose master refused to comply with the request which was made to him that he would act in accordance with the law of the Colony, which prohibits fishing on Sunday.

I am, &amp;c.

(Signed) ROBERT G. W. HERBERT.

P.S.—Since the above was written, your letter of the 29th July has been received, the inclosures to which are herewith returned.

## Inclosure in No. 15.

*Governor Sir J. Glover to Sir M. Hicks Beach.*

Sir,

*Government House, Newfoundland, June 26, 1878.*

WITH reference to my despatches of the 11th and 25th February, 1878, reporting the destruction of an American seine at Long Harbour, Fortune Bay, in

\* Inclosures 2 to 11 in No. 13.

January last, I have the honour to inclose copies of a Report from Captain G. L. Sullivan, R.N., Her Majesty's ship "Sirius," Senior Naval Officer, together with the depositions on which the Report is based.

2. I have nothing to add to my former despatches, but would observe that the full Report now forwarded only confirms the opinion expressed in my despatch of the 11th February, that the Americans were acting illegally in using their seines as they were when the above-named occurrence took place.

I have, &c.  
(Signed) JOHN H. GLOVER.

[For Inclosures, see Inclosures 2 to 11 in No. 13.]

No. 16.

*The Marquis of Salisbury to Mr. Welsh.*

Sir,

*Foreign Office, August 23, 1878.*

HER Majesty's Government have had under their consideration your letter of the 19th March, making representations relative to certain disturbances which occurred in January last between British and United States' fishermen at Fortune Bay on the coast of Newfoundland, and requesting, in accordance with the instructions of your Government, that an investigation might be made into the alleged facts of the case; and I have now the honour to transmit to you, for your information and for communication to your Government, the accompanying copy of a Report drawn up by Captain Sullivan, R.N., of Her Majesty's ship "Sirius," the officer entrusted with the duty of instituting an inquiry into the matter on the spot.\*

You will perceive that the Report in question appears to demonstrate conclusively that the United States' fishermen on this occasion had committed three distinct breaches of the law, and that no violence was used by the Newfoundland fishermen except in the case of one vessel, whose master refused to comply with the request which was made to him, that he should desist from fishing on Sunday in violation of the law of the Colony and of the local custom, and who threatened the Newfoundland fishermen with a revolver, as detailed in paragraphs 5 and 6 of Captain Sullivan's Report.

I have, &c.  
(Signed) SALISBURY.

No. 17.

*Mr. Welsh to the Marquis of Salisbury.—(Received August 24.)*

My Lord,

*Legation of the United States, London, August 24, 1878.*

I HAVE the honour to acknowledge the receipt of your note of the 23rd instant, inclosing the Report of Captain Sullivan, R.N., in relation to the fishery disturbances at Newfoundland; and I beg to inform your Lordship that I shall take an early opportunity of forwarding copies of the note and of the Report to the Department of State.

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

No. 18.

*Mr. Meade to Sir J. Pauncefote.—(Received September 4.)*

Sir,

*Downing Street, September 4, 1878.*

WITH reference to a letter from this Department of the 3rd August, and to previous correspondence respecting the interference with United States' fishermen

\* Inclosure 3 in No. 13.

by fishermen of Newfoundland, which took place in January last at Long Harbour, Fortune Bay, I am directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor of Newfoundland, written in reply to one in which Sir Michael Hicks Beach suggested whether it might not be desirable that some steps should be taken for making the fishermen at Long Harbour better acquainted with the law which prohibits the using of seines for taking herring on or near the coasts of the Colony at any time between the 20th day of October and the 25th day of April in each year

I am, &c.  
(Signed) R. H. MEADE.

Inclosure in No. 18.

*Governor Sir J. Glover to Sir M. Hicks Beach.*

Sir,

*Government House, Newfoundland, August 22, 1878.*

I HAVE the honour to acknowledge the receipt of your despatch dated 30th July, 1878, which I have communicated to my Government, who will cause the necessary steps to be taken in order that the fishermen of Long Harbour may become better acquainted with the fishery laws of Newfoundland.

I have, &c.  
(Signed) JOHN H. GLOVER.

No. 19

*Mr. Evarts to Mr. Welsh.—(Communicated to the Marquis of Salisbury by Mr. Welsh, October 12.)*

Sir,

*Department of State, Washington, September 28, 1878.*

I RECEIVED in due course your despatch of the 24th August ultimo, inclosing Lord Salisbury's reply of the British Government to the representations that had been made to it as early as March last by you, under instructions from the Department.

