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CONFIDENTIAL.

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CORRESPONDENCE

RESPECTING THE

TERMINATION OF THE FISHERY ARTICLES

OF THE

TREATY OF WASHINGTON.

COLONIAL OFFICE,

November, 1886.



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128	To Governor-General the Marquis of Lansdowne	175	July 29, 1886	Transmitting copy of a letter from the Foreign Office enclosing protests of the United States' Secretary of State against the action of the Dominion Government in the case of certain United States' fishing vessels and requesting to be furnished with a report on the cases referred to	137
129	Foreign Office ..	Confidential	July 29, 1886	Transmitting a copy of a despatch from Her Majesty's Minister at Washington reviewing the present situation of the fisheries question	138

Serial No.	From or to whom.	Despatch No.	Date.	SUBJECT.	Page.
130	Governor - General the Marquis of Lansdowne	Confidential A.	July 12, 1886 (Rec. July 30, 1886)	Reporting the circumstances connected with the alleged warning to American vessels to keep three miles outside a line drawn from Canso to St. Esprit.	140
131	Ditto	Confidential	July 14, 1886 (Rec. July 30, 1886)	Observing that the absence of the moral support afforded by the assistance of Her Majesty's ships in protecting the fisheries will be seriously felt	141
132	Governor Sir G. W. Des Vœux (Newfoundland)	Telegraphic	July 30, 1886 (Rec. July 30, 1886)	Stating that action regarding the Fishery Notice will not probably be taken this year, and that the reported starvation in Labrador is believed to be absolutely without foundation	141
133	Foreign Office ..	..	July 30, 1886	Observing, in reply to Colonial Office letter of 21st July, that the request of the Newfoundland Government for the issue of instructions respecting American fishermen, and the requests of that Government and the Canadian Government for Her Majesty's assent to Bills dealing with the sale of bait to foreigners should be dealt with collectively, and should stand over for the present	142
134	Ditto	..	July 31, 1886	Transmitting extracts from American newspapers concerning the Fisheries question	142
135	To Governor-General the Marquis of Lansdowne	Telegraphic	Aug. 2, 1886	Requesting full particulars of the seizure or warning off of United States fishing vessels	144
136	Foreign Office ..	Confidential	Aug. 2, 1886	Transmitting copy of a despatch from Her Majesty's Chargé d'Affaires at Washington enclosing copy of a note from Mr. Bayard protesting against the action of Captain Kent, of the Canadian cruizer, "General Middleton," in refusing S. A. Balkam permission to buy fish from Canadians	144
137	To Governor-General the Marquis of Lansdowne	179	Aug. 4, 1886	Transmitting copy of a letter from the Foreign Office enclosing an extract from the "New York Herald"	145
138	Governor - General the Marquis of Lansdowne	Telegraphic	(Rec. Aug. 5, 1886)	Stating that the particulars asked for in the Secretary of State's telegram of 2nd August will be sent by mail	145
139	To Governor-General the Marquis of Lansdowne	Secret	Aug. 5, 1886	Transmitting copy of a letter from the Foreign Office respecting the refusal of Captain Kent, of the Dominion cruizer "General Middleton," to allow Stephen R. Balkam to buy fish, and asking for a report on the case	146
140	To Foreign Office..	..	Aug. 5, 1886	Transmitting copy of a despatch and telegram to the Governor-General on the subject of the Foreign Office letter of 28th July	146
141	To the High Commissioner for Canada	..	Aug. 6, 1886	Transmitting copy of a letter from the Foreign Office enclosing an extract from the "New York Herald"	146
142	Foreign Office ..	..	Aug. 9, 1886	Transmitting copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, enclosing resolutions agreed to by the Senate of the United States respecting the rights of American vessels in British waters	146
143	To Foreign Office..	..	Aug. 9, 1886	Transmitting copy of a telegram from the Governor-General promising full particulars of the cases referred to by Mr. Bayard	147
144	Governor Sir G. W. Des Vœux (Newfoundland)	88	Aug. 2, 1886 (Rec. Aug. 12, 1886)	Transmitting copy of a circular with warning notice to American fishermen which has been issued to the various public officers on the coasts of the colony	148

Serial No.	From or to whom.	Despatch No.	Date.	SUBJECT.	Page.
144A	Governor - General the Marquis of Lansdowne	238	July 29, 1886 (Rec. Aug. 13, 1886)	Transmitting a Report of a Committee of the Privy Council in reference to the Act "further to amend the Act respecting fishing by foreign vessels" recently passed by the Dominion Parliament	149
145	To Governor-Gen- eral the Marquis of Lansdowne	Telegraphic	Aug. 13, 1886	Expressing the earnest desire of Her Majesty's Government that the Do- minion Government will take no action for asserting British rights over any waters more than three miles from land without previously ascer- taining that Her Majesty's Govern- ment will be able to uphold such action	151
146	To Foreign Office..	..	Aug. 13, 1886	Transmitting copy of a despatch from the Governor-General respecting the alleged drawing of a boundary line from Canso to St. Esprit, and suggest- ing that the Dominion Government should be requested to proceed with great caution in regard to the question of the bays and headlands and to take no action which Her Majesty's Government may not be able to uphold	151
147	Governor - General the Marquis of Lansdowne	Confidential	Aug. 4, 1886 (Rec. Aug. 16, 1886)	Submitting observations on the question of the warnings alleged to have been given to American vessels at Canso..	151
148	Ditto	Secret	Aug. 4, 1886 (Rec. Aug. 16, 1886)	Transmitting, with explanatory obser- vations, particulars of the various United States' fishing vessels which had been seized or warned off by Canadian officials.. .. .	152
149	Foreign Office ..	..	Aug. 17, 1886	Transmitting a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, enclosing a copy of a note from Mr. Bayard calling attention to alleged infractions of the Conven- tion of 1818, by the authorities at Bonne Bay and Magdalen Islands ..	164
150	Ditto	Secret	Aug. 18, 1886	Transmitting copy of a report by the law officers on various points con- nected with the fisheries question ..	165
151	Ditto	Confidential	Aug. 19, 1886	Concurring in the suggestion made in Colonial Office letter of 13th August, that a despatch should be addressed to the Governor-General enjoining on the Dominion Govern- ment caution in dealing with the headland question.	168
152	To Foreign Office..	..	Aug. 20, 1886	Transmitting copy of a correspondence with the Governor-General respect- ing the request of the Canadian Government for the assistance of Her Majesty's ships in protecting the fisheries, and stating that it is pro- posed to inform the Officer administer- ing the Government that Her Majesty's Government do not consider it desir- able that any of Her Majesty's ships should be specially despatched to the coast for the short period that remains of the fishing season ..	168
153	To Administrator Lord A. G. Russell	Telegraphic	Aug. 21, 1886	Stating that the United States Govern- ment complains that the schooner "Mascot" has been threatened with seizure by the authorities at Magda- len Islands if she attempts to obtain bait for fishing, and pointing out that the United States have the right to fish Magdalen Islands under the treaty of 1818	168

Serial No.	From or to whom.	Despatch No.	Date.	SUBJECT.	Page.
154	To Governor Sir G. W. Des Vœux, (Newfoundland)	Telegraphic	Aug. 21, 1886	Pointing out, with reference to a complaint by the United States Government that the fishing vessel "Bayard" has been threatened with seizure if she attempts fishing operations within three miles of the coast, that the United States have right to fish on certain coasts of the Colony under the Treaty of 1818	169
155	Governor Sir G. W. Des Vœux (Newfoundland)	Telegraphic	(Rec. Aug. 24, 1886)	Reporting that a mistake was committed in the notice respecting the American rights, and that it has since been corrected	169
156	To Administrator Lord A. G. Russell	Secret	Aug. 25, 1886	Calling for a report upon the subject of Mr. Bayard's complaint respecting infractions of the Convention of 1818 at Magdalen Islands	169
157	To Governor Sir G. W. Des Vœux, (Newfoundland)	Secret	Aug. 25, 1886	Calling for a report from his Government on the subject of Mr. Bayard's complaint of infractions of the Treaty of 1818 at Bonne Bay	170
158	To Foreign Office ..	..	Aug. 25, 1886	Transmitting copy of a despatch from the Governor-General giving information respecting the seizure of United States' fishing vessels	170
159	Foreign Office ..	..	Aug. 26, 1886	Transmitting copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, covering copy of a protest by Mr. Bayard against the unfriendly treatment of the United States fishing schooner "Rattler," in Shelburne Harbour	170
160	Ditto	..	Aug. 26, 1886	Concurring in the terms of the proposed despatch to the Officer Administering the Government respecting the despatch of Her Majesty's vessels to the coast during the fishing season ..	171
161	To Foreign Office..	Confidential	Aug. 28, 1886	Transmitting copies of despatches to the Officers Administering the Governments of Canada and Newfoundland respecting alleged violations of the Treaty of 1818 at Magdalen Islands and Bonne Bay respectively, enclosing also copy despatch from Governor of Newfoundland and of telegraphic correspondence	172
162	Ditto	Confidential	Aug. 28, 1886	Transmitting copy of a despatch from the Governor-General, and of two telegrams addressed to the Officer Administering the Government on 13th August	172
163	To Administrator Lord A. G. Russell	Telegraphic	Sept. 1, 1886	Observing that a report should be furnished on the case of the United States schooner "Rattler," at Shelburne Harbour	172
164	Ditto	195	Sept. 1, 1886	Requesting to be furnished with a report on the case of the alleged unfriendly treatment of the "Rattler," at Shelburne Harbour	173
165	To Foreign Office..	..	Sept. 1, 1886	Stating that Mr. Stanhope agrees with the suggestion made in Colonial Office letter of 21st August, that the Governor of Newfoundland should be informed that Her Majesty's Government are not at present prepared to accede to the request of that Government for the issue of instructions respecting American fishermen	173
166	Governor-General the Marquis of Lansdowne	Secret	Aug. 5, 1886 (Rec. Sept. 3, 1886)	Transmitting copies of the papers relative to the seizure of the "Ella M. Doughty"	173

Serial No.	From or to whom.	Despatch No.	Date.	SUBJECT.	Page.
167	To Administrator Lord A. G. Russell	Secret	Sept. 3, 1886	Informing him that Her Majesty's Government do not consider it desirable that any of Her Majesty's ships should be specially despatched to the coast during the short period that remains of the fishing season, but that should no arrangement be arrived at with the United States Government before the next fishing season, Her Majesty's Government will issue instructions to the Admiral on the station in order to secure due support to the Dominion vessels engaged in the protection of the fisheries	181.
168	Foreign Office ..	..	Sept. 3, 1886	Transmitting copy of a despatch from Her Majesty's Minister at Washington relative to the seizure of the United States' schooner "City Point"	181
169	Administrator Lord A. G. Russell	18	Aug. 21, 1886 (Rec. Sept. 4, 1886)	Transmitting a report by the Minister of Marine and Fisheries on the case of the United States' steamer "Novelty"	182
170	Ditto	Secret	Aug. 21, 1886 (Rec. Sept. 4, 1886)	Transmitting a report of the Committee of the Privy Council embodying a report by the Minister of Marine and Fisheries respecting the warnings alleged to have been given to American fishermen by the Collector of Customs at Canso	185
171	Foreign Office ..	..	Sept. 4, 1886	Concurring in the terms of the proposed reply to application from the Newfoundland Government for power to expel American fishermen from the colonial harbours	187
172	Ditto	Confidential	Sept. 4, 1886	Transmitting copy of a note addressed to the American Minister on the fishery question	187
173	Ditto	..	Sept. 4, 1886	Transmitting copy of a note from the United States' Secretary of State calling attention to causes of complaint alleged by the masters of several United States' fishing vessels against Captain Quigley of the Canadian cruiser "Terror"	188
174	Ditto	..	Sept. 6, 1886	Transmitting copy of a despatch from Her Majesty's Minister at Washington enclosing copy of a note from Mr. Bayard protesting against the action of the Canadian authorities towards the master of the United States' schooner "Golden Hind," and suggesting that the Dominion Government should be informed that Her Majesty's Government earnestly hope that that Government will take prompt steps to prevent any infractions of the Convention on their side, and that if the facts in this case are as stated by Mr. Bayard, steps will at once be taken to reprimand the officials concerned	189
175	Ditto	..	Sept. 8, 1886	Transmitting copy of a despatch from Her Majesty's Minister at Washington enclosing a newspaper extract from a speech by Mr. Blaine on the Fisheries question	190
176	To Administrator Lord A. G. Russell	202	Sept. 9, 1886	Transmitting copy of a letter respecting the case of the "Golden Hind," and asking for a report thereon	194
177	Ditto	203	Sept. 9, 1886	Transmitting copy of a letter from the Foreign Office respecting complaints made against the captain of the Canadian cruiser "Terror," and asking for a report thereon	195

Serial No.	From or to whom.	Despatch No.	Date.	SUBJECT.	Page.
178	Governor Sir G. W. Des Vœux, (Newfoundland)	89	Aug. 31, 1886 (Rec. Sept. 10, 1886)	Reporting that by an oversight notices were served on American fishermen on those parts of the coast on which the United States have Treaty fishing rights	195
179	To Governor Sir G. W. Des Vœux, (Newfoundland)	38	Sept. 14, 1886	Informing him that Her Majesty's Government have come to the conclusion that it would not be expedient for them to take any such action as that suggested in the Governor's despatch of 17th June	196
180	Administrator Lord A. G. Russell	Telegraphic	Sept. 14, 1886 (Rec. Sept. 15, 1886)	Reporting the circumstances of the detention of the "Rattler"	196
181	To Foreign Office ..	..	Sept. 16, 1886	Transmitting copy of a despatch from the Administrator respecting the case of the United States' fishing vessel "Novelty"	196
182	Ditto	..	Sept. 16, 1886	Transmitting copy of a despatch from the Administrator respecting the alleged service of warning on American fishermen by the Collector of Customs at Canso	197
183	Ditto	..	Sept. 16, 1886	Transmitting copy of a despatch from the Governor of Newfoundland, respecting the notices served on American fishermen at Bonne Bay	197
184	Governor Sir G. W. Des Vœux (Newfoundland)	Confidential	Sept. 15, 1886 (Rec. Sept. 24, 1886) Extract	Reporting that in the event of the appointment of a Commission to settle any of the questions now pending with the United States, his Government would not object to the selection of Sir A. Shea as Commissioner for the colony	197
185	Foreign Office ..	..	Sept. 27, 1886	Transmitting copy of a note from the American Minister with copy of a Minute thereon by Sir J. Pauncefote and asking for Mr. Stanhope's views on this Minute	198
186	Ditto	..	Sept. 27, 1886	Stating that Lord Iddesleigh will await the receipt of particulars of the seizure of the "Rattler" before taking any action	206

CANADA.

CORRESPONDENCE respecting the Termination of the Fishery Articles of the Treaty of Washington.

5,168.

No. 1.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right
Hon. the Earl Granville, K.G. (Received March 24, 1886.)

(Confidential.)

GOVERNMENT HOUSE, OTTAWA,
10th March, 1886.

MY LORD,

Sir Lionel West, who is at present staying in Ottawa, has communicated to me confidentially a despatch addressed by him on February 19th to Lord Rosebery on the subject of the situation which has been created by the abrogation of the Fisheries Clauses of the Treaty of Washington. He has also submitted to me a memorandum of which a copy is enclosed upon the same subject.

2. I thought it desirable to furnish Sir Lionel West with a written statement dealing with some of the points referred to in the despatch and the memorandum, and I have now the honour to enclose herewith a copy of a note which I have handed to him. It embodies the substance of a statement which I made verbally to Sir Lionel West in reply to his request for information upon this subject.

3. The note has been seen by Sir John Macdonald.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 1.

Memorandum.

The "position" after the denunciation of the Treaty of 1854 seems well defined by Lord Clarendon, in a despatch to Sir Frederick Bruce, dated 17th March, 1866, and which will be found in Vol. 58, page 1186, of the State Papers. There is, however, this difference, that only one of the "two important rights," which, according to Lord Clarendon's despatch, reverted to the British Crown after the cessation of the Treaty of 1854—namely, the "*exclusive right of fishing*," and the "*exclusive navigation of the River St. Lawrence*"—now revert to it by the termination of the Nine Articles of the Treaty of 1871, for Article XXVI. of that Treaty, which provides for the *free navigation of the River St. Lawrence*, is still in force. This fact, therefore, alters the position under the Treaty of 1818, as described by Lord Clarendon.

The Government of the Dominion, since the expiration of the Treaty of 1854 up to the conclusion of the Treaty of Washington, have not insisted during this period on their right to the *exclusive navigation* of the River St. Lawrence; but, on the contrary, have ever manifested the most conciliatory disposition as regards the Treaty of 1818, and the rights which reverted to them under it.

But this policy has now been met in a contrary spirit by Congress, although not by the President and his Administration, while the existence of Article XXVI. of the Treaty of Washington weakens the actual position, inasmuch as the right only of *exclusive fishing* now reverts.

The position may now become antagonistic by the tacit refusal of Congress to respond to conciliatory overtures, and by the steps which it may be desirable to take for the protection of the interests of the Dominion Government in the territorial waters of Canada.

The American fishermen say that they no longer want to fish in Canadian waters, because the mackerel have left them, but they want free fishing nevertheless.

The enforcement by Her Majesty's Government of Treaty rights under the Imperial Act 59 George III., cap. 38, and the Acts of the Legislatures of New Brunswick and Nova Scotia, was, according to Lord Clarendon, rendered imperative upon the denunciation of the Treaty of 1854, and would, therefore, seem to be as imperative now, unless *those Acts are modified or repealed*.

Feb. 20, 1886.

Extract from a Despatch from the Earl of Clarendon to Sir F. Bruce, dated Foreign Office, March 17, 1866, referred to in the foregoing Memorandum.

["The attempts thus made, whether to renew the Treaty, to conclude a new one, or to extend the time for its expiration, in order to admit of negotiations, having failed, and the Treaty having now expired, it becomes the duty of Her Majesty's Government to consider what course they should pursue. By the termination of the Treaty of 1854, two important and undoubted rights of this country, the enjoyment of which, through the operation of the Treaty, were temporarily ceded to citizens of the United States, revert absolutely to the British Crown. Those rights are, first, the exclusive right of fishing by its subjects on the sea-coasts and shores, and in the bays, harbours, and creeks of the British Possessions of North America, except in so much as certain restricted privileges may have been conceded by the Convention of 1818 to American citizens; and secondly, the exclusive right of navigation by its subjects of the River St. Lawrence, and the canals communicating between the great lakes and the canals in Canada.

"With regard to the navigation of the St. Lawrence and the canals, it is not the intention of Her Majesty's Government to interfere, for the present, with the privileges which the citizens of the United States have enjoyed during the time the Treaty has been in operation. As regards the privileges of fishing and of landing upon the shores and coasts of Her Majesty's Possessions for the purpose of drying their nets and curing their fish, which have been enjoyed by citizens of the United States under the Treaty, Her Majesty's Government are very desirous to prevent the injury and loss which may be inflicted upon the citizens of the United States by the sudden withdrawal of their privileges. They are, however (now that the Treaty has come to an end), bound by the Act 59 George III., cap. 38, as well as by the Acts of the Legislatures of New Brunswick and Nova Scotia, which have obtained the Imperial sanction. By those Acts, which were only suspended during the existence of the Treaty, severe penalties extending to confiscation of their vessels, with the cargoes, tackle, stores, &c., are inflicted upon all persons, not British subjects, who shall be found fishing, or to have been fishing, or preparing to fish within the distance of three miles of the coast of Her Majesty's Possessions in North America.

"It becomes the duty of Her Majesty's Government and of the Governments of the respective provinces to enforce the law, and until those Acts are modified or repealed, citizens of the United States will be prohibited from fishing in British waters, from landing on British territory for the purpose of drying their nets and curing their fish, and will be subject to all the penalties which the violation of the law entails.

"Under these circumstances, it has been the duty of Lord Monck to issue a Proclamation informing all persons who may be concerned of the state of the law, and warning them of the penalties that they incur by its violation.

"Her Majesty's Government are not insensible to the great inconvenience and losses to which the exclusion of American citizens from privileges so long enjoyed by them, and in which capital to a considerable amount has been invested, and labour to a large extent has been employed, must unavoidably subject a great number of persons.

"They fear that so long an enjoyment of those privileges may induce those who have been engaged in fishing ventures on the coasts of the British Possessions to defy the law, and carry on their operations, thus exposing their property to seizure and confiscation. A feeling of irritation may thus be engendered in the North-Eastern States of America against the British Government and nation which Her Majesty's Government would deeply regret, and which might lead to serious misunderstandings between the two Governments.

"Her Majesty's Government have the satisfaction of feeling that they have done their utmost to prevent these consequences. They have declared their readiness, and they are still prepared, to come to any arrangement with the United States, either by a continuation or a renewal of the Reciprocity Treaty, or by entering into new engagements by which the privileges hitherto enjoyed by American citizens might be still secured to them. The Government of Washington has declined to accede to these proposals.

"Her Majesty's Government cannot, therefore, accept any responsibility for the results which they fear may arise from the termination of the Reciprocity Treaty by the act of the United States Government themselves—results which they have done their utmost to avoid, and which, if they do occur, Her Majesty's Government will most sincerely deplore."]

Enclosure 2 in No. 1.

Note on Sir Lionel West's Despatch to Lord Rosebery, dated February 19th, 1886, and Memorandum by Sir Lionel West, dated February 20th, 1886.

The description contained in Lord Clarendon's despatch to Sir Frederick Bruce, dated March 17th, 1866, and referred to in Sir Lionel West's memorandum, is in some, but not in all respects, applicable to the present situation. The exclusive right of

fishing in the territorial waters of the British Possessions of North America now reverts, as it did on the termination of the Treaty of 1854, to the British Crown. No question, however, as is pointed out in Sir Lionel West's memorandum, can arise with regard to the navigation of the River St. Lawrence, which is dealt with by Article 26 of the Treaty of 1871, which article has not been abrogated.

The concluding paragraphs of Lord Clarendon's despatch express with great clearness the consequences which were then to be anticipated from the denunciation of the Treaty of 1854, and which must now arise from the abrogation of the Fisheries Clauses. The action of the Dominion Government will probably, in the most important respects, be similar to that indicated by Lord Clarendon. The penultimate paragraph of his despatch applies with singular appropriateness to the situation which has been now created. It is as follows:—

“ Her Majesty's Government have the satisfaction of feeling that they have done their utmost to prevent these consequences. They have declared their readiness, and they are still prepared to come to any arrangement with the United States, either by a continuation or a renewal of the Reciprocity Treaty, or by entering into new engagements by which the privileges hitherto enjoyed by American citizens might be still assured to them. The Government of Washington has declined to accede to these proposals.”

Steps have already been taken by the Dominion Government for the formation of an effective Fisheries Police Force for the protection of its interests within the territorial waters of Canada, and an appropriation will be immediately asked for that purpose.

Sir Lionel West's memorandum concludes with the following paragraph:—

“ The enforcement by Her Majesty's Government of Treaty Rights under the Imperial Act 59 George III., cap. 38, and the Acts of the Legislatures of New Brunswick and Nova Scotia was, according to Lord Clarendon, rendered imperative (S. P., Vol. 6, p. 946) upon the denunciation of the Treaty of 1854, and would therefore seem to be as imperative now, unless *those acts are modified or repealed.*”

In regard to this passage it is to be observed that while the Imperial Act 59 George III., cap. 98, by which effect was given to the provisions of the Treaty of 1818 must undoubtedly be enforced, the operation of the Acts of the Provincial Legislatures referred to in the passage quoted, has been materially modified by subsequent legislation. Those Acts, all of which were framed with the object of giving effect to the Treaty of 1818, were passed in the years 1843 (Prince Edward Island) 6 Vic. cap. 14, 1853; (New Brunswick) 16 Vic., cap. 69, 1864 and 1866; (Nova Scotia), cap. 94 of the Revised Statutes, and 29 Vic., cap. 35.

The British North America Act, which came into operation in 1867, and in which the legislative authority of the Federal and Provincial Legislatures is defined, gives to the Parliament of the Dominion exclusive legislative authority over “ sea-coast and inland fisheries,” and accordingly in the following year an Act of the Dominion Government, 31 Vic., chap. 61, was passed, dealing with foreign vessels fishing in the waters of the Dominion. Under this Act power was taken to grant to foreign vessels licenses “ to fish for, take, dry, or cure fish of any kind” within the three mile limit in British waters, and all vessels found fishing within these limits without such licenses were rendered liable to penalties similar to those which had been previously enforced under the Provincial Statutes above referred to. Proceedings under this act were to take place under any Court of Vice-Admiralty in Canada. A few licenses were taken out by American fishermen shortly after the passing of the Act, but applications for them were subsequently discontinued. Under the concluding section of this Statute it is enacted that none of the above referred to Provincial Acts “ shall apply to any case to which this Act applies and so much of the said Acts as makes provision for cases provided for by this Act is hereby declared to be inapplicable to such cases.”

It would therefore appear that Mr. Bayard's question referred to by Sir Lionel West in his despatch to Lord Rosebery of February 19th, 1886, “ whether the Legislative Acts of the Provincial Governments were controlled by the Government of the Governor-General of Canada ” may be answered in the affirmative.

Government House, Ottawa,
10th March, 1886.

6,036.

No. 2.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received April 7, 1886.)

(Confidential A.)

GOVERNMENT HOUSE,
OTTAWA,

24th March, 1886.

MY LORD,

With reference to previous correspondence relating to the position created by the expiration of the Fishery Clauses of the Treaty of Washington, I have the honour to forward herewith, for your Lordship's information, a copy of a despatch which I have received from Sir Lionel Sackville West, enclosing a copy of a Memorandum on this subject, which he placed in the hands of the Secretary of State for the United States on the 19th instant.

2. I also enclose a copy of the reply, which I have sent to Sir Lionel West.

I have, &c.,

(Signed) LANSDOWNE.

The Right Hon.

Earl Granville, K.G.,

&c., &c., &c.

Enclosure 1 in No. 2.

Minister at Washington to the Governor-General.

(No. 20.)

WASHINGTON,

March 19th, 1886.

MY LORD,

I have the honour to report to your Excellency that at an interview which I had this day with the Secretary of State, I placed in his hands a Memorandum, copy of which is enclosed; embodying the view taken by your Excellency's Government, as expressed to me, of the actual position of the Dominion Government under the Treaty of 1818 with regard to the exclusive right of fishery in Canadian waters. I called Mr. Bayard's attention to the fact, as stated in the Memorandum, that the British North American Act, which came into operation in 1867, and in which the legislative authority of the Federal and Provincial Legislatures is defined, gives to the Parliament of the Dominion exclusive legislative authority over sea-coast and inland fisheries, and also to the power taken under the Act 31 Vic., cap. 61, to grant to foreign vessels licences to fish for, take, dry, or cure fish of any kind within the three-mile limit in British waters, suggesting to him at the same time that all danger of "friction" might, perhaps, be avoided if it was clearly understood that no American vessel would be allowed to fish in Canadian waters within the three-mile limit without a licence, as provided for under this Act. At Mr. Bayard's request I sent him the volumes of the State Papers containing the Act in question, as well as the amending Acts of 1870 and 1871.

I have, &c.,

(Signed) L. S. SACKVILLE WEST.

His Excellency

The Marquis of Lansdowne, G.C.M.G.,

&c., &c., &c.

Memorandum Personal.

THE exclusive right of fishing in the territorial waters of the British possessions in North America, now reverts, as it did on the termination of the Treaty of 1854, to the British Crown.

The consequences which were then to be anticipated from the denunciation of that Treaty must now arise from the abrogation of the fishery clauses of the Treaty of 1871.

Her Majesty's Government have, however, the satisfaction of feeling that they have done their utmost to prevent these consequences. They have declared their readiness to meet the suggestion made by the President in his message to Congress for the appointment of a Fishery Commission, and even to enter into new engagements by which the privileges hitherto enjoyed by American citizens might be still secured to them but Congress has declined their overtures, and the Dominion Government is therefore bound to take effective measures for the protection of the fishery interests within the territorial waters of Canada.

The British North American Act came into operation in 1867, and gives to the Parliament of the Dominion exclusive legislative authority over the sea-coast and inland fisheries, and accordingly an Act was passed by the Dominion Government in 1868, which deals with foreign vessels fishing in the waters of the Dominion, and upon the provisions of which the Dominion Government will now act in regard to them.

Enclosure 2 in No. 2.

The Governor-General to the Minister at Washington.

(No. 27.)

OTTAWA,

24th March, 1886.

SIR,

I have the honour to acknowledge receipt of your Despatch No. 20 of the 19th instant, enclosing a Memorandum recently handed by you to the Secretary of State upon the subject of the position of the Dominion Government under the Treaty of 1818 in regard to the exclusive right of fishery in Canadian waters.

2. The Memorandum is in accordance with the views of my Government upon this subject.

I have, &c.,
(Signed) LANSLOWNE.

The Honourable

Sir L. S. Sackville West, K.C.M.G.,
&c. &c. &c.

6,037.

No. 3.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received April 7, 1886.)

(Confidential.)

GOVERNMENT HOUSE, OTTAWA,
25th March, 1886.

MY LORD,

I have the honour to forward for your Lordship's information a copy of the Confidential Instructions which have been issued by my Minister of Marine and Fisheries for the guidance of Fishery Officers and ex-officio Magistrates in command of the vessels which will be employed for the protection of the inshore fisheries of the Dominion.

These instructions are substantially the same as those which were issued under similar circumstances in 1870.

Your Lordship will observe that while the officers in command of the fisheries police vessels are required to take the necessary steps for strictly upholding the Treaty rights of the Dominion, they are specially enjoined to carry out their instructions in a conciliatory spirit, and with forbearance and discrimination.

I also enclose copy of "a warning" notice which was published in reference to the same subject by the Department of Fisheries.

I have, &c.,
(Signed) LANSLOWNE.

The Right Hon. Earl Granville,
&c., &c., &c.

Enclosure 1 in No. 3.

(Confidential.)

Special Instructions to Fishery Officers, ex-officio Magistrates in command of Government Steamers and Vessels, engaged as Fisheries Police Vessels, in protecting the Inshore Fisheries of Canada.

OTTAWA,
16th March, 1886.

SIR,

In the performance of the special and important service to which you have been appointed you will be guided by the following confidential instructions.

For convenience of reference, these have been divided under the different headings of *Powers, Jurisdiction, Duties, and General Directions.*

Powers.

The Powers with which you are invested, are derived from, and to be exercised in accordance with, the following statutes among others:—“The Fisheries Act” (31 Vic., cap. 60, of Canada); “An Act respecting Fishing by Foreign Vessels” (31 Vic., cap. 61, of Canada), and the subsequent statute entitled: “An Act to amend the Act respecting Fishing by Foreign Vessels,” made and passed the 12th May, 1870 (33 Vic., cap. 15, of Canada); also an “Act to further amend the said Act” (34 Vic., cap. 23, of Canada).

“Chapter 94 of the Revised Statutes (third series) of Nova Scotia” (of the Coast and Deep Sea Fisheries), amended by the Act entitled “An Act to amend cap. 94 of the Revised Statutes of Nova Scotia” (29 Vic., cap. 35).

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

Also an Act passed by the Legislature of Prince Edward Island (6 Vic., cap. 14), entitled “An Act relating to the Fisheries and for the prevention of Illicit Trade in Prince Edward Island, and the Coasts and Harbours thereof.”

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

As Fishery Officer you have full authority to compel the observance of the requirements of the Fisheries Acts and regulations by foreign fishing vessels and fishermen in those parts of the coasts of Canada to which, by the Convention of 1818, they are admitted to privileges of taking or drying and curing fish concurrent with those enjoyed by British fishing vessels and fishermen.

You will receive instructions from the Customs Department authorising you to act as an officer of the Customs, and in that capacity you are to see that the Revenue Laws and Regulations are duly observed.

Jurisdiction.

Your jurisdiction with respect to any action you may take against foreign fishing vessels, and citizens engaged in fishing, is to be exercised only within the limits of “three marine miles” of any of “the coasts, bays, creeks or harbours,” of Canada.

With regard to the Magdalen Islands, although the liberty to land and to dry and cure fish there, is not expressly given by the terms of the Convention to United States fishermen, it is not at present intended to exclude them from these Islands.

Duties.

It will be your duty to protect the inshore fisheries of Canada in accordance with the Conditions laid down by the Convention of October 20th, 1818, the first Article of which provides;

“Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbours, and creeks, of His Britannic Majesty’s dominions in America, it is agreed between the High Contracting Parties, that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind, on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson’s Bay Company; and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, here-

“ above described, and of the coast of Labrador ; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground.”

“ And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above mentioned limits ; provided, however, that the American fishermen shall be admitted to enter such bays or harbours, for the purpose of shelter and repairing of damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.”

By this you will observe, United States fishermen are secured the liberty of taking fish on the southern coasts of Labrador, and around the Magdalen Islands, and of drying and curing fish along certain of the Southern shores of Labrador, where this coast is unsettled, or, if settled, after previous agreement with the settlers or owners of the ground.

In all other parts the exclusion of foreign vessels and boats is absolute, so far as fishing is concerned, and is to be enforced within the limits laid down by the Convention of 1818, they being allowed to enter bays and harbours for four purposes only, viz.:—*for shelter, the repairing of damages, the purchasing of wood, and to obtain water.*

You are to compel, if necessary, the maintenance of peace and good order by foreign fishermen pursuing their calling and enjoying concurrent privileges of fishing or curing fish with British fishermen, in those parts to which they are admitted by the treaty of 1818.

You are to see that they obey the laws of the Country, that they do not molest British fishermen in the pursuit of their calling and that they observe the regulations of the Fishery laws in every respect.

You are to prevent foreign fishing vessels and boats which enter bays and harbours for the four legal purposes above mentioned, from taking advantage thereof, to take, dry, or cure fish therein, to purchase bait, ice, or supplies, or to tranship cargoes, or from transacting any business in connection with their fishing operations.

It is not desired that you should put a narrow construction on the term “unsettled.” Places containing a few isolated houses might not, in some instances, be susceptible of being considered as “settled” within the meaning and purpose of the Convention. Something would, however, depend upon the facts of the situation and circumstances of the settlement. Private and proprietary rights form an element in the consideration of this point. The generally conciliatory spirit in which it is desirable that you should carry out these instructions, and the wish of Her Majesty's Government that the rights of exclusion should not be strained, must influence you in making as fair and liberal an application of the term as shall consist with the just claims of all parties.

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

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

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

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

You will accost every foreign fishing vessel within the limits described, and if that vessel should be either fishing, preparing to fish, or should obviously have been fishing within the prohibited limits, you will, by virtue of the authority conferred upon you by

General directions.

your Commission, and under the provisions of the Acts above recited, seize at once (resort to force in doing so being only justifiable after every other effort has failed), any vessel detected in violating the law and send her or take her into port for condemnation.

Copies of the Acts of Parliament subjecting to seizure and forfeiture any foreign ship, vessel or boat which should be either fishing, preparing to fish or should obviously have been fishing within the prohibited limits, and providing for carrying out the seizure and forfeiture are furnished herewith for your information and distribution.

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

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

All vessels seized must be placed, as soon as possible, in the custody of the nearest Customs Collector, and information, with a statement of the facts, and the depositions of your sailing master, clerk, lieutenant, or mate, and of two at least of the most reliable of your crew, be despatched with all possible diligence to the Government. Be careful to describe the exact locality where the violation of the law took place, and the ship, vessel or boat was seized. Also corroborate the bearings taken, by soundings, and by buoys the place (if possible) with a view to actual measurement, and make such incidental reference to conspicuous points and land marks as shall place beyond doubt the illegal position of the seized ship, vessel or boat.

Omit no precaution to establish on the spot that the trespass was or is being committed within three miles of land.

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

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

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

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

Directions as to the stations and limits on which you are to cruise, and any further instructions that may be deemed necessary, will from time to time be conveyed to you.

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

It cannot be too strongly urged upon you, nor can you too earnestly impress upon

the officers and crew under your command, that the service in which you and they are engaged should be performed with forbearance and discrimination.

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

I am, &c.,

Minister of Marine and Fisheries.

Enclosure 2 in No. 3.

WARNING.

TO ALL WHOM IT MAY CONCERN.

The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles, of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London, on the 20th October, 1818:—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry and cure fish, on certain coasts, bays, harbors and creeks, of His Britannic Majesty's Dominions in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the Southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground."

"And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks or harbors of His Britannic Majesty's dominions in America, not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them."

Attention is also called to the following provisions of the Act of the Parliament of Canada, cap. 61, of the Acts of 1868, "An Act respecting fishing by foreign vessels."

2nd. "Any commissioned officer of Her Majesty's Navy, serving on board of any vessel of Her Majesty's Navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, Sheriff, Magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat, within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creek, or harbors in Canada, and stay on board so long as she may remain within such place or distance."

3rd. "If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the Master upon oath touching the cargo and voyage; and if the master or person in

"command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited."

4th. "All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years."

Therefore be it known, that by virtue of the Treaty Provisions and Act of Parliament above recited, all foreign vessels or boats are forbidden from fishing or taking fish by any means whatever within three marine miles of any of the coasts, bays, creeks, and harbors in Canada, or to enter such bays, harbors, and creeks, except for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever; of all of which you will take notice and govern yourself accordingly.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

Department of Fisheries, Ottawa,
5th March, 1886.

6,038.

No. 4.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received April 7, 1886.)

(Secret and Confidential.)

GOVERNMENT HOUSE, OTTAWA,
25th March, 1886.

MY LORD,

It will be in your Lordship's recollection that in my despatch marked "Secret and Confidential" of the 18th of February last,* I mentioned to your Lordship that I did not anticipate that my Government would be likely for the present at all events to make any proposal with the object of having the interpretation of the word "bays" in the Convention of 1818 referred to arbitration.

2. I added that special instructions would be issued to Officers in command of Canadian Police vessels to avoid the seizure of trespassers in cases where the "bays" question was likely to be raised.

3. I have now the honour to enclose a copy of a secret letter of instructions which has been addressed to Captain Scott, R.N., in command of the "Lansdowne" steamer, which will be specially employed upon this service. Your Lordship will observe that in the case of bays, creeks, or harbours, not exceeding six geographical miles in width, Captain Scott is desired to consider that the line of demarcation extends from headland to headland, and to measure the three marine miles from that line outwards, but that where the bay, creek, or harbour is more than six miles in width at its mouth he is instructed that the line is to be considered as drawn between the first points at which the width of the said bay, creek, or harbour shall be not more than six miles, and the three mile limit measured from this line outward.

4. These instructions have been issued with the object of avoiding a premature discussion of the question involved, but my Government trusts that it will be clearly understood that in issuing them it has no intention of departing from the position which it has always maintained in regard to the "bays" question or of admitting that under the terms of the Convention of 1818, foreign fishermen have a right of fishing in bays of which the mouth is wider than six miles.

* Not printed.

5. It would, in view of the possibility of a future reference of this matter to arbitration, be very undesirable that the Government of the United States should be made aware of the existence of the instructions referred to in this despatch.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure in No. 4.

The Minister of Marine and Fisheries to Captain Scott.

(Confidential.)

OTTAWA,
23rd March, 1886.

SIR,

Adverting to the letter of my department of the 18th instant, enclosing your commission as a Fishery Officer in the Dominion, I have now the honour to send you the instructions by which you are to be guided in the performance of the special duties to which your instructions refer.

In addition thereto, I have to direct that until otherwise ordered you will strictly confine the exercise of your authority within the limit of three marine miles of any of the coasts, bays, creeks, or harbours of Canada, with respect to any action you may take against American fishing vessels and United States citizens engaged in fishing. Where any of the bays, creeks, or harbours shall not exceed six geographical miles in width you will consider that the line of demarcation extends from headland to headland, and the three marine miles are to be measured from this line outward.

In cases where such bay, creek, or harbour is more than six (6) geographical miles in width at its mouth or entrance you will consider the line of demarcation to be drawn between the first points from the mouth or entrance to such bay or harbour at which the width shall not be more than (six) 6 geographical miles, and the three marine miles will be measured from this line outward, and you may exclude foreign fishermen and fishing vessels therefrom, or seize, if found in violation of the Articles of the Convention, within three marine miles of the coast. In all other respects you will be guided by the instructions herewith.

You will, for the present, proceed with the Government steamer "Lansdowne" to cruise in the Bay of Fundy, or such adjacent Canadian waters as you may deem expedient, reporting from time to time by telegraph or otherwise as may be necessary.

All these instructions you are to consider of a strictly confidential character.

The Government relies upon your judgment to perform with a spirit of forbearance and moderation the delicate and important duties with which you are entrusted.

I am, &c.,
(Signed) GEORGE E. FOSTER,
Minister of Marine and Fisheries.

Captain P. A. Scott, R.N.,
St. John, N.B.

6,234.

No. 5.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
April 9th, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copies of despatches on the subject of the North American Fisheries question.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 5.

(No. 14. Treaty.)

WASHINGTON,
March 19, 1886.

MY LORD,

With reference to my despatch, No. 11 of this series, of the 19th February, I have the honour to inform your Lordship that upon my return from Ottawa, I sought an interview with the Secretary of State, for the purpose of explaining to him the views, as expressed to me by the Marquis of Lansdowne and his Ministers, on the actual position of the Dominion Government as regards the exclusive right of fishing in Canadian waters under the Treaty of 1818. I have the honour to enclose to your Lordship copy of a memorandum* on this subject which I submitted to the Marquis of Lansdowne, as well as copy of a note† by His Excellency on my above-mentioned despatch to your Lordship, commenting also upon my memorandum.

The views of the Dominion Government, communicated to me at Ottawa, are embodied in another memorandum, copy of which is enclosed, and copy of which I handed to Mr. Bayard, who silently accepted them as the result of the refusal of Congress to adopt the recommendation of the President for the appointment of a Fishery Commission. I then called his attention to the Dominion Act of 1868, alluded to in the memorandum, under which power is taken to grant to foreign vessels licences to fish for, take, dry, or cure fish of any kind within the three mile limit in British waters, and I said that it seemed to me that friction might be avoided if it was clearly understood that no American vessel would be allowed to fish in Canadian waters within the three mile limit without a licence, as provided for under the said Act. Mr. Bayard said that he had not seen the Act to which I referred, and he requested me, therefore, to send it to him, which I have accordingly done.

I have the honour to enclose herewith copy of a despatch‡ which I addressed to the Marquis of Lansdowne after my interview with Mr. Bayard.

I have, &c.,
(Signed) L. S. S. WEST.The Earl of Rosebery,
&c., &c., &c.

Enclosure 2 in No.

(No. 16. Treaty.)

WASHINGTON,
24th March, 1886.

MY LORD,

With reference to my telegram of this day's date, I have the honour to enclose to your Lordship herewith a copy of a note which at the request of the Secretary of State I addressed to him on the subject of your Lordship's telegram of the 18th instant, as well as copy of his reply thereto, informing me that it is not intended to issue any further notice to the effect that American fishermen are now precluded from fishing in British North American territorial waters.