I must understand Lord Salisbury's note accompanying the copy of Captain Sullivan's Report, which he communicates to this Government, as adopting that naval officer's conclusions of fact respecting the violent injuries which our fishing fleet suffered at the hands of the Newfoundland fishing population at Fortune Bay in January of this year, as the answer which Her Majesty's Government makes to the representations laid before it on our part, verified by the sworn statements of numerous and respectable witnesses.

His Lordship has not placed in our possession the proofs or depositions which form the basis of Captain Sullivan's conclusions of fact, and I am unable, therefore, to say whether, upon their consideration, the view which this Government takes of these transactions, upon the sworn statements of our own respectable citizens, would be at all modified. In the absence of these means of correcting any mistakes or false impressions which our informants may have fallen into in their narrative of the facts, it is impossible to accept Captain Sullivan's judgment upon undisclosed evidence as possessing judicial weight.

You will, therefore, lay before Her Majesty's Government the desire which this Government feels to be able to give due weight to this opposing evidence, before insisting upon the very grave view of these injuries which, at present, its unquestionable duty to the interests which have suffered them, and its confidence in the competency and sobriety of the proofs in our possession, compels this Government to take. Should Her Majesty's Government place a copy of the evidence upon which Captain Sullivan bases his Report in your hands, you will lose no time in transmitting it for consideration. I regret that any further delay should thus intervene to prevent an immediate consideration of the facts in the matter by the two Governments in the presence of the same evidence of those facts for their scrutiny and judgment.

But, a careful attention to Lord Salisbury's note discovers what must be regarded as an expression of his views, at least of the authority of Provincial legis-

lation and administrative jurisdiction over our fishermen within the three-mile line, and of the restrictive limitations upon their rights in these fishing-grounds under the Treaty of Washington. Upon any aspect of the evidence, on one side and the other, as qualifying the violent acts from which our fishing fleet has suffered at the hands of the Newfoundland coast fishermen, the views thus intimated seem to this Government wholly inadmissible, and do not permit the least delay, on our part, in frankly stating the grounds of our exception to them.

The Report of Captain Sulivan presents, as a justificatory support of the action of the Newfoundland shore fishermen in breaking up the operations of our fishing fleet inside the three-mile line, at the times covered by these transactions, the violation of certain municipal legislation of the Newfoundland Government which, it is alleged, our fishermen were in the act of committing when the violent interruption of their industry occurred.

I do not stop to point out the serious distinction between the official and judicial execution of any such laws and the orderly enforcement of their penalties after solemn trial of the right, and the rage and predominant force of a volunteer multitude driving off our peaceful occupants of these fishing grounds pursuing their industry under a claim of right secured to them by Treaty. I reserve this matter for a complete examination when the conflicting proofs are in my possession. I shall assume, for my present purpose, that the manner of exerting this supposed provincial authority was official, judicial, and unexceptionable.

I will state these justifications for the disturbance of our fishing fleet in Captain Sulivan's own language, that I may not even inadvertently impute to Lord Salisbury's apparent adoption of them any greater significance than their very language fairly imports.

Captain Sulivan assigns the following violations of law by our fishermen as the grounds of rightful interference with them on the occasion in question:—

"1. That the Americans were using seines for catching herring on the 6th January, 1878, in direct violation of title xxvii, chap. 102, sect. 1 of the Consolidated Statutes of Newfoundland, viz., 'No person shall haul or take herring by or in a seine, or other such contrivance, on or near any part of the coast of this Colony or of its dependencies, or in any of the bays, harbours, or other places therein, at any time between the 20th day of October and the 25th day of April.'

"2. That the American captains were setting and putting out seines, and hauling and taking herring, on Sunday, the 6th day of January, in direct violation of sect. 4, chap. vii of the Act passed 26th April, 1876, entitled 'An Act to amend the Law relating to the Coast Fisheries,' viz., 'No person shall, between the hours of 12 o'clock on Saturday night and 12 o'clock on Sunday night, haul or take any herring, caplin, or squid with net seines, bunts, or any such contrivances for the purpose of such hauling or taking.'

"3. That they were barring fish, in direct violation of the continuance of the same Act—title xxvii, chap. 102, sect. 1 of the Consolidated Statutes of Newfoundland—"or at any time use a seine or other contrivance for the catching or taking of herrings, except by way of shooting and forthwith hauling the same."

"4. That, contrary to the terms of the Treaty of Washington, in which it is expressly provided that they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of the said coasts in their occupancy for the same purpose (see Article XVIII of the above-named Treaty), they were fishing illegally, interfering with the rights of British fishermen and their peaceable use of that part of the coast then occupied by them, and of which they were actually in possession, their seines and boats, their huts, gardens, and land granted by Government, being situated thereon."