I have, &c.,
(Signed) L. S. S. WEST.The Earl of Rosebery,
&c., &c., &c.WASHINGTON,
19th March, 1886.

SIR,

I have the honour to inform you that the Earl of Rosebery has requested me to ascertain whether it is intended to give notice to the United States fishermen that they are now precluded from fishing in British North American territorial waters, as Her Majesty's Government are considering the expediency of issuing a reciprocal notice with regard to British fishermen in American waters.

I am, &c.,
(Signed) L. S. WEST.The Hon. T. Bayard,
&c., &c., &c.

* Enclosure 1 in No. 1.

† Enclosure 2 in No. 1.

‡ Enclosure 1 in No. 2.

WASHINGTON,
23rd March, 1886.

SIR,

I have the honour to acknowledge the receipt of your note of the 19th inst., whereby you inform me that you have been requested by the Earl of Rosebery to ascertain "whether it is intended to give notice to the United States fishermen that "they are now precluded from fishing in British North American territorial waters," and to inform you, in reply, that as full and formal public notification in the premises has already been given by the President's proclamation of 31st January, 1885, it is not deemed necessary now to repeat it.

The temporary arrangement made between us on the 22nd June, 1885, whereby certain fishing operations on the respective coasts were not to be interfered with during the fishing season of 1885, notwithstanding the abrogation of the Fishery Articles of the Treaty of Washington, came to an end under its own expressed limitations on the 31st December last, and the fisheries question is now understood to rest on existing treaties, precisely as though no fishery articles had been incorporated in the Treaty of Washington.

In view of the enduring nature and important extent of the rights secured to American fishermen in British North American territorial waters under the provisions of the Treaty of 1818, to take fish within the three mile limits on certain defined parts of the British North American Coasts, and to dry and cure fish there under certain conditions, this Government has not found it necessary to give to United States fishermen any notification "that they are now precluded from fishing in British North American "territorial waters."

I have, &c.,
(Signed) T. F. BAYARD.

The Hon. Sir L. West,
&c., &c., &c.

6,267.

No. 6.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received 12th April, 1886.)

(Confidential.)

GOVERNMENT HOUSE, OTTAWA,
29th March, 1886.

MY LORD,

In reference to my despatch, Confidential A, of the 24th March,* forwarding a copy of Sir Lionel West's despatch, No. 20, of the 19th instant, I have the honour to enclose herewith copy of a further despatch, No. 29, Confidential, which I addressed on the 27th instant to Sir Lionel West, defining with more precision the position of my Government in regard to Clause I. of the Act of 1868, 31 Vic., cap. 61, under which power is taken to grant licenses to foreign fishing vessels frequenting the territorial waters of the Dominion.

2. Although the terms of the memorandum handed to Mr. Bayard by Sir Lionel West, and enclosed to me in his despatch above referred to, were strictly in accordance with the views of my Government, it appeared to me that the concluding portion of the despatch enclosing the memorandum was so worded as to leave the impression that in Sir Lionel West's belief it was still open to American fishermen at any moment to apply for and obtain licenses to use the inshore fisheries of the Dominion.

3. Your Lordship is fully aware of the circumstances under which the issue of these licenses was discontinued by the Dominion Government in 1870, and I thought it desirable to explain to Sir Lionel West that at the present time my Government would not be disposed to depart from the decision at which it then arrived, or, as at present advised, to regard with favour any suggestion for a return to the practice of granting licenses.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure in No. 6.

Lord Lansdowne to Sir Lionel Sackville West.

(No. 29. Confidential.)

GOVERNMENT HOUSE, OTTAWA,
27th March, 1886.

SIR,

I had the honour of receiving from you a despatch, No. 20, dated March 19th, 1886, enclosing copy of a memorandum handed by you to the Secretary of State, and describing the position of my Government under the Treaty of 1818 in regard to the inshore fisheries of the Dominion, and I had the honour on the 24th inst., of acknowledging receipt of that despatch, and of informing you that the memorandum was in accordance with the views of my Government.

I understand from your despatch above referred to that after calling Mr. Bayard's attention to the Canadian statutes affecting this question, and more especially to the Act 31 Vic. cap. 61, under which the Governor is empowered to grant licenses to foreign vessels for a period not exceeding one year, to fish within three marine miles of the coasts, bays, creeks, or harbours of Canada, not included in the limits specified in Article I. of the Convention of 1818, you suggested to Mr. Bayard that "all danger of friction might perhaps be avoided if it was clearly understood that no American vessel would be allowed to fish in Canadian waters within the three-mile limit without a license."

A statement to the above effect might possibly be interpreted as a suggestion on the part of Her Majesty's Government that the system of granting licenses, which obtained between the expiration of the Reciprocity Treaty of 1854, and the beginning of the year 1870, should be again resorted to, and I therefore take this opportunity of making you aware that in the opinion of my Government it would not be desirable that any such suggestion should be made.

It will be within your knowledge that while these licenses were taken out by a considerable number of American fishermen in the first two years during which the system of issuing licenses was in existence, the practice of applying for them was subsequently almost entirely discontinued by American fishermen, although it was notorious that large numbers of their vessels frequented Canadian waters. The failure of the system was so complete, and the embarrassment which it occasioned so serious, that it was terminated by an Order in Council of the Dominion Government, dated 8th January, 1870, under which it was decided "that the system of granting licenses to foreign vessels under the Act 31 Vic. cap. 61 be discontinued, and that henceforth foreign fishermen be not permitted to fish in the waters of Canada."

It was in consequence of this decision on the part of the Dominion Government that Mr. Boutwell's Circular, dated May 16th, 1870, was issued, for the purpose of notifying to American fishermen the effect, in regard to the inshore fisheries of the Dominion, of the Convention of 1818, and the Canadian Act of 1858, respecting fishing by foreign vessels.

It would, under the above circumstances, clearly be undesirable that anything should be said which might produce upon Mr. Bayard's mind the impression that it was now open to American fishermen to avail themselves of fishing licenses similar to those issued between 1866 and 1869, or that a renewal of the system in force between those years would be acceptable to my Government.

I have, &c.,
(Signed) LANSDOWNE.The Honourable
Sir L. S. Sackville West, K.C.M.G.,
&c., &c. &c.

6,231.

No. 7.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received April 12, 1886.)

(No. 88.)

GOVERNMENT HOUSE, OTTAWA,
30th March, 1886.

MY LORD,

I have the honour to enclose herewith a certified copy of a Report of a Committee of the Privy Council approved by me to-day recommending that a copy of the Order in Council passed on the 3rd instant, authorising the establishment of a Fisheries Police

Force, together with a copy of the Special Instructions approved by the Order in Council of the 25th instant, should be forwarded to your Lordship for the information of Her Majesty's Government.

2. The Special Instructions above mentioned have already been forwarded by me for your Lordship's information, and a copy of the Order in Council of the 3rd instant is enclosed herewith. I have now only to call your attention to the concluding passage of the Order of this day's date, in which I am requested to submit to Her Majesty's Government the propriety of taking "such steps as are deemed necessary to sustain the Canadian Fisheries Police vessels in the full enforcement of the provisions of the Convention of 1818."

3. I may state, in explanation of the wishes of my Government, that while it fully recognises that the duty of enforcing Police Regulations affecting the Fisheries is one which belongs to the Canadian Authorities, it believes that those regulations can be more effectually enforced, and will command greater respect at the hands of those against whom they are directed, if they are supported by the presence of one or more of Her Majesty's Ships.

4. The mere fact of that presence would certainly be calculated to create the impression that, in insisting upon its Treaty Rights, the Dominion had the approval, and would, if occasion arose, command the assistance of Her Majesty's Government.

5. This consideration would deserve additional weight if, as is possible, the Government of the United States should send a ship or ships of war to cruise off the Canadian Coast for the protection of American vessels fishing in those waters.

6. I have only to add that I believe it was the case that after the expiration of the Reciprocity Treaty of 1854, a similar request was made on the part of the Dominion Government, and acceded to by that of Her Majesty.

I have, &c.,
(Signed) LANSLOWNE.

The Right Hon.

Earl Granville, K.G.,

&c.,

&c.,

&c.

Enclosure 1 in No. 7.

Certified Copy of a Report of a Committee of the Honorable the Privy Council for Canada, approved by His Excellency the Governor-General in Council on the 30th day of March, 1886.

The Committee of the Privy Council on the recommendation of the Minister of Marine and Fisheries advise that for the information of Her Majesty's Government, a Copy of the Order in Council passed on the 3rd inst. authorizing the establishment of a Fisheries Police Force for the Protection of the Canadian Inshore Fisheries, be transmitted to the Colonial Secretary, as also a copy of the Special Instructions, &c., approved by Order in Council of 25th instant to the end that having been advised of the action of the Canadian Government, Her Majesty's Government may take such steps as are deemed necessary to sustain the Canadian Fisheries Police Vessels in the full enforcement of the provisions of the Convention of 1818.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

Enclosure 2 in No. 7.

Copy of a Report of a Committee of the Privy Council, approved by His Excellency the Governor-General on the 3rd day of March, 1886.

On a Memorandum, dated 22nd February, 1886, from the Minister of Marine and Fisheries, stating, with reference to the termination of the Fishery Articles of the Washington Treaty on the 1st day of July last, and the subsequent correspondence between Her Britannic Majesty's Minister at Washington and the Secretary of State for the United States, resulting in an arrangement by which United States fishing vessels were permitted to fish in Canadian waters and enjoy the same privileges as under the Treaty up to the 31st of December last, and further stating that this arrangement was

reached with the understanding that the President of the United States would bring the whole question of the fisheries before Congress, at its then next session, and recommend the appointment of a Commission in which the Governments of the United States and of Great Britain should be respectively represented, which Commission should be charged with the consideration and settlement upon a just and equitable and honourable basis of the entire question of the fishing rights of the two Governments and their respective citizens on the coasts of the United States and British America.

The Minister observes that the period for which this arrangement existed expired on the 31st December last, and it appears from the official records of Congress, that the Committee of the Senate on Foreign Relations has reported adversely upon the recommendation of the President, in his annual Message, for the appointment of the Commission suggested by the arrangement referred to, and the question, therefore, reverts to the position which it occupied prior to the adoption of the Treaty of Washington.

The Minister, with a view to the vigilant and efficient protection of the fisheries, recommends that he be authorised to establish a sufficient marine police force for the purpose thereof, to use such of the Government steamers as may be available, and to charter and equip at least six swift sailing fore and aft schooners of between sixty and ninety tons measurement or thereabouts, to be called the Fisheries Police Vessels; that for the purpose of defraying the cost of this force, the further sum of Fifty thousand dollars (\$50,000) be placed in the Supplementary Estimates to be submitted to Parliament at its approaching Session for the current fiscal year, and an additional sum of \$100,000 (one hundred thousand dollars) for the fiscal year ending 30 June, 1887.

The Committee submit the same for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

6,347.

No. 8.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received April 13, 1886.)

(No. 92.)

GOVERNMENT HOUSE, OTTAWA,
31st March, 1886.

MY LORD.

I have the honour to forward herewith, for your Lordship's information, copies of two despatches which I have received from Her Majesty's Minister at Washington, relating to the issuing of notices to American and Canadian fishermen as to their exclusion from fishing in the territorial waters respectively closed to them by the expiration of the Fishery Articles of the Treaty of Washington.

2. Your Lordship will observe that, in view of the formal notification in this connection given in the President's proclamation of the 31st January, 1885, no further action is deemed necessary by the United States Government.

3. I also forward a copy of a despatch which I have addressed to Sir Lionel West, enclosing for his information a copy of the confidential instructions issued by the Fisheries Department to the officers employed in the protection of the Canadian inshore fisheries, and of the "warning" published by the Minister in consequence of the termination of the Fishery Articles of the Treaty of 1871. I have already sent your Lordship copies of these papers in my despatch marked "Confidential" of the 25th instant.*

I have, &c.,
(Signed) LANSDOWNE.

The Right Hon.

Earl Granville, K.G.,

&c., &c., &c.

Enclosure in No. 8.

Minister at Washington to the Governor-General.

(No. 23.)

WASHINGTON,
March 20th, 1886.

MY LORD,

I have the honour to inform your Excellency that I received on the 18th instant a telegram from the Earl of Rosebery, instructing me to ascertain whether it is intended to issue a notice that American fishermen are now precluded from fishing in British North American territorial waters in view of the issue of a similar notice with regard to British fishermen in American waters on the part of Her Majesty's Government.

After having spoken to Mr. Bayard on the subject, I addressed a note* to him at his request, copy of which is enclosed, in the sense of Lord Rosebery's telegram to which he promised me a speedy answer.

In the meanwhile, however, a notice, which I enclose, has appeared in a Washington evening newspaper, stating that the Department of Fisheries has already issued such notice.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

His Excellency

The Marquis of Lansdowne, G.C.M.G.,
&c., &c., &c.

 Washington "Evening Star," 20th March, 1886.
A Canadian Steamer's Secret Mission.

St. Johns, N.B., March 20th:—Captain Scott, Commander of the Government Steamer "Lansdowne," received sailing orders yesterday and will sail from here this morning. The destination of the steamer and the plan of action are carefully concealed. She has a month's supplies and full armament. By direction of the department of fisheries, Captain Scott has issued a warning to American fishermen to observe the provisions of the Treaty of 1818.

 Enclosure 2 in No. 8.
Minister at Washington to the Governor-General.

(No. 28.)

WASHINGTON,
24th March, 1886.

MY LORD,

With reference to my despatch, No. 23, of the 20th instant, I have the honour to enclose to your Lordship herewith copy of a note† which I have received from the Secretary of State, informing me that as full and formal public notification in the premises has already been given by the President's proclamation of the 31st January, 1885, it is not deemed necessary to repeat it.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

His Excellency,

The Marquis of Lansdowne, G.C.M.G.,
&c., &c., &c.

* See Enclosure 2 in No. 5

† See Enclosure 2 in No. 5.

Enclosure 3 in No. 8.

The Marquis of Lansdowne to Sir L. S. West.

(No. 28.)

GOVERNMENT HOUSE, OTTAWA,
25th March, 1886.

SIR,

I have the honour to acknowledge the receipt of your despatch, No. 23, of the 20th March, relating to the issuing of notices to American and Canadian fishermen as to their exclusion from fishing in the territorial waters now closed to them by the expiration of the Fishery Articles of the Treaty of Washington.

The "warning" to which reference is made in the newspaper extract enclosed in that despatch is no doubt that of which I now forward a copy herewith for your information.

It will be within your knowledge that in 1870 a circular, dated May 16th of that year, calling the attention of American fishermen to the restrictions imposed by Article I. of the Convention of 1818, and to the Canadian Statutes affecting the inshore fisheries of the Dominion was issued by the United States Government, and I am glad to learn from your despatch that the Secretary of State has now under his consideration the propriety of issuing a similar notice.

I take this opportunity of acquainting you that the Fisheries Department has issued confidential instructions, of which a copy is also enclosed, for the guidance of its officers employed in the protection of the inshore fisheries of this country.

You will observe that these officers, while directed to take all necessary steps for maintaining the Treaty rights of the Dominion, are specially instructed to perform the duties entrusted to them with forbearance and discrimination.

I have, &c.,
(Signed) LANSDOWNE.

The Honourable
Sir Lionel S. Sackville West, K.C.M.G.,
&c., &c., &c.

6,645.

No. 9.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received April 19, 1886.)

GOVERNMENT HOUSE, OTTAWA,
6th April, 1886.

(No. 107.)

MY LORD,

I have the honour to enclose herewith a copy of an approved report of a Committee of the Privy Council upon a despatch which I received on the 2nd instant from Her Majesty's Minister at Washington (and of which a copy is herewith enclosed) informing me that the United States Consul-General at Halifax was reported to have argued that under the Convention of 1818 it was open to American fishermen to land, cured and in a marketable condition, fish which had been caught outside the three mile limit, at any Canadian port, and to tranship the same in bond to the United States by rail or vessel, and that any refusal to permit such transshipment would be a violation of the general bonding arrangement between the two countries. It does not appear from Sir Lionel West's despatch that this statement was made officially, or that it has been supported by the Government of the United States. As, however, the matter is one to which further reference may be made, it is desirable that the views of my Government in regard to it should be placed on record.

2. The Report of the Privy Council contains an explanation of the reasons for which it is believed that under the terms of the Convention American fishermen are absolutely excluded from admission to Canadian bays or harbours, except for the purposes of shelter and repairing damages therein, or of purchasing wood and obtaining water. The arrangements in force between the two countries for the transshipment of goods in bond, arrangements which depend in the main upon the customs laws of the two countries, cannot therefore be regarded as in any sense restricting the operation of the Convention. It should moreover be remembered that these bonding arrangements are the same as those which obtained between the two countries after the expiration of

the Reciprocity Treaty of 1854, and I am not aware that between that date and the date of the Treaty of 1871, any claims such as those now made by the Consul-General at Halifax were preferred on the part of the United States Government.

3. Your Lordship will, however, clearly understand that although it is thought necessary to enforce strictly against American fishing vessels a restriction which was framed with the express purpose of affording protection to the fisheries of the British Colonies, that restriction would not be applicable to vessels not themselves engaged in fishing but visiting Canadian ports in the ordinary course of trade.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 9.

Minister at Washington to the Governor-General.

(No. 30.)

WASHINGTON,
March 29th, 1886.

MY LORD,

I have the honour to inform your Excellency that the American Consul-General at Halifax is reported to have argued that there is nothing in the Treaty of 1818 to prevent Americans, having caught fish in deep water and cured them, from landing them in marketable condition at any Canadian port and transshipping them in bond to the United States either by rail or vessel, and that moreover a refusal to permit the transportation would be a violation of the general bonding arrangement between the two countries.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

The Marquis of Lansdowne,
&c., &c., &c.

Enclosure 2 in No. 9.

Certified Copy of a Report of a Committee of the Honorable the Privy Council for Canada, approved by His Excellency the Governor-General on the 6th April, 1886.

The Committee of the Privy Council have had under consideration a despatch, dated 29th March, 1886, from Her Majesty's Minister at Washington, informing your Excellency that the United States Consul-General at Halifax was reported to have argued that there is nothing in the Convention of 1818 to prevent Americans, having caught fish in deep waters and cured them, from landing them in a marketable condition at any Canadian port, and transshipping them in bond to the United States either by rail or vessel, and that any refusal to permit such transshipment would be a violation of the general bonding arrangement between the two countries.

The Sub-Committee to whom the despatch in question was referred, report that if the contention of the United States Consul-General at Halifax is made in relation to American fishing vessels it is inconsistent with the Convention of 1818.

That they are of opinion from the language of that Convention:—"Provided however that the American fishermen shall be admitted to enter such bays or harbors for the purposes of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever," that under the terms of the Convention United States fishermen may properly be precluded from entering any harbor of the Dominion for the purpose of transshipping cargoes, and that it is not material to the question that such fishermen may have been engaged in fishing outside of the "three mile limit" exclusively, or that the fish which they may desire to have transhipped have been taken outside of such limit.

That to deny the right of transshipment would not be a violation of the general bonding arrangement between the two countries.

That no bonding arrangement has been made which, to any extent, limits the operation of the Convention of 1818, and inasmuch as the right to have access to the

ports of what is now the Dominion of Canada for all other purposes than those named is explicitly renounced by the Convention, it cannot with propriety be contended that the enforcement of the stipulation above cited is contrary to the general provisions upon which intercourse is conducted between the two countries.

Such exclusion could not of course be enforced against United States' vessels not engaged in fishing.

The Sub-Committee in stating this opinion are not unmindful of the fact that the responsibility of determining what is the true interpretation of a Treaty or Convention made by Her Majesty must remain with Her Majesty's Government, but in view of the necessity of protecting to the fullest extent the inshore fisheries of the Dominion, according to the strict terms of the Convention of 1818, and in view of the failure of the United States Government to accede to any arrangements for the mutual use of the inshore fisheries, the Sub-Committee recommend that the claim which is reported to have been set up by the United States Consul-General at Halifax be resisted.

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

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

6,037.

No. 10.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
21st April, 1886.

SIR,

With reference to your letter of the 27th ultimo,* and to previous correspondence arising out of the termination of the Fishery Articles of the Treaty of Washington, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, copies of the despatches on the subject which have been received from the Governor-General of Canada with their enclosures:—

The points which appear to require attention are (1) the instructions under which Her Majesty's Cruizers should now act, and (2) the steps which may appear desirable in order to bring the Canadian instructions into harmony with those issued to Her Majesty's Cruizers.

Lord Granville would be glad to be informed whether Lord Rosebery is of opinion that the Imperial instructions to be issued on the present occasion should be similar to those issued by the Admiralty in 1870, on the occasion of the determination of the Reciprocity Treaty of 1854, as in that case it would seem necessary to move the Dominion Government to modify in certain respects the instructions of which copies are enclosed in Lord Lansdowne's two despatches of the 25th ultimo, and to bring them into conformity with the views which Her Majesty's Government may adopt.

On this point I am to refer you to the letter from this Department of the 24th of March, 1871,† transmitting a draft of the special instructions issued by the Canadian Government to the Commanders of the Dominion Cruizers which had been drawn up with the view of harmonising with the instructions already issued to the Commanders of Her Majesty's Cruizers.

It appears to Lord Granville that the point on which more particularly the instructions now to be issued require careful consideration is the proposal to renew the prohibition to American fishermen from frequenting Colonial ports and harbours for other purposes than those allowed by the Convention of 1818.

Lord Granville gathers from telegrams which have appeared in the Press, that it is contended by some persons in Congress that such a prohibition is no longer justifiable; but on what grounds this contention is based does not appear. His Lordship assumes that it has not the support of the United States Government, and has no doubt that the Canadian Government would object to any modification, without sufficient reason, of the British Claims enforced in 1871. Still the question is one which should not be left unnoticed; and perhaps Lord Rosebery may think it desirable to ask Sir L. West for information as to the arguments used in the recent debate in the Senate, and as to the views of the United States Government on the point.

* Not printed. † Nos. 1, 2, 3, 4, 6, 7, and 8. ‡ See page 112 of North American No. 63.

It also appears to be deserving of consideration whether the proposal in the confidential letter of instructions to Capt. Scott (23rd March) to draw a line three miles to seaward from another line between points on the coasts six miles apart is not one which the Canadian Government might fairly be asked to modify, and whether with the view of avoiding a fruitful source of dispute, that Government should not be invited to waive its strict rights and to allow United States fishermen to go anywhere not within three miles of any part of the shore. Here, again, Lord Granville has no reason to suppose that the Dominion Government would think it desirable to modify their instructions, and if it could be ascertained that the United States Government are not likely to object to this instruction, his Lordship would prefer to leave it as it stands.

It will be observed that a memorandum ("Personal") which accompanied the Governor-General's despatch of the 24th ult., and two enclosures accompanying the further despatch of the 31st ult. are not forwarded, as copies of these documents have been already received from the Foreign Office in your letter of the 9th inst.*

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

The Under-Secretary of State,
Foreign Office.

36.—Secret.

No. 11.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

10th May. Please telegraph early full particulars seizure of the vessel "David J Adams."

8,196.

No. 12.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 12th, 1886.)

TELEGRAPHIC.

Schooner "David Adams" was buying bait at Digby; did not report, as required by law, to Collector, and concealed her name and port of registry. Is now detained at Digby, in charge of Collector, and will be tried before Vice-Admiralty Court at Halifax for violation of Dominion Fishery Law of 1868, for contravention of Convention of 1818, and for violation of Customs Law by not reporting to Collector. Question of limits of territorial waters not raised.

8,247.

No. 13.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 14, 1886.)

No. 145.

GOVERNMENT HOUSE,
OTTAWA,
1st May, 1886.

MY LORD,

As I observe that some comments have been made in the London press upon the alleged detention of an American schooner at Baddeck, Cape Breton, for violation of the Fishery Laws of the Dominion, it may be as well that I should submit to you the following statement of the facts of the case with which I have been supplied by my Minister of Marine and Fisheries.

2. On the evening of the 22nd of April, the American Schooner, "Joseph Story,"

Captain J. L. Anderson, of Gloucester, Massachusetts, anchored off the harbour of Baddeck. On the following morning the Captain came ashore, bought some supplies, engaged a man, took him on board, and sailed without reporting to the Customs Authorities. The Collector at Baddeck, Mr. L. G. Campbell, upon this, telegraphed to the Sub-collector at Bras d'or instructing him to detain the vessel, and at the same time reported his own action in the matter by telegram to the Minister of Customs.

3. In compliance with these instructions the Sub-collector at Bras d'or detained the vessel, which proved to have clearance from St. Peter's to Aspy Bay on a trading voyage.

4. On the 24th of April the Minister of Customs telegraphed to Mr. Campbell that the vessel should be allowed to proceed, on condition that the man illegally shipped be put on shore, the Captain being formally warned by the Collector not to repeat the offence.

5. Your Lordship will observe that this vessel being an American schooner rendered herself liable to seizure for violation of the Customs Law by not reporting when she touched at Baddeck, as well as of the Coasting Laws by plying for trade between Canadian ports. The Collector's first telegram to the Minister of Customs stated that she was a fishing schooner, and on that information the telegram above referred to was sent ordering her not to be longer detained, provided the conditions attached were complied with. If it had been known that the case was one of trading illegally, the vessel would, without doubt, have been held for violation of the Customs Law. By the time, however, when the Minister of Customs had been made aware of the actual facts of the case she had already been released and permitted to proceed on her voyage.

I have, &c.,

(Signed) LANSLOWNE.

The Right Honourable

Earl Granville, K.G.,

&c., &c., &c.

8,609.

No. 14.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 17, 1886.)

Confidential.

GOVERNMENT HOUSE,

OTTAWA,

4th May, 1886.

MY LORD,

I have the honour to enclose herewith an extract from the "Toronto Globe" of the 1st instant commenting upon a recent article in the London "Times" on the subject of the fishery rights of the Dominion.

The "Globe" is, as your Lordship is no doubt aware, the leading Liberal journal of Canada, and its opinions may generally be regarded as those finding favour with the Opposition, or at all events with a considerable section of it.

The "Globe" article will show your Lordship how closely the action of Her Majesty's Government in regard to the fisheries question is likely to be scrutinized here, and how much resentment would be provoked if it were believed that Her Majesty's Government intended to abandon any of the rights secured by Treaty to Canada.

I have, &c.

(Signed) LANSLOWNE.

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

Inclosure in No. 14.

Toronto Globe, May 1st, 1886.

It is possible that the London "Times" represents English opinion in regard to Canada's fishing rights by saying: "We have made such large concessions before now that we may venture to continue them without fear of being misinterpreted." To be free from the fear of misinterpretation may be very fine in "The Times," but that Canada will consent to let her property be given away because of that beautiful freedom

of the big paper is a trifle too much to expect. If Englishmen do expect so largely, the duty of the Dominion Government is to disabuse their magnanimous minds of that expectation as quickly as possible. It is true that large concessions have been made to American bluster before, but instead of being a good reason for making such again, it is the best of reasons for pursuing a contrary policy. The convention of 1818 defines Canada's rights regarding the fisheries with all the distinctness necessary, and, if the people of this country do not maintain those rights in full force till they obtain a full equivalent for the surrender of any part of them, they are unworthy of their position as free men. Nothing should be yielded simply to suit Imperial interests, or rather Imperial fears, and the sooner England understands that nothing will be so surrendered, the better for all parties concerned. On this side of the water we understand Brother Jonathan perfectly; we can hold up our own end of a bargain with him; we can estimate his bluster at its true value; and we know that, if unhampered by British pusillanimity, we can make a just arrangement with him in the fisheries business. Canada wants nothing more than simple justice, and should not hesitate to insist on getting it. The United States will not incur the responsibility of pursuing to the point of force an attempt to crowd a less numerous people out of their national property, but even if the States could be expected to go to such a length, that would be no reason for making a cowardly concession.

The plain truth should be recognized that it would be much better for Canadians to yield everything to the States and join themselves to the surrender, than to permit Great Britain to trade away the Dominion piecemeal. The result of allowing the country to be stripped time and again of valuable possessions would be that we should have to seek annexation in the end for the sake of getting back a share in our concessions. Independence, with full responsibility for the care of our own interests, would be altogether preferable to a condition in which Canadian rights are jeopardized by British fear of the United States. If England does not wish to preserve the connection with Canada, her people are quite free to cut us adrift. That they should do so is much more to be desired than that they should profess that their forces are at Canada's service, and yet insist on the Dominion yielding whatever may be demanded by the only Power that is in a position to put the Dominion to any trouble. If the policy of "The Times" were the policy of the Imperial Government British connection would be worse than useless to this people.

8,871.

No. 15.

Foreign Office to Colonial Office.

Confidential.

FOREIGN OFFICE,

May 21st, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copies of telegraphic correspondence with Her Majesty's Minister at Washington on the subject of the Canadian Fisheries question.

I am, &c.,

(Signed) P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

Enclosure 1 in No. 15.

Cypher Telegram to Sir L. West, Washington, May 19, 1886.

Treaty. Have you received any communication with reference to seizures of American fishing vessels in Nova Scotia?

Should be glad to learn by telegraph if you can suggest any *modus vivendi* to remove present friction.

Enclosure 2 in No. 15.

Decypher. Sir Lionel West.

Treaty. Your Lordship's telegram of to-day. See copy of note of Secretary of State enclosed in my despatch, No. 28, of 11th instant, sent by post on 12th instant, and communicated to Dominion Government.

8,887.

No. 16.

Foreign Office to Colonial Office.

Confidential.

FOREIGN OFFICE,
May 22, 1886.

SIR,

With reference to my letter of yesterday's date,* I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, a copy of a telegram from Her Majesty's Minister at Washington on the subject of arrests of United States vessels for alleged violation of the Convention of 1818.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Inclosure in No. 16.

Decypher. Sir L. West, Washington, 21st May.

TREATY.

My telegram of 19th inst. Further note from Secretary of State. Copy by bag to-day. Urges that all arrests of vessels for alleged violation of Convention of 1818 should be restricted to conditions laid down by Great Britain in 1870, viz., no vessel to be seized unless offence of fishing within three miles limit is proved. Asks that orders be given to this effect under authority of Her Majesty's Government. Have communicated decision to Dominion Government.

8,887.

No. 17.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

22nd May, 1886. United States' Government is making representations respecting seizure of vessels. Her Majesty's Government desire to be furnished with detailed particulars regarding facts and legal position of Canadian Government. Desirable you should lose no time in sending reply.

8,889.

No. 18.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 24, 1886.)

TELEGRAPHIC.

Yours 22nd May.† Have sent despatch respecting seizure.

* No. 15.

† No. 17.

8,896.

No. 19.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 24, 1886.)

Confidential B.

GOVERNMENT HOUSE, OTTAWA,
11th May, 1886.

MY LORD,

I had the honour to send your Lordship yesterday a telegram* giving particulars of the detention on the 7th instant, at Digby, Nova Scotia, of the United States' Schooner "David J. Adams," for breach of the Customs and Fishery Laws.

2. Your Lordship will observe that the case was one in which there was no doubt that the vessel had knowingly entered a Canadian port for an illegal purpose, her captain having endeavoured to conceal her name and port of registry. The evidence on this point, and also the proof that she had bought bait in large quantities, was, I understand, ample.

3. She had, in addition to this, violated Sections 25 and 29 of the Customs Act of 1883 [46 Victoria, chapter 12] having been for fully twenty-four hours in port without reporting to the Collector of Customs.

4. In consequence of the above occurrences, Captain P. A. Scott, R.N., in command of the Fisheries Police Steamer "Lansdowne" took possession of the schooner and towed her to St. John, New Brunswick. Instructions had, in the meanwhile, been sent to him by telegraph, as soon as the Fisheries Department had been advised of the seizure, to detain the "David J. Adams" at Digby, it being thought best that the vessel should be libelled and the case tried in the Vice-Admiralty Court of the Province in which the offence had been committed. In compliance with these instructions, Captain Scott took the "David J. Adams" back to Digby, where she now remains in charge of the Collector of Customs.

5. Proceedings will be taken against her (1) For violation of the Customs Act above referred to; (2) For violation of the Dominion Fishery Act, 1868 [31 Victoria, cap. 61]; (3) For contravention of the provisions of the Convention of 1818, as enacted in the Imperial Act of 1819 [59 George III., cap. 38].

6. No question has in this case arisen with regard to the limits of the territorial waters of the Dominion.

7. As your Lordship is no doubt aware, American fishing vessels frequenting the coast of Canada have been in the habit of depending to a great extent upon Canadian fishermen for their supplies of bait. It has been usual for such vessels, hailing from New England ports as soon as the supply with which they had provided themselves on starting for their trip had become exhausted, to renew it in Canadian waters. Such vessels, if compelled as soon as they ran short of bait to return from the Canadian Banks to an American port, would lose a great part of their fishing season, and be put to considerable expense and inconvenience. Some idea of the importance of this point may be formed from the fact that Mr. Joncas, Commissioner to the London Fisheries' Exhibition, and a high authority on all matters connected with the fisheries of the Dominion, in a paper read before the British Association at Montreal in 1884, estimates the cost of the bait used by each vessel engaged in the Cod Fishery at one-fourth of the value of her catch of cod.

8. There can, however, be no doubt that under the terms of the Convention of 1818, foreign fishing vessels are absolutely precluded from resorting to Canadian waters for the purpose of obtaining supplies of bait, and in view of the injury which would result to the fishing interests of the Dominion, which the Convention of 1818 was manifestly intended to protect, if any facilities not expressly authorised by that Convention were conceded to foreign fishermen, my Government will, so long as the relations of the Dominion with the United States are regulated by the Convention, be disposed to insist upon a strict observance of its provisions in this respect.

9. I will keep your Lordship informed of any further occurrences which may take place in connection with this question.

I have, &c.,
(Signed) LANSDOWNE.

The Right Honourable
Earl Granville, K.G.,

&c. &c. &c.

* No. 12.]

39.—Secret.

No. 20.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

25th May, 1886. American Minister asked Lord Rosebery Saturday whether seizure of vessels in Canadian waters could not be discontinued, and vessels already seized restored, of course without prejudice, and on undertaking to surrender them if required. He argued United States' view of construction of Treaty, and Lord Rosebery upheld Canadian view, and said that, while anxious to maintain most cordial relations, Her Majesty's Government would have difficulty in asking Dominion Government to suspend their legal action if nothing offered as *quid pro quo*. Lord Rosebery therefore asked if some assurance could be given of immediate readiness to negotiate on the question. Phelps said in his purely personal opinion President might negotiate without consulting Senate, and there should be no difficulty in reaching solution, when Treaty might be submitted to Senate in December, and, if good, Senate could not refuse to ratify, or, at least, must give reasons. This, however, of course only his own view.

Telegraph observations of your Government, and whether in their opinion this suggestion appears to afford opening for general settlement. I shall not commit myself till I hear from you.

9,109.

No. 21.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
May 26th, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you a copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from Mr. Bayard, which contains representations respecting the seizure of United States fishing vessels by Canadian Authorities.

His Lordship would propose, with Lord Granville's concurrence, to defer making a reply to this communication until the views of the Canadian Government thereon have been received; and as it appears from Sir L. West's despatch that a copy has already been forwarded from Washington to the Governor-General, I am to suggest that His Excellency should be requested by telegram to send home with the least possible delay any observations which the Dominion Government wish to make on the subject.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 21.

Sir L. West to the Earl of Rosebery. (Received May 24.)

(No. 28. Treaty.)

WASHINGTON,
May 11, 1886.

MY LORD,

I have the honour to inclose to your Lordship herewith copy of a note which I have received from the Secretary of State, commenting on the action of the Dominion Government in seizing certain American fishing vessels under the restrictive provisions of the Treaty of 1818, and inviting a frank expression of the views of Her Majesty's Government upon the subject, believing that should any difference of opinion or disagreement as to facts exist, they will be found to be so minimised that an accord can be established for the full protection of the inshore fishing of the British provinces,

without obstructing the open sea-fishing operations of the citizens of the United States, or disturbing the trade Regulations now subsisting between the countries.

I have communicated copy of this note to the Marquis of Lansdowne.

I have, &c.,

(Signed)

L. S. SACKVILLE WEST.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE,
WASHINGTON,

May 10, 1886.

SIR,

On the 6th instant I received from the Consul-General of the United States at Halifax a statement of the seizure of an American schooner, the "Joseph Story," of Gloucester, Mass., by the authorities at Baddeck, Cape Breton, and her discharge, after a detention of twenty-four hours.

On Saturday, the 8th instant, I received a telegram from the same official, announcing the seizure of the American schooner, "David J. Adams," of Gloucester, Mass., in the Annapolis Basin, Nova Scotia, and that the vessel had been placed in the custody of an officer of the Canadian steamer "Lansdowne," and sent to St. John, New Brunswick, for trial.

As both of these seizures took place in closely land-locked harbours, no invasion of the territorial waters of the British provinces with the view of fishing there could well be imagined. And yet the arrests appear to have been based upon the act or intent of fishing within waters as to which, under the provision of the Treaty of 1818 between Great Britain and the United States of America, the liberty of the inhabitants of the United States to fish has been renounced.

It would be superfluous for me to dwell upon the desire which, I am sure, controls those respectively charged with the administration of the Governments of Great Britain and of the United States to prevent occurrences tending to create exasperation and unneighbourly feeling or collision between the inhabitants of the two countries; but, animated with this sentiment, the time seems opportune for me to submit some views for your consideration, which I confidently hope will lead to such administration of the laws regulating the commercial interests and the mercantile marine of the two countries as may promote good feeling and mutual advantage, and prevent hostility to commerce under the guise of protection to inshore fisheries.

The Treaty of 1818 is between two nations, the United States of America and Great Britain, who, as the Contracting Parties, can alone apply authoritative interpretation thereto, or enforce its provisions by appropriate legislation.

The discussion prior to the conclusion of the Treaty of Washington in 1871 was productive of a substantial agreement between the two countries as to the existence and limit of the three marine miles, within the line of which, upon the regions defined in the Treaty of 1818, it should not be lawful for American fishermen to take, dry, or cure fish. There is no hesitancy upon the part of the Government of the United States to proclaim such inhibition and warn their citizens against the infraction of the Treaty in that regard, so that such inshore fishing cannot lawfully be enjoyed by an American vessel being within three marine miles of the land.

But since the date of the Treaty of 1818, a series of laws and regulations importantly affecting the trade between the North American provinces of Great Britain and the United States have been respectively adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants.

This independent and yet concurrent action by the two Governments has effected a gradual extension, from time to time, of the provisions of Article 1 of the Convention of 3rd July, 1818, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the colonial possessions of Great Britain in North America and the West Indies within the results of that Treaty.

President Jackson's Proclamation of the 5th October, 1830, created a reciprocal commercial intercourse, on terms of perfect equality of flag, between this country and the British American dependencies, by repealing the Navigation Acts of the 18th April, 1818, 15th May, 1820, and 1st March, 1823, and admitting British vessels and their cargoes "to an entry in the ports of the United States, from the islands, provinces, and colonies of Great Britain on or near the American continent, and north or east of

the United States." These commercial privileges have since received a large extension, in the interests of propinquity, and in some cases favours have been granted by the United States without equivalent concession. Of the latter class is the exemption granted by the Shipping Act of the 26th June, 1884, amounting to one-half of the regular tonnage dues on all vessels from the British North American and West Indian possessions entering ports of the United States; of the reciprocal class are the arrangements for transit of goods, and the remission by proclamation, as to certain British ports and places, of the remainder of the tonnage tax, on evidence of equal treatment being shown to our vessels.

On the other side, British and colonial legislation, as notably in the case of the Imperial Shipping and Navigation Act of the 26th June, 1849, has contributed its share toward building up an intimate intercourse and beneficial traffic between the two countries, founded on mutual interest and convenience. These arrangements, so far as the United States are concerned, depend upon municipal statute and upon the discretionary powers of the Executive thereunder.

The seizure of the vessels I have mentioned, and certain published "warnings" purporting to have been issued by the colonial authorities, would appear to have been made under a supposed delegation of jurisdiction by the Imperial Government of Great Britain, and to be intended to include authority to interpret and enforce the provisions of the Treaty of 1818, to which, as I have remarked, the United States and Great Britain are the Contracting Parties, who can alone deal responsibly with questions arising thereunder.

The effect of this colonial legislation and executive interpretation, if executed according to the letter, would be not only to expand the restrictions and renunciations of the Treaty of 1818, which related solely to inshore fishing within the three-mile limit, so as to affect the deep-sea fisheries, the right to which remained unquestioned and unimpaired for the enjoyment of the citizens of the United States, but further to diminish and practically destroy the privileges expressly secured to American fishing vessels to visit those inshore waters for the objects of shelter, repair of damages, and purchasing wood and obtaining water.

Since 1818 certain important changes have taken place in fishing in the regions in question, which have materially modified the conditions under which the business of inshore fishing is conducted, and which must have great weight in any present administration of the Treaty.

Drying and curing fish, for which a use of the adjacent shores was at one time requisite, is now no longer followed, and modern invention of processes of artificial freezing, and the employment of vessels of a larger size, permit the catch and direct transportation of fish to the markets of the United States without recourse to the shores contiguous to the fishing grounds.

The mode of taking fish inshore has also been wholly changed, and from the highest authority on such subjects I learn that bait is no longer needed for such fishing, that purse-seines have been substituted for the other methods of taking mackerel, and that by their employment these fish are now readily caught in deeper waters entirely exterior to the three mile line.

As it is admitted that the deep-sea fishing was not under consideration in the negotiation of the Treaty of 1818, nor was affected thereby, and as the use of bait for inshore fishing has passed wholly into disuse, the reasons which may have formerly existed for refusing to permit American fishermen to catch or procure bait within the line of a marine league from the shore, lest they should also use it in the same inhibited waters for the purpose of catching other fish, no longer exist.

For it will, I believe, be conceded as a fact that bait is no longer needed to catch herring or mackerel, which are the objects of inshore fishing, but is used, and only used, in deep-sea fishing, and, therefore, to prevent the purchase of bait or any other supply needed in deep-sea fishing, under colour of executing the provisions of the Treaty of 1818, would be to expand that Convention to objects wholly beyond its purview, scope, and intent, and give to it an effect never contemplated by either party, and accompanied by results unjust and injurious to the citizens of the United States.

As, therefore, there is no longer any inducement for American fishermen to "dry and cure" fish on the interdicted coasts of the Canadian provinces, and as bait is no longer used or needed by them (for the prosecution of inshore fishing) in order to "take" fish in the inshore waters to which the Treaty of 1818 alone relates, I ask you to consider the results of excluding American vessels, duly possessed of permits from their own Government to touch and trade at Canadian ports as well as to engage in deep-sea fishing, from exercising freely the same customary and reasonable rights and

privileges of trade in the ports of the British Colonies as are freely allowed to British vessels in all the ports of the United States under the laws and regulations to which I have adverted. Among these customary rights and privileges may be enumerated the purchase of ship-supplies of every nature, making repairs, the shipment of crews in whole or part; and the purchase of ice and bait for use in deep-sea fishing.