The facts which enter into the offences imputed under the first, second, and third heads of Captain Sulivan's statement, and such offences thus made out, would seem to be the only warrant for his conclusion under his fourth head, that the United States' fishermen have exceeded their Treaty right, and, in their actual prosecution of their fishing, were, when interrupted by the force complained of, interfering with the rights of private property, or with British fishermen in the peaceable use of that part of the coast then being in their occupancy for the same purpose, contrary to the proviso of Article XVIII of the Treaty of Washington.

It is no part of my present purpose to point out that this alleged infraction of the reserved rights of the local fishermen does not justify the methods of correction

or redress used to drive off our fishermen and break up their prosecution of the fishing. This may be reserved also for discussion when both Governments have a fuller knowledge of the actual circumstances of the transaction.

In transmitting to you a copy of Captain Sullivan's Report, Lord Salisbury says: "You will perceive that the Report in question appears to demonstrate conclusively that the United States' fishermen on this occasion had committed three distinct breaches of the law, &c."

In this observation of Lord Salisbury this Government cannot fail to see a necessary implication that Her Majesty's Government concedes that in the prosecution of the right of fishing accorded to the United States by Article XVIII of the Treaty, our fishermen are subject to the local regulations which govern the coast population of Newfoundland in their prosecution of their fishing industry, whatever those regulations may be, and whether enacted before or since the Treaty of Washington.

The three particulars in which our fishermen are supposed to be constrained by actual legislation of the province cover in principle every degree of regulation of our fishing industry within the three-mile line which can well be conceived. But they are in themselves so important and so serious a limitation of the right secured by the Treaty as practically to exclude our fishermen from any profitable pursuit of the right, which, I need not add, is equivalent to annulling or cancelling, by the Provincial Government, of the privilege accorded by the Treaty with the British Government.

If our fishing fleet is subject to the Sunday laws of Newfoundland, made for the coast population; if it is excluded from the fishing-grounds for half the year, from October to April; if our "seines and other contrivances" for catching fish are subject to the regulation of the Legislature of Newfoundland, it is not easy to see what firm or valuable measures for the privilege of Article XVIII as conceded to the United States, this Government can promise to its citizens under the guarantee of the Treaty.

It would not, under any circumstances, be admissible for one Government to subject the persons, the property, and the interests of its fishermen to the unregulated regulations of another Government, upon the suggestion that such authority will not be oppressively or capriciously exercised, nor would any Government accept as an adequate guarantee of the proper exercise of such authority over its citizens by a foreign Government, that presumptively regulations would be uniform in their operation upon the subjects of both Governments in similar case. If there are to be regulations of a common enjoyment, they must be authenticated by a common or a joint authority.

But, most manifestly, the subject of the regulation of the enjoyment of the shore fishery by the resident Provincial population, and of the inshore fishery by our fleet of fishing-cruizers, does not tolerate the control of so divergent and competing interests by the domestic legislation of the Province. Protecting and nursing the domestic interest at the expense of the foreign interest, on the ordinary motives of human conduct, necessarily shape and animate the local legislation. The evidence before the Halifax Commission makes it obvious that, to exclude our fishermen from catching bait, and thus compel them to go without bait, or buy bait at the will and price of the Provincial fishermen, is the interest of the local fishermen, and will be the guide and motive of such domestic legislation as is now brought to the notice of this Government.

You will, therefore, say to Lord Salisbury that this Government cannot but express its entire dissent from the view of the subject that his Lordship's note seems to indicate. This Government conceives that the fishery rights of the United States, conceded by the Treaty of Washington, are to be exercised wholly free from the restraints and regulations of the Statutes of Newfoundland, now set up as authority over our fishermen, and from any other regulations of fishing now in force or that may hereafter be enacted by that Government.

It may be said that a just participation in this common fishery by the two parties entitled thereto, may, in the common interest of preserving the fishery and preventing conflicts between the fishermen, require regulation by some competent authority. This may be conceded. But should such occasion present itself to the common appreciation of the two Governments, it need not be said that such competent authority can only be found in a Joint Convention, that shall receive the approval of Her Majesty's Government and our own. Until this arrangement shall be consummated, this Government must regard the pretension that the legislation

of Newfoundland can regulate our fishermen's enjoyment of the Treaty right as striking at the Treaty itself. It asserts an authority on one side, and a submission on the other, which has not been proposed to us by Her Majesty's Government, and has not been accepted by this Government. I cannot doubt that Lord Salisbury will agree that the insertion of any such element in the Treaty of Washington would never have been accepted by this Government, if it could reasonably be thought possible that it could have been proposed by Her Majesty's Government. The insertion of any such proposition by construction now is equally at variance with the views of this Government.