Concurrently, these usual rational and convenient privileges are freely extended to, and are fully enjoyed by, the Canadian merchant marine of all occupations, including fishermen, in the ports of the United States.

The question, therefore, arises whether such a construction is admissible as would convert the Treaty of 1818 from being an instrumentality for the protection of the inshore fisheries along the described parts of the British American coast into a pretext or means of obstructing the business of deep-sea fishing by citizens of the United States, and of interrupting and destroying the commercial intercourse that, since the Treaty of 1818, and independent of any Treaty whatever, has grown up, and now exists, under the concurrent and friendly laws and mercantile regulations of the respective countries?

I may recall to your attention the fact, that a proposition to exclude the vessels of the United States engaged in fishing from carrying also merchandize was made by the British negotiators of the Treaty of 1818, but, being resisted by the American negotiators, was abandoned. This fact would seem clearly to indicate that the business of fishing did not then and does not now disqualify a vessel from also trading in the regular ports of entry.

I have been led to offer these considerations by the recent seizures of American vessels to which I have adverted, and by indications of a local spirit of interpretation in the provinces, affecting friendly intercourse, which is, I firmly believe, not warranted by the terms of the stipulations on which it professes to rest. It is not my purpose to prejudge the facts of the cases, nor have I any desire to shield any American vessel from the consequences of violation of international obligation. The views I advanced may prove not to be applicable in every feature to these particular cases, and I should be glad if no case whatever were to arise calling in question the good understanding of the two countries in this regard, in order to be free from the grave apprehensions which otherwise I am unable to dismiss.

It would be most unfortunate, and, I cannot refrain from saying, most unworthy, if the two nations who contracted the Treaty of 1818 should permit any questions of mutual right and duty under that Convention to become obscured by partizan advocacy or distorted by the heat of local interests. It cannot but be the common aim to conduct all discussion in this regard with dignity and in a self-respecting spirit, that will show itself intent upon securing equal justice rather than unequal advantage.

Comity, courtesy, and justice cannot, I am sure, fail to be the ruling motives and objects of discussion.

I shall be most happy to come to a distinct and friendly understanding with you as the Representative of Her Britannic Majesty's Government, which will result in such a definition of the rights of American fishing-vessels under the Treaty of 1818 as shall effectually prevent any encroachments by them upon the territorial waters of the British provinces for the purpose of fishing within those waters, or trespassing in any way upon the littoral or marine rights of the inhabitants, and, at the same time, prevent that Convention from being improperly expanded into an instrument of discord by affecting interests and accomplishing results wholly outside of and contrary to its object and intent, by allowing it to become an agency to interfere with and perhaps destroy those reciprocal commercial privileges and facilities between neighbouring communities which contribute so importantly to their peace and happiness.

It is obviously essential that the administration of the laws regulating the Canadian inshore fishing should not be conducted in a punitive and hostile spirit, which can only tend to induce acts of a retaliatory nature.

Everything will be done by the United States to cause their citizens engaged in fishing to conform to the obligations of the Treaty, and prevent an infraction of the fishing laws of the British provinces; but it is equally necessary that ordinary commercial intercourse should not be interrupted by harsh measures and unfriendly administration.

I have the honour, therefore, to invite a frank expression of your views upon the subject, believing that should any differences of opinion or disagreement as to facts exist, they will be found to be so minimized that an accord can be established for the full protection of the inshore fishing of the British provinces, without obstructing the open sea fishing operations of the citizens of the United States, or disturbing the trade Regulations now subsisting between the countries.

I have, &c.,
(Signed) T. F. BAYARD.

40.—Secret.

No. 22.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 27, 1886.)

TELEGRAPHIC.

27th May. Referring to my despatch No. 162 of 19th May,* Bill for amending Act as to fishing by foreign vessels will pass both Houses and come up for assent beginning of next week. Bill renders liable to forfeiture vessels in any way contravening Convention of 1818.

9,109.

No. 23.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

27th May, 1886. Bayard to West, 10th May.† Her Majesty's Government glad to receive by earliest opportunity Report of your Ministers.

9,171.

No. 24.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 28th, 1886.)

TELEGRAPHIC.

Referring to your telegram of 27 May,‡ report in forward state of preparation and sent by next mail.

41.—Secret.

No. 25.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 28, 1886.)

TELEGRAPHIC.

27th May. Your telegram of 25th.§ Canadian Government anxious to facilitate settlement. In order to do so we suspended all legal action for protection of our fisheries last year, although American duties on our fish were retained. Congress, however, declines to act on President's recommendation. We cannot [could not] again abandon our right without better assurance of satisfactory result than suggestion of United States' Minister. Government could not now prevent private prosecutions for breach of Fishery Laws which would certainly be resorted to by Canadian fishermen. Legality of seizures will be tested in Court. Should not this point first be disposed of? Either party could appeal to Judicial Committee of Privy Council.

* No. 31.

† See Enclosure in No. 21.

‡ No. 23.

§ No. 20.

9,147.

No. 26.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 28th, 1886.)

GOVERNMENT HOUSE,

OTTAWA,

17th May, 1886.

No. 156.

MY LORD,

I have the honour to enclose herewith for your information copies of the following papers relating to the recent seizure of the United States schooner "D. J. Adams" for alleged violation of the Customs and Fishery Laws—

- (1) Captain Scott's report addressed to the Deputy Minister of Fisheries.
- (2) Statement by the First Officer of the Dominion cruiser "Lansdowne."
- (3) Five statements sworn before Captain Scott.

2. I take this opportunity of observing that on the 11th and 12th instant I received from Her Majesty's Minister at Washington telegrams informing me that it had been made a subject of complaint by the United States Consul at Halifax that he was unable to obtain at once from Captain Scott, in command of the Government steamer "Lansdowne," a statement of the reasons for which the "D. J. Adams" was detained, and that the Secretary of State deprecated Captain Scott's conduct in the matter. To these telegrams I sent a reply stating that the vessel in question would be proceeded against for violation of the Customs Act of 1883, of the Dominion Fishery Act of 1868, and of the Convention of 1818. I added that Captain Scott had been instructed to state his reasons for any subsequent seizure which he might find it necessary to make.

3. It is, I think, fair to point out in reference to this complaint that the seizure being the first which had taken place, and the legal questions involved being somewhat intricate, Captain Scott may be presumed to have been not unnaturally reluctant to commit himself to the extent of supplying the United States Consul with a formal definition of the charges which would be made against the "David J. Adams" and of the grounds upon which he had made the seizure, although he evidently felt no doubt that they were sufficient to warrant his action, and although, as your Lordship will perceive on reference to the enclosures herewith, he made an informal statement of those grounds at the outset to the master of the seized vessel.

4. I may add that as soon as the matter had been enquired into by my Ministers Captain Scott was authorised to supply the Master of the "David J. Adams" with a written statement of the reasons for which that vessel was seized.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 26.

Mr. P. A. Scott, to the Department of Marine and Fisheries.

GOVERNMENT STEAMER "LANSDOWNE,"
Digby, 11th May, 1886.

SIR,

I have to inform you that on the 6th inst., while in St. John, I received a despatch from the Collector of Customs at Digby, to the following effect:—"Fishing schooner, name and port of registry covered, now in harbour buying bait." I wired you for instructions, but not receiving any I concluded to come here as soon as possible. We left at 7:30 p.m., and anchored off Digby at 11:45, when the boats were lowered and boarded several schooners but did not find the right one. As the day broke on the 7th a schooner was seen off Bear Island making the attempt to get out, but as the wind was light and the tide against her she did not succeed. About 4:30 a.m., the first officer boarded her, and ascertained that she was the "David J. Adams," of Gloucester, Mass.

The captain stated that he had not come in for bait and the boat returned on board. At 10 a.m., not having been satisfied with the above report, I ordered Captain Dakin and the first officer to search her thoroughly, when they discovered a quantity of fresh herring packed in ice in the main hold, close to the hatchway. When the boat returned I ordered the schooner to run in and anchor off Digby. We followed and anchored at 11:15 a.m. I then called upon several parties in the neighbourhood for evidence as to the purchase of the bait.

In the afternoon I proceeded to Victoria Beach, Granville, Annapolis County, accompanied by the Collector of Customs and the Fishery Officer at Digby, having heard that some bait had been sold to the master of that schooner by a man of the name of Ellis. I took his evidence, which went to prove that he had sold him four barrels of bait on the previous morning for \$1.25 a barrel. It appears that Ellis was not willing to sell it to him fearing that he was an American; but the master informed him that he was not, but belonged to Deer Island. At 4 p.m., with the pier of Digby bearing S.W. by S., distant three quarters of a mile, Captain Scott boarded "David J. Adams," and seized her for violating the Dominion Fishery Act; and placed a guard on board.

At 4:30 on the 8th instant, the crew of the "David J. Adams," with the exception of three men, came on board for passage to St. John. At 6 a.m. we took the schooner in tow and took her there for safety. At 10.30 we lashed to the wharf and hauled the schooner alongside. The master and crew then landed.

Sunday the 9th, having received a despatch to take the schooner back to Digby, the master and crew were offered a passage if they liked to go. They declined doing so, and they then removed all their personal effects.

At 11 we cast off and proceeded. The first officer and five men took charge of the schooner and sailed her over to the "Gut," where we took her in tow and both anchored at 4 p.m. off the Raquett.

Monday, May 10th, at 5:30, the Collector having been directed to take charge of the schooner, she was handed over to him.

11th, Mr. Wallace Graham having directed me to still hold the schooner, I sent the first officer and one man back to her to remain on board until further orders.

I am, &c.,
(Signed) P. A. SCOTT.

Enclosure 2 in No. 26.

Statement of James Beattie Hill, First Officer "Lansdowne."

DIGBY, NOVA SCOTIA,
May 10th, 1886.

Before, Captain Scott, R.N., Fishery Officer.

I, James Beattie Hill, First Officer of the Government Steamer "Lansdowne," being duly sworn, testify as follows:—

I boarded the American fishing schooner "David J. Adams," of Gloucester, Massachusetts, United States of America, at five o'clock in the morning of the 7th of May, she being under way heading to the northward and westward, trying to get out of Annapolis Basin, Digby Pier bearing about south-west, at a distance of about two and a half miles. I did not see her stern, therefore did not see the name of the vessel, and getting upon her deck, I asked the master where his vessel hailed from. He replied Gloucester. I asked what he had come in for. He said to see his people, as he formerly belonged here.

I asked if he had any fresh bait on board. He said he had not. I asked where he was from. He replied from the banks. I asked where he was bound to. He said to Eastport.

I told him he had no business here, and that I supposed he knew the law. To which he replied, yes. I then returned to the "Lansdowne," after boarding another, whose name was, I think, the "Lizzie Magee," of St. Andrews, New Brunswick. One of her crew told me that the "David J. Adams" had bought bait for one dollar and twenty-five cents, which he had engaged for himself at seventy-five cents per barrel.

At about ten in the forenoon I was again ordered to return to the "David J. Adams" and search her thoroughly for bait.

At this time she was in the "Gut," about one mile south of Victoria Beach. I told the Captain I had come on board to make an examination; he said very well. I then told him that a person on shore had stated that he had bought bait here; he replied that I might bring that person on board and that he would call that person a liar, if that would do any good. Upon searching the hold I found fresh herring upon ice, which appeared to be perfectly fresh. Upon my stating my opinion he said it was about ten days old.

I told him I would have to report to Captain Scott that I was of opinion that it was fresh. I then returned to the "Lansdowne."

Captain Scott having directed Captain Dakin to return with me to the "David J. Adams," we went upon her deck and had some of her bait handed up for inspection. Both Captain Dakin and I agreed that it was fresh. We then returned to the "Lansdowne." I was immediately ordered to return to the "David J. Adams" and direct her master to return to Digby and anchor near the "Lansdowne."

(Signed) JAMES BEATTIE HILL,
First Officer, Government Steamer "Lansdowne."

Witness,
(Signed) MANFRED J. L. SAWYER.

Enclosure 3 in No. 26.

VICTORIA BEACH,
GRANVILLE, UNITED STATES,
May 7th, 1886.

By Captain Scott, R.N., Fishery Officer.

I, Samuel Dennis Ellis, Fisherman, being duly sworn, state that on the morning of the 6th instant, the Master of the "David J. Adams," professing to be under an English Register, applied to me for bait, and I therefore sold him four barrels of herring, which I saw him take on board his own vessel. I know nothing further of this matter, but am certain as to the vessel, having noticed she had a broken main top mast.

(Signed) SAMUEL D. X ELLIS.
his
mark.

Witnessed by
(Signed) WILLIAM HAWLEY, Fishery Overseer.

DIGBY, NOVA SCOTIA,
11th May, 1886.

Before Captain Scott, R.N., Fishery Officer.

I, Charles T. Dakin, being duly sworn, do testify as follows, that on the seventh day of May I boarded the American schooner "David J. Adams," of Gloucester, Massachusetts, and went into the hold and examined the bait I saw packed in ice, and do solemnly declare that it was fresh. I asked the Captain if it was true that he had bought any bait from a man named Ellis. He replied that he did not think this was true.

(Signed) CHARLES T. DAKIN,
Master of the Government Steamer "Lansdowne."

Witness,
(Signed) MANFRED SAWYER.

DIGBY, NOVA SCOTIA,
May 7th, 1886.

By Captain Scott, R.N., Fishery Officer.

Edwin C. Dodge, Master Mechanic, duly sworn.

While standing on Digby Pier about 9 o'clock in the morning on the 6th of May, I observed a fishing schooner, which proved to be the "David J. Adams," of Gloucester, Mass., standing to the southward under her four lower sails, and observed her to tack close into the wharf.

I observed when her stern was towards me that her name could not be made out, it being hidden by canvas, and which, in my opinion, was done with the object of screening it.

(Signed) EDWIN C. DODGE.

DIGBY, NOVA SCOTIA,
May 7th, 1886.

By Captain Scott, R.N., Fishery Officer.

Owen Riley, a Fisherman, duly sworn.

While standing on Digby Pier at about 9 o'clock in the morning of the 6th of May, I observed a fishing schooner, which proved to be the "David J. Adams," of Gloucester, Mass., standing to the southward under her four lower sails, and observed her to tack close into the wharf. I observed when her stern was towards me that her name could not be made out, it being hidden by canvas, and which, in my opinion, was done with the object of screening it.

(Signed) OWEN RILEY.

DIGBY, NOVA SCOTIA,
11th May, 1886.

Before Captain Scott, R.N., Fishery Officer.

I, Frederick Allan, seaman on board the Dominion schooner, "Lansdowne," being duly sworn, testify as follows, that I, being one of the boat's crew of the above ship which boarded the American schooner, "David J. Adams," on the 7th of May, while in the basin of Annapolis, went into the hold of that vessel and examined the bait, and do solemnly declare that it was fresh.

(Signed) FREDERICK ALLAN.

Witness,
(Signed) MANFRED J. SAWYER.

9,501.

No. 27.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
May 28, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, a copy of a despatch to Her Majesty's Minister at Washington, relative to the North American Fisheries question.

I am, &c.,

(Signed) J. PAUNCEFOTE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 27.

The Earl of Rosebery to Sir L. West.

(No. 20. Treaty.)

FOREIGN OFFICE,
May 24, 1886.

SIR,

The American Minister called on me to-day, and said that he had received a telegram from Mr. Bayard late on Saturday night instructing him to ask me if the seizure of American fishing vessels in Canadian waters could not be discontinued, and the vessels already captured restored, of course without prejudice, and on an undertaking to surrender them if required.

Mr. Phelps went on to argue the construction of the Treaty of 1818, and said that though, at a first glance, its provisions might seem to justify the Canadian authorities in the course which they had taken, a general view of its whole scope contradicted that assumption, which, in any case, was inconsistent with the cordial relations existing between the two countries. In reply, I reminded Mr. Phelps that that Treaty was concluded at a time when, after a war and a period of great bitterness, the relations between Great Britain and the United States were not so cordial as they are now.

As regarded the construction of the Treaty, I could not presume to argue with so eminent a lawyer as himself; I could not, however, refrain from expressing the opinion that the plain English of the clause seemed to me entirely to support the Canadian view. Nor was it the fault of the Canadians that they had been compelled to resort to the enforcement of the Treaty. I admitted, indeed, that the responsibility did not lie on the American Government. But the Senate had refused to sanction any negotiation on the matter, and had therefore thrown back the Canadians on the provisions of the Treaty of 1818. As regarded the seizure of the vessels which Mr. Phelps had described as having transgressed unwittingly, I could only say but little, as I had received no intelligence beyond what was stated in the newspapers. If, however, they had erred unwittingly it was not our fault, for we had issued a formal warning to American fishermen that they would not be permitted, under the Treaty of 1818, to do certain things, and we had requested Mr. Bayard to issue a similar notice. He, however, had declined to do so. I could not, therefore, think that the American vessels had erred unwittingly, more especially as, if I was rightly informed by the newspapers, there were suspicious and furtive circumstances connected with the case of the "David Adams," at any rate, which tended to prove that the captain was aware that he was acting illegally.

As to the substantial proposition of Mr. Bayard, I begged Mr. Phelps to return the following answer: No one, as he was aware, could be more anxious than I was to maintain the most cordial relations between the two countries. He well knew that I would go more than half-way to meet Mr. Bayard in this matter, but it would be difficult to ask the Canadians to suspend their legal action if we had nothing to offer them in the way of a *quid pro quo*. What I would suggest would be this, that he should telegraph at once to Washington to tell Mr. Bayard that I would do my best to induce the Colonial authorities to suspend their action if some assurance could be given me of an immediate readiness to negotiate on the question. Mr. Phelps promised to do this.

I am, &c.,
(Signed) ROSEBERY.

40.—Secret.

No. 28.

Colonial Office to Foreign Office.

Confidential.*

DOWNING STREET,
28th May, 1886.

SIR,

With reference to previous correspondence respecting the seizure of an American fishing vessel by the Canadian authorities, I am directed by Earl Granville to transmit to you for communication to the Earl of Rosebery, copies of two telegrams* from the Governor-General of the Dominion on the subject.

Lord Granville is disposed to think that it may be well to suggest confidentially to

* Nos. 24 and 25

the Marquis of Lansdowne that it would be advisable to gain a little time for the consideration of the proposal of the United States Government by deferring assent to the proposed Dominion Act until after reference home.

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

The Under Secretary of State,
Foreign Office.

9,295.

No. 29.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 31st, 1886.)

GOVERNMENT HOUSE,
OTTAWA,
18th May, 1886.

No. 160.

MY LORD,

I have the honour to forward herewith for your Lordship's information a copy of a despatch which I have received from Her Majesty's Minister at Washington, enclosing copy of a note dated 10th of same month from the United States Secretary of State, in which are set forth the views of that Government upon the seizure of the fishing schooner, "David J. Adams," and the questions arising therefrom.

I have the honour also to enclose a copy of the reply which I have sent to Sir Lionel West.

I have communicated a copy of Sir Lionel West's despatch and of Mr. Bayard's note to my Ministers for their information.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 29.

Minister at Washington to the Governor-General.

No. 57.

WASHINGTON,
12th May, 1886.

MY LORD,

I have the honour to enclose herewith, for your Excellency's information, copy of a note* which I have received from the Secretary of State relative to the seizure of the American fishing vessel "David J. Adams," and to questions resulting therefrom.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

His Excellency the Marquis of Lansdowne, G.C.M.G.
&c., &c., &c.

Enclosure 2 in No. 29.

Lord Lansdowne to Sir L. West.

No. 54.

OTTAWA,
17th May, 1886.

SIR,

I had the honour of receiving your letter of the 12th instant, enclosing a copy of Mr. Bayard's note of the 10th upon the questions raised by the recent detention of the United States schooner, "David J. Adams," at Digby, Nova Scotia, for alleged violation of the Customs and Fishery Laws.

* See inclosure in No. 21.

You have, I understand, been good enough to supply me with a copy of that letter in order that the Dominion Government may, without loss of time, be placed in possession of the views of that of the United States in regard to these questions and not with the object of eliciting from me at present any comments upon the arguments advanced by Mr. Bayard.

I am, however, glad to take the earliest opportunity of expressing the pleasure with which the Government of the Dominion has observed the temper in which Mr. Bayard has discussed the matters referred to, and its entire concurrence with him in desiring to import into that discussion nothing that could affect the friendly relations of the two countries.

I have, &c.,
(Signed) LANSDOWNNE.

Sir L. S. Sackville West, K.C.M.G.
&c., &c., &c.

9,296.

No. 30.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 31, 1886.)

GOVERNMENT HOUSE, OTTAWA,
19th May, 1886.

No. 161.

MY LORD,

I have the honour to inform you that the American Fishing schooner "Ella M. Doughty" was seized at St. Ann's, Nova Scotia, by Sub-Collector McAulay, who is reported by the Collector of Customs at Baddeck, Mr. L. G. Campbell, to have proof that the Captain bought bait at St. Ann's, without reporting to the Customs authorities.

2. Mr. Campbell further telegraphs that the Captain acknowledges the facts and showed the bait bought, but claims that he held a permit or license signed by the Collector of Customs at Portland, Maine, to touch and trade at any foreign port.

3. The "Ella M. Doughty" has been held for not reporting, and an enquiry is now proceeding in order to ascertain whether there has or has not been an infraction of the Fishery Law of the Dominion.

I have, &c.,
(Signed) LANSDOWNNE.

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

9,297.

No. 31.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received May 31, 1886.)

No. 162.

GOVERNMENT HOUSE, OTTAWA,
19th May, 1886.

MY LORD,

I have the honour to enclose herewith a copy of a Bill recently introduced in the Dominion House of Commons by my Minister of Marine and Fisheries for the purpose of amending the Act 31 Vic. cap. 61, respecting fishing by foreign vessels in the territorial waters of the Dominion.

That Act was, as your Lordship is aware, framed with the object of giving effect to the Convention of 1818, by rendering liable to certain penalties all foreign fishing vessels entering the territorial waters of the Dominion for any purpose not authorized by that Convention. It is provided under the third section of the Act referred to that the penalty of forfeiture shall attach to any foreign vessel which "has been found fishing, or preparing to fish, or to have been fishing," without a licence within the three-mile limit. These words which follow closely those of Section II. of the Imperial Act of 1819 (59 George III., chapter 38), appear to my Government to be insufficient for the purpose of giving effect to the intentions of the framers of the Convention of 1818, inasmuch, as while the penalty of forfeiture is attached to foreign vessels found fishing, or preparing to fish, or having been fishing within the three-mile limit, it is not clear

that under them the same penalty would attach to vessels entering the territorial waters, in contravention of the stipulations of the Convention, for a purpose other than those of sheltering, repairing damages, purchasing wood and obtaining water, for which purposes alone under the terms of Art I. of the Convention, and of Section III. of the Imperial Act of 1819 above referred to, foreign fishing vessels are permitted to enter the bays and harbours of the Dominion.

Your Lordship is no doubt aware that the decisions of the Canadian Courts leave it open to question whether the purchase of bait in Canadian waters does or does not constitute a preparation to fish within the meaning of the Imperial Act of 1819, and the Canadian statute which it is now sought to amend. The decision of Chief Justice Sir William Young, in the Vice-Admiralty Court of Nova Scotia given in November, 1871, in the case of the fishing schooner "Nickerson," was to the effect that the purchasing of bait constituted such a preparation to fish within Canadian waters. The same point had, however, previously arisen in February, 1871, in the Vice-Admiralty Court at St. John, New Brunswick, in the case of the American fishing vessel "White Fawn," when Mr. Justice Hazen decided that the purchase of bait within the three mile limit was not of itself a proof that the vessel was preparing to fish illegally within that limit.

There being, therefore, some doubt whether the intention of the Convention of 1818 is effectually carried out either by the Imperial or the Canadian Acts referred to, it has been thought desirable by my Government to have recourse to legislation removing all doubt as to the liability to forfeiture of all foreign fishing vessels resorting to Canadian waters for purposes not permitted by law or by treaty.

As the law now stands, if it should prove that the purchase of bait is not held by the Courts to constitute a preparation to fish illegally, there would be no remedy against foreign fishing vessels frequenting the waters of the Dominion for purposes not permitted by the Convention of 1818, except:—

(1.) That provided by Section IV. of the Act of 1819—namely, a penalty of £200, recoverable in the Superior Courts from the persons violating the provisions of the Act. This penalty, however, only attaches to a refusal to depart from the bay or harbour which the vessel has illegally entered, or to a refusal or neglect to conform to any regulations or directions made under the Act, and as the purpose for which the vessel has entered will in most cases have been accomplished before an order can have been given for her departure, it will be obvious that this penalty has very little practical utility.

(2.) The common law penalties attaching to a violation of the Imperial statute above referred to in respect of illegally entering the bays and harbours of the Dominion. If, however, it were sought to enforce these penalties, their enforcement personally against the master of the vessel would result in his having ultimately to take his trial for a misdemeanour, while he would in the first instance be required to find bail to a considerable amount, a result which would, in the opinion of my Government, be regarded as more oppressive than the detention of the offending vessel subject to the investigation of her case by the Vice-Admiralty Courts.

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

I have, &c.
(Signed) LANSDOWNE.

Enclosure in No. 31.

No.

BILL.

[1886.

An Act further to amend the Act respecting Fishing by Foreign Vessels.

WHEREAS it is expedient for the more effectual protection of the inshore fisheries of Canada, against intrusion by foreigners, to further amend the Act intituled "*An Act respecting Fishing by Foreign Vessels*," passed in the thirty-first year of Her Majesty's reign, and chaptered sixty-one: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The third section of the hereinbefore recited Act, as amended by the Act thirty-third Victoria, chaptered fifteen, intituled "*An Act to amend the Act respecting Fishing by Foreign Vessels*," is hereby repealed, and the following section enacted in lieu thereof:

"3. Any one of the officers or persons hereinbefore mentioned may bring any ship, vessel or boat, being within any harbor in Canada, or hovering in British waters, within three marine miles of any of the coasts, bays, creeks or harbors in Canada, into port, and

search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command does not truly answer the questions put to him in such examination, he shall incur a penalty of four hundred dollars; and if such ship, vessel or boat is foreign, or not navigated according to the law of the United Kingdom or of Canada, and (a) has been found fishing or preparing to fish, or to have been fishing in British waters within three marine miles of any of the coasts, bays, creeks or harbors of Canada, not included within the above mentioned limits, without a license, or after the expiration of the term named in the last license granted to such ship, vessel or boat, under the first section of this Act, or (b) has entered such waters for any purpose not permitted by the law of nations, or by treaty or convention, or by any law of the United Kingdom or of Canada for the time being in force, or (c) having entered such waters has failed to comply with any such law of the United Kingdom or of Canada, such ship, vessel or boat and the tackle, rigging, apparel, furniture, stores and cargo thereof shall be forfeited. 33 V., c. 15, s. 1.

2. The Acts mentioned in the schedule hereto are hereby repealed.

3. This Act shall be construed as one with the said *Act respecting Fishing by Foreign Vessels* and the amendments thereto.

SCHEDULE.

Acts of the Legislature of the Province of Nova Scotia—Revised Statutes— Third Series.

Year, Reign, and Chapter.	Title of Act.	Extent of Repeal.
Chapter 94	Of the Coast and Deep Sea Fisheries	The whole.

Acts passed since the Revision of the Statutes.

29 Vic., c. 35 (1866) ..	An Act to amend Chapter 94 of the Revised Statutes "Of the Coast and Deep Sea Fisheries."	The whole.
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Acts of the Legislature of the Province of New Brunswick.

16 Vic., c. 69 (1853) ..	An Act relating to the Coast Fisheries and for the prevention of illicit trade.	The whole.
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Acts of the Legislature of the Province of Prince Edward Island.

6 Vic., c. 14 (1844).. ..	An Act relating to the Fisheries and for the prevention of illicit trade in Prince Edward Island and the Coasts and Harbors thereof.	The whole.
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9,613.

No. 32.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
June 1, 1886.

SIR,
I am directed by the Earl of Rosebery to request that you will call Earl Granville's attention to the words of the last paragraph of the warning to fishermen issued by the Canadian Minister of Marine and Fisheries on the 5th of March last, which forms inclosure No. 8 to your letter of the 21st of April last.*

This paragraph of the notice as issued, would apparently include in the prohibition to enter Canadian harbours for any purpose other than those four which are specified in

the convention of 1818, not only all *United States Fishing Vessels*, to which alone the notice is intended to apply, but also all vessels of whatever kind belonging to any foreign state. I am to state that in Lord Rosebery's opinion so sweeping and extraordinary an exclusion cannot have been intended, and to suggest that the immediate attention of the Canadian Government should be called to the matter with the view to the amendment of the notice in question.

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

The Under-Secretary of State,
Colonial Office.

9,637.

No. 33.

Foreign Office to Colonial Office.

Confidential.

FOREIGN OFFICE,
June 2, 1886.

SIR,

In reply to your letter of the 28th ultimo* relative to the New Dominion Act concerning foreign fishing vessels in Canadian ports, I am directed by the Earl of Rosebery to state to you that his Lordship concurs in Earl Granville's suggestion that time might be gained by deferring assent to the Act in question pending a reference to the Home Government.

In connection with this question, I am to inclose a copy of a telegram from Her Majesty's Minister at Washington to the effect that the United States Government have protested against the proposed Act.

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

The Under Secretary of State,
Colonial Office.

Enclosure in No. 33.

Decypher. Sir L. West, Washington.

May 31, 1886.

Treaty. Note from Secretary of State for Foreign Affairs protesting against Bill in Canadian Parliament as an assumption of jurisdiction unwarranted by existing conventions between Great Britain and United States. Copy by post.

44.—Secret.

No. 34.

Foreign Office to Colonial Office.

Secret.

FOREIGN OFFICE,
June 2, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you to be laid before Earl Granville a copy of a communication which his Lordship has received from the United States Minister at this court protesting against the Bill relating to the Fisheries which is now before the Canadian Parliament.

I am also to inclose a copy of a telegram which his Lordship has addressed to Sir L. West in reply to his despatch Treaty No. 28 of the 11th ultimo concerning a suggested interchange of views for arriving at some settlement of the points now in dispute upon the Fishery question.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 34.

LEGATION OF THE UNITED STATES, LONDON,

June 1, 1886.

MY LORD,

I have the honour to enclose for your perusal a copy of the translation of a cipher telegram which I have just received from the Secretary of State of the United States, and respectfully to ask your early attention to the subject it refers to.

I shall have the honour to submit to your Lordship in writing in behalf of my Government, within two or three days, some observations on the questions involved.

I have, &c.,
(Signed) E. J. PHELPS.

The Right Hon. Earl of Rosebery,
&c., &c., &c.

Copy of translated telegram from the Secretary of State of the United States to the United States Minister at London, May 30th, 1886.

Call attention of Lord Rosebery immediately to Bill number 136, now pending in the Parliament of Canada assuming to execute treaty of 1818, also circular 371, by Johnson, Commissioner of Customs, ordering seizure of vessels for violation of treaty. Both are arbitrary and unwarranted assumptions of power, against which you are instructed earnestly to protest, and state that the United States will hold Government of Great Britain responsible for all losses which may be sustained by American citizens in the dispossession of their property growing out of the search, seizure, detention, or sale of their vessels lawfully within territorial waters of British North America.

BAYARD.

Enclosure 2 in No. 34.

Telegram to Sir L. West.

June 1, 7.45 p.m.

Treaty. Your despatch No. 28. We do not object to a friendly intercourse of personal views between yourself and Mr. Bayard without prejudice and *ad referendum*. But, as we have not yet received the Canadian case, we cannot furnish you at present with definite instructions.

I made a proposal of negotiation to Phelps on May 24, to which I have received no reply.

40.—Secret.

No. 35.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

2nd June. Your Despatch No. 162.* Desirable to delay assent, or at least defer bringing into operation Bill, which at present juncture cannot fail to embarrass negotiations. Her Majesty's Government should have time to consider its provisions.

* No. 31.

9,297.

No. 36.

Colonial Office to Foreign Office.

Confidential.

DOWNING STREET,
2nd June, 1886.

SIR,

With reference to the letter from this department of the 28th ult.,* and to previous correspondence respecting the North American Fisheries Question, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a despatch† from the Governor-General of Canada forwarding a copy of a Bill recently introduced into the Dominion House of Commons for the purpose of amending the Act 31 Vic. cap. 61 respecting fishing by foreign vessels in the territorial waters of the Dominion.

I am also to enclose a copy of a telegram‡ which Lord Granville has addressed to the Marquis of Lansdowne on the subject.

I am, &c.

(Signed) JOHN BRAMSTON.

The Under Secretary of State,
Foreign Office.

45.—Secret.

No. 37.

Foreign Office to Colonial Office.

Very Confidential.

FOREIGN OFFICE,
June 3, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you for any observations which Earl Granville may have to offer a copy of a despatch from Her Majesty's Minister at Washington, relative to a proposal made by Mr. Bayard for the negotiation of some *modus vivendi* on the Fishery Question.

On this subject, I am to refer you to the telegram to Sir Lionel West of which a copy was enclosed in my letter of yesterday's date.

I am, &c.,

(Signed) J. PAUNCEFOTE.

The Under Secretary of State,
Colonial Office.

Enclosure in No. 37.

Very Confidential.

WASHINGTON,
May 21, 1886.

MY LORD,

At an interview which I had with the Secretary of State this day, I explained to him that I was unable to express any views on his notes of the 10th and 20th inst. until I should receive your Lordship's instructions, and I told him that I would telegraph the substance of his last one to your Lordship, who was probably now in possession of the first note.

Mr. Bayard said that he understood my inability as yet to take any step in the matter, and he then proceeded at great length to discuss the whole bearing of the questions at issue. He emphatically sustained the policy of the administration as indicated in the President's message, and of the temporary arrangement which had been come to, and said that he was seeking an opportunity still further to emphasize it publicly.

He regretted the denunciation of the Treaty of 1854, which had been productive of so much good feeling, as well as the abrogation of the Fishery Articles of the Treaty of

* No. 28.

† No. 31.

‡ No. 35.

Washington which had the same tendency, and he spoke strongly against the political principles of those who had thus been the cause of the present difficulties. The protective system, he continued, was like an arch from which if one stone was taken the rest would crumble, and those who had built the arch saw in "Free Fish" the removal of the stone and the consequences. But, he said, we must face the situation which has been thus created, and he then proceeded to reiterate the arguments used in his two notes against the interpretation of the Treaty of 1818 by the Government of the Dominion as inconsistent with the spirit of the Treaty of 1815, and all subsequent arrangements with Great Britain for establishing freedom of commerce.

Canadian vessels he affirmed were actually in the United States ports buying and selling bait unhindered, while United States vessels were being seized in Canadian ports for carrying on the same commercial transactions. "Bait" had become of no use for inshore fisheries, and he contended that the prohibition to purchase a commodity in a friendly port to be used outside territorial waters, was opposed to the commercial principles hitherto advocated and adopted by Her Majesty's Government.

I remarked to Mr. Bayard that perhaps a *modus vivendi* could be found, but that I was not empowered as yet to make any propositions.

He replied that he would communicate with me later, and a short time after our interview he suggested in a private note that we should prepare a *modus vivendi* "applicable to the present status of treaty and laws affecting fisheries, and also commercial intercourse between Canada and the United States," and that we should meet and see whether the propositions could be blended.

I have not replied as yet to this communication, as it is necessary that I should seek your Lordship's instructions by telegraph.

I have, &c.,
(Signed) L. S. WEST.

Earl Rosebery, &c., &c., &c.

9,700.

No. 38.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 3, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copies of despatches concerning the North American Fisheries question.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 38.

Sir L. West to the Earl of Rosebery. (Received May 24.)

(No. 29. Treaty.)

WASHINGTON,
May 11, 1886.

MY LORD,

I have the honour to report to your Lordship that the seizure of an American fishing vessel by the Canadian authorities for purchasing bait in Canadian waters has called forth Resolutions in the House of Representatives, a Bill in the Senate, and a Bill in the House, copies of which are herewith enclosed.

I have likewise the honour to enclose an article from the "New York Herald," as well as one from the "New York Times," on questions involved in the seizure.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Extracts from the "Congressional Record."

The "David J. Adams."

Mr. Dawes submitted the following Resolution, which was considered by unanimous consent, and agreed to:—

"Resolved,—That the President be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, any information in the possession of the Government concerning the alleged seizure of the United States' fishing vessel 'David J. Adams,' while engaged in lawful commerce in one of the ports in the Dominion of Canada, and what measures, if any, have been taken to protect fishing vessels of the United States while engaged in lawful commerce in the ports of the Dominion of Canada."

Mr. Dawes submitted the following Resolution, which was considered by unanimous consent, and agreed to:—

"Resolved,—That the Committee on Foreign Relations be instructed to inquire whether the United States' fishing vessel 'David J. Adams' has been seized while engaged in lawful commerce in a port of the Dominion of Canada, and what measures, if any, are necessary to protect the persons and property of American citizens while engaged in lawful commerce in the ports of the Dominion of Canada; and to report by Bill or otherwise."

Seizure of the Vessel "David J. Adams."

Mr. Stone, of Massachusetts, offered the following Resolution, which was read, and referred to the Committee on Foreign Affairs:—

"Whereas it is reported that an American fishing vessel, namely, the 'David J. Adams,' of Gloucester, Massachusetts, has recently been seized in Digby, Nova Scotia, for the alleged purchase of bait, by the British flag-ship 'Lansdowne,' in apparent violation of the commercial rights conceded to American vessels by the British Government:

"Ordered,—That the Committee on Foreign Affairs be instructed to inquire into the facts of the case, with authority to recommend such legislation as may be due to a proper sense of national dignity and to a just regard for the rights and interests of the national commerce."

Seizure of the "David J. Adams."

Mr. Breckinridge, of Arkansas, offered the following Resolution, which was read, and referred to the Committee on Foreign Affairs:—

"Whereas it is reported in the public prints that on the 7th May, at Digby, in the Dominion of Canada, the schooner 'David J. Adams,' owned by American citizens, was forcibly seized by the steamer 'Lansdowne,' under order of the Government of said Dominion, and is now held for further proceedings: Therefore,

"Be it resolved,—That the President of the United States be requested to inform this House, if not deemed by him incompatible with the good of the public service, what steps have been taken by him to have said seizure investigated, and to communicate to this House at the earliest practicable day what were the circumstances and the pretence under which said seizure was made."

. 49th Congress, 1st Session.—H. RES. 168.

IN THE HOUSE OF REPRESENTATIVES.

May 10, 1886.—Read twice, referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. Rice introduced the following joint Resolution:—

Joint Resolution for the Protection of American Fishermen.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the recent seizure of the United States' fishing schooner "Adams" by the Canadian Government, on the charge of purchasing fishing

bait in a Nova Scotia port, was a violation of the reciprocal commercial rights of citizens of the United States and of Great Britain, growing out of the principles of international comity recognized by the legislation of both countries, and demands of this Government prompt and efficient measures to obtain reparation to its citizens for this unlawful act, and to protect them against its repetition.

49th Congress, 1st Session.—S. 2,392.

IN THE SENATE OF THE UNITED STATES.

May 10, 1886.

Mr. Frye introduced the following Bill, which was read twice and referred to the Committee on Commerce:—

A Bill to Limit the Commercial Privileges of Vessels of Foreign Countries in the Ports of the United States to such Purposes as are accorded to American Vessels in the Ports of such Foreign Countries.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled. That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, it shall be the duty of the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, to issue his Proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign countries, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending the concessions previously granted to the vessels of such country; and on and after the date named in such Proclamation for it to take effect. if the master, officer, or agent of any vessel of such foreign country excluded by said Proclamation from the exercise of any commercial privileges shall do any act prohibited by said Proclamation in the ports, harbours, or waters of the United States, for or on account of such vessel, such vessel, and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this act, or aiding or abetting any other person in such opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanour, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years.

49th Congress, 1st Session.—H. R. 8630.

IN THE HOUSE OF REPRESENTATIVES.

May 10, 1886.—Read twice, referred to the Select Committee on American Ship-Building and Ship-Ownng Interests, and ordered to be printed.

Mr. Dingley introduced the following Bill:—

A Bill to Limit the Commercial Privileges of Vessels of Foreign Countries in the Ports of the United States to such Purposes as are accorded to American Vessels in the Ports of such Foreign Countries.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, it shall be the duty of the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, to issue his Proclamation excluding on and after such time as he may indicate,

all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, and suspending the concessions previously granted to the vessels of such foreign country to the extent herein provided, and on and after the date named in such Proclamation for it to take effect, if the master, or officer, or agent of any vessel of such foreign country excluded by said Proclamation from the exercise of any commercial privileges shall do any act prohibited by said Proclamation, in the ports, harbours, or waters of the United States, for and on account of said vessel, such vessel, and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and every person opposing any officer of the United States in the enforcement of this Act, or aiding or abetting any other person in any opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanour, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years.

Extract from the "New York Times" of May 11, 1886.

THE SEIZURE OF THE "ADAMS."—The case of the "David J. Adams" seized by the Dominion Government for purchasing bait contrary to the provisions of the Treaty of 1818, is not a very important or a very well-defined case for an international dispute. In the first place, it may be stated that it does not in any way involve, directly or indirectly, the fisheries rights that have for so many years—ever since the recognition of independence in fact—been a matter of discussion from time to time between our own and the British Government. At most, it involves, according to the Canadian pretensions, a violation of the following provision of the Treaty of 1818: "Provided, however, that the American fishermen shall be permitted to enter such bays or harbours (those of 'His Britannic Majesty's Dominions in America') for the purpose of shelter, of repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever."

The "Adams" was seized, according to our despatch of the 7th, by the Government steamer "Lansdowne" because the "purchase of bait" was proved to the satisfaction of the Admiral and the Collector of the Port, and she was sent to St. John for a judicial trial. It may be that after the trial has been had nothing more will be heard of the matter, for there is so little for the Dominion to gain and so much to lose from pressing its present view, and that view is so far from being clearly in accordance with the law, that it would be strange and wholly unprecedented if a Court could be found to sustain it.

On the other hand, the Congressmen who are rushing in with resolutions of inquiry and implications that our friendly relations with the Government of Great Britain are at stake may be regarded as addressing themselves to the deeply interested constituencies of the New-England coast rather than to the sober judgment of either the American people or the Department of the Government which has charge of such matters. The claim made by Senator Frye and by ex-Governor Dingley, of Maine, and sustained, so far as appears, by the Secretary of State, that the right of the fishing-vessels of the United States to enter British ports for the purchase of bait rests upon the mutually recognized and general principle of commercial freedom, is in its essence a strong one. It is a claim that will in due time undoubtedly be brought to the attention of the Government of Great Britain, and we do not believe there will be any serious difficulty in securing friendly attention to it. But, in the meantime, the case of the "Adams" would not seem to be a very strong one on which to rest the presentation of the claim.