The representations made to this Government by the interests of our citizens affected, leave no room to doubt that this assertion of authority is as serious and extensive in practical relations as it is in principle. The rude application made to the twenty vessels in Fortune Bay of this asserted authority, in January last, drove them from the profitable prosecution of their projected cruizes. By the same reason the entire inshore fishery is held by us upon the same tenure of dependence upon the Parliament of the Dominion or the Legislatures of the several Provinces.

I cannot but regret that this vital question has presented itself so unexpectedly to this Government, and at a date so near the period at which this Government, upon a comparison of views with Her Majesty's Government, is to pass upon the conformity of the proceedings of the Halifax Commission with the requirements of the Treaty of Washington. The present question is wholly aside from the considerations bearing upon that subject, and which furnishes the topic of my recent despatch.

In the opinion of this Government it is essential that we should at once invite the attention of Lord Salisbury to the question of Provincial control over the fishermen of the United States, in their prosecution of the privilege secured to them by the Treaty. So grave a question, in its bearing upon the obligations of this Government under the Treaty, makes it necessary that the President should ask from Her Majesty's Government a frank avowal or disavowal of the paramount authority of Provincial legislation to regulate the enjoyment by our people of the inshore fishery, which seems to be intimated, if not asserted, in Lord Salisbury's note.

Before the receipt of a reply from Her Majesty's Government it would be premature to consider what should be the course of this Government should this limitation upon the Treaty privileges of the United States be insisted upon by the British Government as their construction of the Treaty.

You will communicate this despatch to Lord Salisbury by reading the same to him, and leaving with him a copy.

I am, &c.  
(Signed) WM. M. EVARTS.

## No. 20.

*The Marquis of Salisbury to Mr. Welsh.*

Sir,

*Foreign Office, November 7, 1878.*

HER Majesty's Government have had under their consideration the despatch from Mr. Evarts, dated the 28th September, and communicated to me on the 12th ultimo, respecting the complaints made by the Government of the United States of the injuries sustained by American fishermen in Fortune Bay in January last.

This despatch is in reply to my letter of the 23rd August, in which I forwarded a copy of the Report furnished by Captain Sullivan, of Her Majesty's ship "Sirius," on the occurrences in question. Mr. Evarts now remarks that the United States' Government have not been put in possession of the depositions which form the basis of that Report, and are unable, therefore, to say whether, upon their consideration, the view which the Government of the United States takes of these transactions upon the sworn statements of their own citizens would be at all modified.

Her Majesty's Government have not had the opportunity of considering the statements in question; but the depositions which accompanied Captain Sullivan's Report, and which I now have the honour to forward,\* appeared to them, in the absence of other testimony, to be conclusive as regards the facts of the case.

\* Inclosures 2 to 11 in No. 13.

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

I hardly believe, however, that Mr. Evarts would in discussion adhere to the broad doctrine which some portions of his language would appear to convey, that no British authority has a right to pass any kind of laws binding Americans who are fishing in British waters; for if that contention be just, the same disability applies *à fortiori* to any other Power, and the waters must be delivered over to anarchy. On the other hand, Her Majesty's Government will readily admit—what is, indeed, self-evident—that British sovereignty, as regards those waters, is limited in its scope by the engagements of the Treaty of Washington, which cannot be modified or affected by any municipal legislation. I cannot anticipate that with regard to these principles any difference will be found to exist between the views of the two Governments.

If, however, it be admitted that the Newfoundland Legislature have the right of binding Americans who fish within their waters by any laws which do not contravene existing Treaties, it must further be conceded that the duty of determining the existence of any such contravention must be undertaken by the Governments, and cannot be remitted to the discretion of each individual fisherman. For such a discretion, if exercised on one side can hardly be refused on the other. If any American fisherman may violently break a law which he believes to be contrary to Treaty, a Newfoundland fisherman may violently maintain it if he believes it to be in accordance with Treaty. As the points in issue are frequently subtle, and require considerable legal knowledge, nothing but confusion and disorder could result from such a mode of deciding the interpretation of the Treaty.

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

It is not explicitly stated in Mr. Evart's despatch that he considers any recent Acts of the Colonial Legislature to be inconsistent with the rights acquired by the United States under the Treaty of Washington. But if that is the case, Her Majesty's Government will, in a friendly spirit, consider any representations he may think it right to make upon the subject, with the hope of coming to a satisfactory understanding.

I have, &c.  
(Signed) SALISBURY.

#### No. 21.

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

My Lord,

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

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

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