The United States have provided by statute that any vessel intending to touch at foreign ports and engage, however modestly, in foreign trade, that is to say, in the purchase or sale of goods in such ports, shall obtain a permit from the United States' Collector of Customs at the port from which she sails, setting forth her intention. This permit the "Adams" is believed and generally conceded not to have held.

Again, it was stated in our despatch of the 7th that the vessel, when in Canadian waters, had "canvas fastened over the stern to prevent identification," thus indicating that her master was conscious of being in some way engaged in an improper business. If we are going to make a test case of our rights under the "reciprocal legislation" plea, let us at least select one in which the American vessel has complied with the Regulations we have ourselves made as to the exercise of the privileges or rights we claim.

The investigation which Congressmen demand will be made, as a matter of course, by the State Department through its ordinary Agencies. The Government is quite as much in earnest in sustaining the rights of Americans in foreign countries as Congressmen even from the New-England coast can be, and the Secretary of State is quite in sympathy with the view which regards the purchase of bait as an ordinary commercial right not depending at all on the Treaty of 1818 or on any other. If out of this case there can come any satisfactory understanding as to the rights and obligations on one side and on the other it will be fortunate, but there is no danger of any serious dispute over it.

Extract from the "New York Herald" of May 11, 1886.

THE ISSUE FORCED BY CANADA.—To support their seizure of the Gloucester schooner in Digby Bay, the Canadians, on the facts reported, must be maintaining one or both of these propositions :—

1. That the purchase of bait, which is the schooner's alleged offence, is not an act of legitimate commercial intercourse. But any such pretence is contradicted by the presence of Canadian vessels in our own ports at the same moment engaged in that very kind of purchase.

2. That the Statutes of Great Britain opening her Colonies to foreign trade, enacted since the Treaty of 1818, are limited by that Treaty so that they do not extend the liberty of commercial intercourse with Canadian ports to our fishing vessels. But Great Britain, not her Colonies, was the principal with whom we dealt in the Treaty, and we have yet to learn that she has delegated to Canada the right of construing it and her municipal law in her behalf on this point.

The United States cannot accept either proposition. Our first step must be to reach an understanding with Great Britain whether she ratifies or disavows her Colony's seizure of our vessel. If she disavows it, the trouble will come quickly to an end. If she ratifies it, the Bills introduced into Congress yesterday by Senator Frye and Representative Dingley, of Maine, are designed to invest the President with a power adapted to the occasion. They would authorize him to exclude Canada from commercial intercourse with us upon evidence of the denial to us of commercial intercourse with Canada. It was contended in the Senate a few weeks ago that he already has that power under the Statute of 1823, but this legislation is proposed for greater assurance of his authority.

If the Canadians can stand non-intercourse we can. That was substantially the relation between us and them, by virtue of the British "colonial system" and navigation laws, at the time of the Treaty of 1818. The subsequent Statutes of Great Britain abrogating that system and repealing those laws were reciprocated by the grant of commercial privileges by the United States. Both our country and Canada have profited by the downfall of the barrier, but Canada more than us, and Canada will suffer more if the barrier is put up again.

There is a minor point in the case of this schooner—that she had not taken out a licence for foreign trade under section 4364 of the Revised Statutes. But if that is so, it seems to be a matter between her owners and the United States—a technical point of which Great Britain cannot with propriety avail herself. The Canadian armed vessel could not have been aware of it at the time of the seizure. It should not be allowed to interfere with the main issue.

President Cleveland must be prepared to act promptly as soon as the facts come within his official cognizance, for he has had the probability of just such a seizure long in contemplation, and it is reasonable to suppose that he has matured a policy for the case. On the 9th April, more than a month ago, Secretary Bayard telegraphed to a fishing firm in Portland, Maine :—

"I expect to attain such an understanding (with Great Britain) as will relieve our fishermen from all doubt or risk in the exercise of the ordinary commercial privileges in friendly ports, to which, under existing laws of both countries, I consider their citizens to be mutually entitled free from molestation."

The debates in the Senate on the same day and on the 13th April, preceding the adoption of the Resolution declaring that, in the opinion of that body, no Fishery Commission should be appointed, showed that the President may rely on the unanimous approval of Congress in defending the title of our citizens when molested. The following brief passages are an illustration.

Referring to the Proclamation of the Canadian Minister of Marine, under which this seizure is said to be made, Senator Evarts, of New York, a representative Republican,

denounced it as taking a position for which there is "no support;" and Senator Morgan, of Alabama, a representative Democrat, said:—

"In the matter of buying bait or buying anything else our American fishermen have a right to go there (into Canadian ports) and get these things, although they are fishermen, for that is conceded to them under British law. . . . Our men in going there do not go under the license of the Treaty of 1818; they go under the license of the British Statute, and if the Statute is in existence at the time they go we should not hesitate to resent any wrong done to our people, any of them, for the performance of any act innocent at the time."

Enclosure 2 in No. 38.

Sir L. West to the Earl of Rosebery. (Received May 24.)

(No. 30. Treaty. Confidential.)

WASHINGTON,
May 11, 1886.

MY LORD,

With reference to my preceding despatch, I have the honor to inclose copy of a private letter, together with copy of the inclosure which accompanied it, which I have received from Mr. Bayard, and in consequence of which I telegraphed to the Marquis of Lansdowne in the following words:—

"Secretary of State deprecates conduct of Captain Scott in refusing to give reasons for seizure of 'Adams.'"

I inclose to your Lordship copy of my reply to Mr. Bayard's communication.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Mr. Bayard to Sir L. West.

WASHINGTON,
May 11, 1886.

MY DEAR SIR LIONEL,

I inclose a copy of a telegram just received from the United States' Consul-General at Halifax, who, in accordance with my instructions, is giving careful attention to the case of the American schooner "David J. Adams," seized by the Canadian steamer "Lansdowne" in Digby Basin some days ago.

The reported conduct of Captain Scott, of the "Lansdowne," in declining to give any reason for his seizure of the "Adams," is much to be deprecated, and it is due to the cause of law and order, which I am sure we both desire to serve, that no act of even doubtful authority should be exercised by the Provincial Authorities, and that, in the execution of undoubted powers, a calm and moderate vindication of the law should characterize all proceedings of an adversary character against Americans and their property. A harsh, uncivil administration of law adds nothing to its just force, but only furnishes cause for retaliatory action; and creates new difficulties in the settlement of international questions.

Indiscreet action on the part of the Canadian authorities should certainly be prevented in the interest of amicable relations.

Yours, &c.,
(Signed) T. F. BAYARD.

Mr. Phelan to Mr. Bayard.

TELEGRAPHIC.

DIGBY, UNITED STATES,
May 11, 1886.

"David J. Adams" delivered to Collector yesterday. This morning Captain Scott took possession of her again. I addressed him a note, asking why he detained the vessel. He replied by referring me to Ottawa. I will take the deposition of the captain and crew of the "Adams" as soon as they arrive.

Sir L. West to Mr Bayard.

Private.

WASHINGTON,
May 12, 1886.

DEAR MR. BAYARD,

I immediately telegraphed the substance of the telegram, copy of which was inclosed in your private letter of yesterday, respecting the seizure of the "Adams," to Lord Lansdowne, and wrote to him the same evening.

You may rest assured that whatever it is in my power to do to bring about a satisfactory understanding on the question at issue, as well as on all others that may arise in connection therewith, will be done, and that it is my earnest desire to carry out the instructions which I shall doubtless receive from my Government in this sense.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Enclosure 3 in No. 38.

Sir L. West to the Earl of Rosebery. (Received May 24.)

(No. 31. Treaty.)

WASHINGTON,
12th May, 1886.

MY LORD,

I have the honour to inclose to your Lordship herewith a Memorandum embodying the views expressed in letters addressed to the press by Representatives and others of the position of the United States' Government with regard to the Treaty of 1818.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Memorandum respecting the Contention of the American Fishing Interest.

THE United States' Government has always claimed that the proper construction of the Treaty of 1818 made the 3-mile limit follow the coast-line, and did not allow the line to be drawn from headland to headland, and thus exclude American fishermen from waters of arms of the ocean more than 3 miles from land. But this is not the question at issue. It is commercial rights which are now in dispute, and it is contended that under existing commercial relations between the two countries (Great Britain and the United States), United States' fishing vessels have the same right to enter Canadian ports and purchase bait to be used in the open sea fishing as Canadian vessels to enter United States' ports for the same purpose.

It is important that the commercial rights of American fishing vessels in Canadian ports should be settled, that is to say, whether they are to be determined by the restrictive principles of maritime intercourse which prevailed in 1818, or by the principles of maritime reciprocity inaugurated by the United States in 1824, and finally accepted by Great Britain in 1850.

Enclosure 4 in No. 38.

Sir L. West to the Earl of Rosebery. (Received May 24.)

(No. 33. Treaty.)

WASHINGTON,
May 13, 1886.

MY LORD,

With reference to my despatch No. 30, Treaty, of the 11th instant, I have the honour to enclose to your Lordship herewith copy of a private note which I have received from the Secretary of State in reply to mine of the 12th, together with copy of a further telegram from the United States' Consul-General at Halifax, the substance of which I also communicated to the Marquis of Lansdowne, who has replied in the following terms:—" 'Adams' will be proceeded against for violation of Customs Act of 1883, of Dominion Fishery Act of 1868, and of Convention of 1818. Captain Scott has been instructed to state reasons of seizure [in ?] all cases," and the substance of which I have communicated to Mr. Bayard.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Mr. Bayard to Sir L. West.

WASHINGTON,
May 12, 1886.

DEAR SIR LIONEL,

The tenour of your note of to-day is quite in accord with my expectations, and I cannot doubt that you will secure more circumspect and amicable action upon the part of the Canadian officials in relation to interference with American vessels not infracting Treaty stipulations against inshore fishing.

I enclose a copy of a telegram just received from the United States' Consul-General at Halifax, which I think you ought to see, because it indicates very loose methods in dealing with matters of grave importance.

Yours, &c.,
(Signed) T. F. BAYARD.

Mr. Phelan to Mr. Bayard.

TELEGRAPHIC.

DIGBY, UNITED STATES,
May 11, 1886.

THE charge against the "Adams" for violating the Customs was so trifling, that it seems they have abandoned it, and gone back to the charge of violating the fishery laws. The officers don't seem to know what to do. The "Adams" is here. The "Lansdowne" is here yet. Captain Scott refuses to state why the "Adams" was seized, or why she is held. This information is necessary to an intelligent defence, and I cannot understand why it is refused.

9,732.

No. 39.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
June 3, 1886.

(Confidential.)

SIR,

I am directed by the Earl of Rosebery to transmit to you a copy of a despatch from Her Majesty's Minister at Washington inclosing a copy of a second note from Mr. Bayard on the subject of the North American Fisheries; and I am to suggest that if Earl Granville sees no objection, the Government of Canada may be requested by telegraph to furnish any observations on this note (which has been communicated to the Marquis of Lansdowne) in addition to those which they may offer on Mr. Bayard's note referred to in my letter of the 26th ultimo.

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

The Under Secretary of State,
Colonial Office.

Enclosure in No. 39.

WASHINGTON,
May 21, 1886.

MY LORD,

With reference to my telegram of this day's date, I have the honour to enclose to your Lordship, herewith, copy of a further note which I have received from the Secretary of State, which after commenting upon the action of the Canadian authorities in the seizure of the American schooner "David J. Adams," concludes by requesting that orders may be issued, under the authority of Her Majesty's Government, that no vessel be seized unless the offence of fishing within the three mile limit is proved in conformity with the instructions issued by the British Government in 1870.

Your Lordship will understand that I am unable, in the absence of instructions, to reply to either of the notes of the Secretary of State. I have communicated copy of the above-mentioned note to the Marquis of Lansdowne.

I have, &c.,

(Signed) L. S. SACKVILLE WEST.

The Earl of Rosebery.

DEPARTMENT OF STATE,

Washington, May 20th, 1886.

SIR,

Although without reply to the note I had the honour to address to you on the 10th instant, in relation to the Canadian Fisheries, and the interpretation of the Treaty of 1818 between the United States and Great Britain, as to the rights and duties of the American citizens engaged in maritime trade and intercourse with the provinces of British North America, in view of the unrestrained, and, as it appears to me, unwarranted, irregular, and severe action of Canadian officials toward American vessels in these waters, yet I feel it to be my duty to bring impressively to your attention information more recently received by me from the United States Consul-General at Halifax, Nova Scotia, in relation to the seizure and continued detention of the American schooner, "David J. Adams," already referred to in my previous note, and the apparent disposition of the local officials to the most extreme and technical reasons for interference with vessels not engaged in or intended for inshore fishing on that coast.

The report received by me yesterday evening alleges such action in relation to the vessel mentioned as renders it difficult to imagine it to be that orderly proceeding and "due process of law" so well known and customarily exercised in Great Britain and the United States, and which dignifies the two Governments, and gives to private rights of property and the liberty of the individual their essential safeguards.

By the information thus derived it would appear that after four several and distinct visitations by boats' crews from the "Lansdowne," in Annapolis Basin, Nova Scotia, the "David J. Adams" was summarily taken into custody by the Canadian steamer, "Lansdowne," and carried out of the Province of Nova Scotia, across the Bay of Fundy, and into the port of St. John, New Brunswick, and, without explanation or hearing, on the following Monday, May 10, taken back again by an armed crew to Digby, in Nova Scotia. That, in Digby, the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the captain of the "David J. Adams," and of the United States Consul-General to be allowed to detach the writ from the mast for the purpose of learning its contents was positively refused by the Provincial official in charge. Nor was the United States Consul-General able to learn from the commander of the "Lansdowne" the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

In so extraordinary, confused, and irresponsible condition of affairs, it is not possible to ascertain with that accuracy which is needful in matters of such grave importance the precise grounds for this harsh and peremptory arrest and detention of a vessel the property of citizens of a nation with whom relations of peace and amity were supposed to exist.

From the best information, however, which the United States Consul-General was enabled to obtain, after application to the prosecuting officials, he reports that the "David J. Adams" was seized, and is now held:—

- 1st, for alleged violation of the Treaty of 1818;
- 2nd, for alleged violation of the Act 59 George III;
- 3rd, for alleged violation of the Colonial Act of Nova Scotia of 1868; and 4th, for alleged violation of the Act of 1870, and also of 1883, both Canadian statutes.

Of these allegations there is but one which at present I press upon your immediate consideration, and that is the alleged infraction of the Treaty of 1818.

I beg to recall to your attention the correspondence and action of those respectively charged with the administration and government of Great Britain and the United States in the year 1870, when the same international questions were under consideration, and the status of law was not essentially different from what it is at present.

This correspondence discloses the intention of the Canadian authorities of that day to prevent encroachment upon their inshore fishing grounds, and their preparations in the way of a marine police force, very much as we now witness. The statutes of Great Britain and of her Canadian provinces, which are now supposed to be invoked as

authority for the action against the schooner "David J. Adams," were then reported as the basis of their proceedings.

In his note of May 26, 1870, Mr. (afterwards Sir Edward) Thornton, the British Minister at this capital, conveyed to Mr. Fish, then Secretary of State, copies of the Orders of the Royal Admiralty to Vice-Admiral Wellesley, in command of the naval forces "employed in maintaining order at the fisheries in the neighbourhood of the coasts of Canada."

All of these orders directed the protection of Canadian fishermen, and cordial co-operation and concert with the United States force sent on the same service with respect to American fishermen in those waters. Great caution in the arrest of American vessels charged with violation of the Canadian fishing laws was scrupulously enjoined upon the British authorities and extreme importance of the commanding officers of ships selected to protect the fisheries exercising the utmost discretion in paying especial attention to Lord Granville's observation that no vessel should be seized unless it were evident and could be clearly proved that the offence of fishing had been committed and the vessel captured within three miles of land.

This caution was still more explicitly announced when Mr. Thornton, on the 11th of June, 1870, wrote to Mr. Fish—

"You are, however, quite right in not doubting what Admiral Wellesley, on the receipt of the later instructions addressed to him on the 5th ultimo, will have modified the directions to the officers under his command so that they may be in conformity with the views of the Admiralty.

"In confirmation of this I have since received a letter from Vice-Admiral Wellesley, dated the 30th ultimo, informing me that he had received instructions to the effect that officers of Her Majesty's ships employed in the protection of the fisheries should not seize any vessel unless it were evident and could be clearly proved that the offence of fishing had been committed and the vessel itself captured within three miles of land."

This understanding between the two Governments wisely and efficiently guarded against the manifest danger of entrusting the execution of powers so important and involving so high and delicate a discretion to any but wise and responsible officials whose prudence and care should be commensurate with the magnitude and national importance of the interests involved, and I should fail in my duty if I did not endeavour to impress you with my sense of the absolute and instant necessity that now exists for a restriction of the seizure of American vessels charged with violations of the treaty of 1818 to the conditions announced by Sir E. Thornton to this Government in June, 1870.

The charges of violating the Local Laws and Commercial Regulations of the Ports of the British provinces (to which I am desirous that due and full observance should be paid by citizens of the United States) I do not consider in this note, and I will only take this occasion to ask you to give me full information of the official action of the Canadian Authorities in this regard and what Laws and Regulations having the force of Law, in relation to the protection of their inshore fisheries and preventing encroachments thereon, are now held by them to be in force.

But I trust you will join with me in realizing the urgent and essential importance of restricting all arrests of American fishing vessels for supposed alleged violations of the Convention of 1818 within the limitations and conditions laid down by the Authorities of Great Britain in 1870, to wit, that no vessel shall be seized unless it is evident and can be clearly proved that the offence of fishing has been committed and the vessel itself captured within three miles of land.

In regard to the necessity for the instant imposition of such restrictions upon the arrest of vessels, you will, I believe, agree with me, and I will therefore ask you to procure such steps to be taken as shall cause such orders to be forthwith put in force under the authority of Her Majesty's Government.

I have, &c.,
(Signed) T. F. BAYARD.

The Hon. Sir L. S. West, K.C.M.G.

42.—Secret.

No. 40.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 3rd, 1886.)

TELEGRAPHIC.

2nd June. Your telegram of the 2nd.* Shall reserve Bill as calculated to embarrass negotiations now progressing.

* No. 35.

43.—Secret.

No. 41.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 3rd, 1886.)

TELEGRAPHIC.

2nd June. Secret. Please have it clearly explained that Bill is reserved solely on ground mentioned in my telegram of this day.* We object altogether to position taken by Bayard in despatch May 29th.† Great indignation will be felt here if reservation should be construed as acquiescence by Her Majesty's Government in Bayard's contention as to competence of Canadian Parliament and authorities.

41.—Secret.

No. 42.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

3rd June. Yours 27th.‡ We do not understand position taken by your Government. Continued seizure of vessels must necessarily preclude friendly negotiations. Some immediate opening of negotiation seems expedient, and would not weaken claim of Canada to maintenance of her rights.

When shall we know Judgment of Court case of "D. J. Adams"?

44.—Secret.

No. 43.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

3rd June, 1886. Following telegram received from United States' Minister :—

Begins. "Call attention of Lord Rosebery immediately to Bill No. 136, now pending in the Parliament of Canada, assuming to execute Treaty of 1818, also Circular 371 by Johnson, Commissioner of Customs, ordering seizure of vessels for violation of Treaty. Both are arbitrary and unwarranted assumptions of power, against which you are instructed earnestly to protest, and state that the United States will hold Government of Great Britain responsible for all losses which may be sustained by American citizens in the dispossession of their property growing out of the search, seizure; detention, or sale of their vessels lawfully within territorial waters of British North America." *Telegram ends.*

Telegraph purport of Circular 371.

9,793.

No. 44.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 4, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copies of despatches relative to the North American Fisheries question.

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

The Under-Secretary of State,
Colonial Office.

* No. 40.

† See Enclosure 2 in No. 64.

‡ No. 25.

Enclosure 1 in No. 44.

(Treaty No. 35.)

WASHINGTON,
May 18, 1886.

MY LORD,

I have the honour to enclose to your Lordship herewith an article from the New York Herald,* on a common policy with France on the Fisheries question, which appears to have been inspired by correspondence from Paris, which is likewise transmitted.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

The Earl of Rosebery,
&c., &c., &c.

Enclosure 2 in No. 44.

Sir L. West to the Earl of Rosebery. (Received May 31.)

(No. 37. Treaty.)

WASHINGTON,
May 21, 1886.

MY LORD,

With reference to my preceding despatch, I have the honour to enclose to your Lordship herewith copy of a private note which I have received from Mr. Bayard, which I have referred to the Marquis of Lansdowne.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

*Mr. Bayard to Sir L. West.*WASHINGTON,
May 20, 1886.

MY DEAR MR. WEST,

Since writing you my last note of to-day's date, my attention has been called to a statement that the American schooner "Jennie and Julia," of Eastport, Maine, having cleared from that port for Digby, Nova Scotia, made due entry at the latter port, and upon attempting to purchase a lot of herring for smoking, was warned that the vessel would be seized if herring were purchased for any purpose whatever, whereupon the vessel left without taking in cargo.

If, as it is to be inferred from the fact of the regular clearance and entry, the "Jennie and Julia" was documented for a trading voyage, the reported action of the Digby collector should be looked into very sharply.

It would certainly not help an amicable adjustment of the present difficulties if the provincial authorities were to initiate a policy of commercial non-intercourse by refusing to permit exportation of fish in American bottoms.

The report is attracting much attention, and I have telegraphed to our Consular Agent at Digby for a statement of the facts.

I should be glad to receive from you any information you may have in relation to the collector's action.

Very, &c.,
(Signed) T. F. BAYARD.

Enclosure 3 in No. 44.

Sir L. West to the Earl of Rosebery. (Received May 31.)

(No. 38. Treaty.)

WASHINGTON,
May 21, 1886.

MY LORD,

I have the honour to enclose to your Lordship herewith copy of a despatch† which I have received from the Marquis of Lansdowne in connection with the note of the

* Not printed.

† Enclosure 2 in No. 29.

Secretary of State of the 10th instant. I have taken occasion to communicate this despatch to Mr. Bayard, who expressed great satisfaction at its contents.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Enclosure 4 in No. 44.

(Treaty No. 39.)

WASHINGTON,
May 21, 1886.

MY LORD,

I have the honour to enclose to your Lordship herewith an article* from the New York Herald on retaliatory measures, and in this connection I have the honour to inform your Lordship that the Senate has passed the Bill copies of which were enclosed in my despatch No. 29 Treaty of the 11th instant.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

The Earl of Rosebery,
&c., &c.; &c.

Enclosure 5 in No. 44.

Sir L. West to the Earl of Rosebery. (Received May 31.)

(No 41. Treaty.)

WASHINGTON,
May 21, 1886.

MY LORD,

I have the honour to acknowledge the receipt of your Lordship's telegram of the 19th instant with reference to the seizures of American fishing vessels in the waters of Nova Scotia, and asking if I can suggest any *modus vivendi* to remove present friction. The note of the Secretary of State, copy of which was inclosed in my despatch No. 28, Treaty, of the 11th instant,† fully explains the contention of the United States Government with regard to the interpretation of the Treaty of 1818, and your Lordship will observe that it is distinctly asserted that the Governments of Great Britain and the United States as the Contracting Parties can alone apply authoritative interpretation thereto, or enforce its provisions by appropriate legislation, and that therefore the right of the Dominion Government to interpret it at all is thus ignored. It is sought, I presume, to obtain an arrangement to the effect that, since the date of the Treaty of 1818, laws and regulations affecting the trade between the North American provinces of Great Britain and the United States having been respectively adopted by the two countries, extending indeed the provisions of Article I of the Treaty of 1815 to the colonial possessions of Great Britain in North America and the West Indies, American vessels have the same right to enter Canadian ports for purposes of commerce as Canadian vessels have to enter the ports of the United States, and that the purchase of bait for deep sea fishing outside the three mile limit is not to be considered as punishable under the Treaty of 1818.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

9,295.

No. 45.

Colonial Office to Foreign Office.

Confidential.

DOWNING STREET,
4th June, 1886.

SIR,

With reference to previous correspondence relative to the North American Fisheries Question, I am directed by Earl Granville to transmit to you to be laid before the Earl of Rosebery, copies of despatches and telegrams‡ which have passed between the Secretary of State and the Governor-General of Canada on the subject.

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

The Under-Secretary of State,
Foreign Office.

* Not printed.

† Sent by post on the 12th.

‡ Nos. 11, 12, 13, 17, 18, 19, 20, 23, 24, 26, 29 (1st enclosure only), 30, 40, 41, 42, and 43.

44.—Secret.

No. 46.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

4th June. Terms of last paragraph of warning inclosed in your despatch 25th March* exclude not only United States but all foreign vessels from Canadian bays. Probably unintentional, as nothing in Act recited to justify this, but invite immediate attention of your Government with view to amendment of warning.

9,732.

No. 47.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

4th June. Her Majesty's Government desire to be furnished with observations of Dominion Government on Bayard's note 20th May† as soon as possible.

46.—Secret.

No. 48.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 5, 1886.)

TELEGRAPHIC.

4th June. Your telegram of the 3rd.‡ Customs Circular recites Article I. Convention 1818, and 2, 3, 4 of Canadian Fishery Act, 1868, and directs Customs officers furnish with warning notice any foreign fishing vessels found within three-mile limit except for four purposes specified in Convention as lawful. If vessel is found fishing, preparing to fish, or violating Convention by shipping men or supplies, or trading, or—if hovering—does not depart within twenty-four hours of warning, Collector is instructed to place officer on board and telegraph to Fishery Department, Ottawa.

9,807.

No. 49.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 5, 1886.)

TELEGRAPHIC.

5th June. Your Lordship's telegram of 4th June.§ Preliminary Report by Minister of Justice, sent by mail of 31st May, deals with Bayard's notes of 10th May and 20th May. Despatch founded on Report goes next week.

50. Secret.

No. 50.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
5th June, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copies of despatches which His Lordship has addressed to Her Majesty's Minister at Washington, relative to the Fishery question.

I am, &c.,

(Signed) J. PAUNCEFOTE.

The Under-Secretary of State,
Colonial Office.

* No. 3.

† Enclosure in No. 39.

‡ No. 43.

§ No. 47.

Enclosure 1 in No. 50.

The Earl of Rosebery to Sir L. West.

(No. 21A. Treaty.)

FOREIGN OFFICE,
May 29, 1886.

SIR,

The American Minister called on me to-day and read me a telegram from Mr. Bayard, of which I enclose a copy.

He again discussed at some length the provisions of the Treaty of 1818, and said that the newspapers which had reached him from America treated the matter as of little moment, because the British Government were sure not to support the action of the Canadian Administration. He also alluded to a correspondence with Lord Kimberley in 1871, in which Lord Kimberley stated that the Imperial Government was the sole interpreter of the British view of Imperial Treaties, and that they were not able to support the Canadian view of the bait clause. Mr. Phelps finally urged that the action of the Canadian Government should be suspended, which would then conduce to a friendly state of matters, which might enable negotiations to be resumed.

I replied to Mr. Phelps that, as regards the strict interpretation of the Treaty of 1818, I was in the unfortunate position, that there were not two opinions in this country on the matter, and that the Canadian view was held by all authorities to be legally correct. If we are now under the provisions of the Treaty of 1818 it was by the action, not of Her Majesty's Government, or of the Canadian Government, but by the wish of the United States. I had offered to endeavour to procure the prolongation of the temporary arrangement of last year, in order to allow an opportunity for negotiating; and that had been refused. A Joint Commission had been refused, and, in fact, as any arrangement, either temporary or permanent, had been rejected by the United States, it was not a matter of option but a matter of course that we returned to the existing Treaty. As to Lord Kimberley's view, I had had no explanation from him on that point, and of course I entirely concurred with his opinion that the British Government were the interpreters of the British view of Imperial Treaties. As regarded the wish expressed by Mr. Phelps that the present action should be suspended, when possibly an opportunity might arrive for negotiation, I said that that amounted to an absolute concession of the Canadian position with no return whatever, and I feared that the refusal of the United States to negotiate, for so I could not help interpreting Mr. Bayard's silence in answer to my proposition, would produce a bad effect, and certainly would not assist the Imperial Government in their efforts to deal with this question. In the meantime, however, I begged him simply to assure Mr. Bayard that I had received his communication, and that we were still awaiting the Canadian case and the details of the other seizures, that when we had received these, for which we had telegraphed, I hoped to be in a better position for giving an answer. Mr. Phelps also touched on the seizures of these ships, and I said that the legality of that would be decided in a Court of Law, and Mr. Phelps objected that it would be a Dominion Court of Law and not an Imperial Court. I replied that an appeal would lie to the Courts in this country, and Mr. Phelps pointed out that that procedure would be expensive; but I reminded him again that it was not our fault that we had been thrown on the provisions of the Treaty of 1818.

I am, &c.,

(Signed) ROSEBERY.

Mr. Bayard to Mr. Phelps. (Communicated to the Earl of Rosebery by Mr. Phelps, May 29.)

TELEGRAPHIC.

May 27, 1886.

You will say to Lord Rosebery that every disposition exists on our part to arrive at an amicable and just solution of Canadian fishery and trade question as the President has already manifested. Main point now is to have Treaty of 1818 so interpreted as not to destroy commercial intercourse, including purchase of bait for use in deep sea fishing. This was done by Great Britain in 1871, and its abandonment now would be inadmissible,* and adhered to now would relieve hardship and exasperation caused by summary arrest of vessels. Present action of Canadian authorities is calculated to obstruct settlement.

* This word is doubtful as to correct reading of cypher.

Enclosure 2 in No. 50.

The Earl of Rosebery to Sir L. West.

(No. 24. Treaty.)

FOREIGN OFFICE,
2nd June, 1886.

SIR,

The American Minister informed me to-day, in the course of conversation, that he was at this moment preparing a Statement of the American contention with regard to the recent seizures, under the terms of the Convention of 1818. He entered into a long argument to show that seizure was not provided for by law as a penalty for the infraction of this clause; that what was provided for was a punishment for American vessels fishing within the forbidden limits. He said that his Government could not admit the interpretation which apparently was accepted by the Canadian Government, and he mentioned the fact that in any case the American fishermen had no notice of the action that was going to be taken. As to the latter point, I replied that that was not the fault of Her Majesty's Government. On the 18th of March I had telegraphed to you to ask you to request the Secretary of State to issue a Notice such as we were about to issue to Canadian fishermen, and he had declined to do so. Mr. Phelps was not aware of this. I went on to say that the view of the American Government appeared to be this: "You are to accept our interpretation of the Treaty, whether it be yours or not, and in any case we will not negotiate with you." I said that that was not a tenable proposition. Mr. Phelps said that it was quite true that his Government, owing to circumstances of which I was aware, had not been able to negotiate, but as regarded the Treaty, he felt sure that he would be able to convince me that the American interpretation was correct. I said that, as regards the circumstances to which he had alluded, we had only to look to the United States Government, and could not look beyond it. He would remember that at almost our first interview on my accession to office I had proposed to him to endeavour to procure the continuation of the recent arrangement for a year, although that arrangement was disadvantageous to Canada in that it gave the United States all it wanted, and gave Canada nothing in return. We had also pressed on the United States Government the issue of a Joint Commission to investigate the matter, and that had also been refused. Further, on the 24th May, I made a proposal, personally indeed, but with all the weight which my official character could give, that Canadian action should be suspended, and negotiations should commence, and to this I had received no reply. In these circumstances, I could not feel that Her Majesty's Government had been wanting in methods of conciliation, and I begged him to send me his statement of his case as quickly as possible, for in the meantime there was such unanimity among our legal advisers as to the interpretation of the Treaty of 1818 that I had nothing to submit to them. As regards the cases themselves, I had as yet no details, nor was I in possession of the Bill or of the Circular to which Mr. Bayard's recent telegram referred.

I am, &c.,
(Signed) ROSEBERY.

9,732.

No. 51.

Colonial Office to Foreign Office.

Confidential.

DOWNING STREET,
5th June, 1886.

SIR,

I am directed by Earl Granville to acknowledge the receipt of your letter of the 3rd inst.,* forwarding a copy of a despatch from Her Majesty's Minister at Washington with a note from Mr. Bayard, relative to the North American Fisheries Question.

Lord Granville desires me to transmit to you for the information of the Earl of Rosebery, a copy of a telegram† which he has addressed to the Governor-General of Canada, requesting the observations of the Dominion Government upon the subject of this note.

I am, &c.

(Signed) JOHN BRAMSTON.

The Under-Secretary of State,
Foreign Office.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 7, 1886.)

(Secret and Confidential.)

GOVERNMENT HOUSE, OTTAWA,
26th May, 1886.

MY LORD,

I had the honour, in my despatch No. 162, of the 19th instant,* to state fully to your Lordship the circumstances under which, and the purposes for which, the Bill therein referred to for amending the Act respecting fishing by foreign vessels, had been introduced by my Government.

That such an amendment of the law is necessary, in order to carry out literally and strictly the provisions of the Convention of 1818, under which foreign fishing vessels are absolutely and without any reservation precluded from entering the bays and harbours of the Dominion, except for the purposes of shelter, repairing damages, and obtaining wood and water, is, I think, scarcely open to doubt. In this connection, I have nothing to add to the explanation contained in my despatch above referred to.

I think it, however, my duty to lay before your Lordship the strong doubts—doubts which I have pressed upon my Ministers from the time when I first became aware that they intended to have recourse to this legislation—which I feel as to the policy of an attempt on the part of the Dominion Government to alter the fishery law in this direction at the present moment.

I will enumerate briefly the reasons for which it appears to me that, under existing circumstances, such an alteration is uncalled for and undesirable.

1. This country and the United States being unfortunately involved in a dispute in regard to their respective rights, it should, I conceive, be the object of both to conduct themselves in such a manner as to avoid embittering the discussion, and to place as few obstacles as possible in the way of an amicable and mutually advantageous solution.

If, at the very outset, either of the parties to that dispute endeavours by special legislation to obtain for itself an advantage not secured to it by existing laws or treaties that party will be regarded as desiring to accentuate the present differences, instead of removing them.

As matters now stand, it may be fairly argued on behalf of the Dominion, that if its conduct in restricting the intercourse of American fishermen with its own people is in appearance unneighbourly and hostile, it is merely accepting the inevitable consequences of a position in which it finds itself placed through no fault of its own, but by the action—itsself hostile and unneighbourly—of the United States in abrogating the fishery clauses of the Treaty of Washington, and in refusing to authorise the President to take steps for laying the foundation of a new international arrangement in their place. This argument will, however, no longer be available if by the action of Canada that position is materially modified, and rendered more irksome to the United States than heretofore.

2. By the action of the United States in abrogating the Fishery Clauses of the Treaty of Washington, Canada finds herself, in regard to her inshore fisheries, under a condition of things which has obtained during two previous periods of her history, viz., before the conclusion of the Reciprocity Treaty of 1854, and between the abrogation of that Treaty and the conclusion of the Treaty of 1871. During those periods the law, as it now stands, sufficed to meet our requirements. If it be contended that the decisions of the Canadian Courts, referred to in my previous despatch, have thrown a doubt upon the liability to forfeiture of foreign vessels purchasing bait in Canadian harbours, it should be remembered that this very point has now been raised by the seizure of the "David J. Adams," and that this country might be expected to abide by the decision of its own courts, which will shortly be called upon to adjudicate in the matter.

The legislation now proposed can scarcely fail to weaken the position of the Dominion; the very fact of such legislation having been thought necessary will be regarded as a virtual admission that the claims hitherto put forward by Canada in regard to the right of foreign fishermen to buy bait and to ship crews in Canadian bays and harbours cannot be justified or sustained, and as a proof that the legality of former seizures is open to question.

3. The existing law, as I have pointed out to your Lordship, supplies remedies which can be enforced against the masters of American fishing vessels entering Canadian

harbours for purposes not permitted by the Convention of 1818. These remedies are no doubt inconvenient, and might possibly prove more onerous in some cases than that which the amending Bill would supply. It is, however, doubtful whether the inconvenience of these remedies will not prove less fruitful of trouble than the questions to which the proposed Bill may give rise.

4. Irrespectively of the foregoing considerations, I have felt bound to call the attention of my Ministers to the fact that while the Dominion Statute of 1868 (which it is sought to amend) follows closely the Imperial Statute of 1819, the amending Bill by rendering liable to forfeiture all foreign fishing vessels entering Canadian territorial waters for any purpose not permitted by the Convention, goes considerably beyond the Imperial statute, under which the penalty of forfeiture attaches only to such vessels as may be found "fishing or to have been fishing or preparing to fish." It appears to me that there are serious objections to an attempt on the part of the Canadian Government to place upon a contract entered into by the Imperial Government an interpretation more favourable to itself than that placed upon it by the Imperial legislature, an interpretation which, moreover, that legislature, dealing with the matter in the year following that in which the Convention was concluded, did not venture to give to it.

It is of the utmost importance that throughout this controversy the Imperial Government and that of the Dominion should act in close concert, and should assume a position as far as possible identical. This is doubly necessary in view of the argument frequently used by our opponents, that the matters at issue are of a kind with which the Colony has no right to deal by legislation of its own. That argument no doubt loses sight of the fact that all colonial legislation, in order to be permanently effectual, must receive the consent of Her Majesty. The argument, such as it is, will, however, derive additional strength if, in this instance, the legislature of the Colony should be found endeavouring to extend the scope of a contract made by the Imperial Government beyond the limits assigned to it by the Imperial Government itself, at the time when the contract was entered into.

I regret that these considerations appeared to my advisers to be outweighed by those advanced on the other side.

As I have not yet received any intimation of the policy of Her Majesty's Government in regard to these matters, and as it is open to Her Majesty's Government to disallow the measure, should it prove to be inconsistent with that policy, I shall not take the unusual and extreme course of withholding my assent to the Bill. I have, however, thought it desirable to make your Lordship fully aware of its nature, and of the circumstances which have led to its introduction, as well as the objections which may in my judgment be urged against it.

I may add that the reference in subsection *b* of the Bill, as printed in the copy which I had the honour to send your Lordship, to the "law of nations" will be omitted.

I have, &c.,
(Signed) LANSLOWNE.

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

9,815.

No. 53.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 7, 1886.)

GOVERNMENT HOUSE, OTTAWA,
26th May, 1886.

(No. 166.)

MY LORD,

With reference to my despatch No. 160 of the 18th instant,* I have the honour to forward to your Lordship herewith a copy of a further despatch from Sir Lionel West in connection with Mr. Bayard's note on the question arising from the seizures of American fishing vessels in Canadian waters.

I have, &c.,
(Signed) LANSLOWNE.

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

Enclosure in No. 53.

Minister at Washington to the Governor-General.

BRITISH LEGATION, WASHINGTON,

21st May, 1886.

(No. 59.)

MY LORD,

I have the honour to acknowledge the receipt of your Excellency's despatch No. 54 of the 17th instant, and to inform your Lordship that I took an opportunity of communicating it to the Secretary of State, who expressed great satisfaction at the conciliatory language used by your Excellency.

I have, &c.,

(Signed) L. S. SACKVILLE WIST.

The Marquis of Lansdowne, G.C.M.G.,

&c.,

&c.,

&c.

9,816.

No. 54.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 7, 1886.)

No. 167.

GOVERNMENT HOUSE, OTTAWA,

26th May, 1886.

MY LORD,

With reference to the concluding paragraph of my despatch, No. 161, of the 19th instant,* reporting the seizure of the American fishing schooner, "Ella M. Doughty," I have the honour to inform your Lordship that the vessel in question is being proceeded against in the same way as the "David J. Adams," viz., for violation of the Customs' Act of 1883, of the Dominion Fishery Act of 1868, and for contravention of the Treaty of 1818.

I have, &c.,

(Signed) LANSDOWNE.

The Right Hon. Earl Granville, K.G.,

&c.,

&c.,

&c.

48. Secret.

No. 55.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 8, 1886.)

TELEGRAPHIC.

7th June. Your telegram of the 3rd† as to the position of the Canadian Government. We object to the unconditional engagement to discontinue seizures, as involving abandonment of all our rights under Convention for rest of the season. American fishermen are fully aware of effect of Convention, and further seizures for buying bait not probable. No seizures will be made except for clear and deliberate violations. Will send probable date of "Adams" decision as soon as possible.

49. Secret.

No. 56.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 8, 1886.)

TELEGRAPHIC.

7th June. Your telegram of the 4th.‡ Warning as first issued contained reference to all foreign vessels. Amended issue merely recites Act and Convention, omitting reference. Last paragraph of Circular 371 is perhaps open to objection, as implying that Convention applies to all foreign vessels. This will receive attention.

* No. 30.

† No. 42.

‡ No. 46.

51. Secret.

No. 57.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 9, 1886.)

TELEGRAPHIC.

8th June. With reference to your telegram 4th,* following amendment agreed to in last paragraph of Circular: Line 3, leave out from "for" to "water" in line 4; line 6, leave out from "if" to "trading" in line 8, and insert following words, "if any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish." Despatch follows.

"Adams" case will not be decided for some weeks.

46. Secret.

No. 58.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
9th June, 1886.

SIR,

With reference to your letter of the 2nd instant,† relative to the North American Fisheries question, I am directed by Earl Granville to transmit to you, for the information of the Earl of Rosebery, the decypher of a telegram‡ from the Governor-General of Canada stating the purport of Circular No. 371, issued by the Dominion Commissioner of Customs.

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

The Under-Secretary of State,
Foreign Office.

50. Secret.

No. 59.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

Secret.

DOWNING STREET,
9 June, 1886.

MY LORD,

I have the honour to transmit to you for the confidential information of your Lordship's Government, copies of two despatches§ (received from the Foreign Office), which have been addressed by the Earl of Rosebery to Sir Lionel West, recording conversations held by his Lordship with the American Minister on the subject of the Fishery question.

I have, &c.,
(Signed) GRANVILLE.

The Marquis of Lansdowne.

10,133.

No. 60.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 11, 1886.)

(Confidential.)

GOVERNMENT HOUSE, OTTAWA,
31st May, 1886.

MY LORD,

I have the honour to enclose herewith copy of a Report prepared by my Minister of Justice upon Mr. Bayard's notes of the 10th and 20th instant, which were referred to him in the first instance.

* No. 46.

† No. 34.

‡ No. 48.

§ Enclosures in No. 50.

2. The substance of this Report, which is now before the Privy Council, will be incorporated in a Minute which I shall have the honour of forwarding to your Lordship as soon as it has been approved.

3. I had hoped to have been able to send the Minute in its final shape by to-day's mail, but the pressure of public business during the last days of the Session, which will end this week, renders it impossible for me to do so.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure in No. 60.

The undersigned having had under consideration the communication from Mr. Bayard, Secretary of State, dated at Washington the 10th May instant, and addressed to Her Majesty's Minister at Washington, in reference to the seizure of the fishing vessel "David J. Adams" submits the following observations in relation thereto.

Mr. Bayard suggests that "the Treaty of 1818 was between two nations, the United States of America and Great Britain, who, as the contracting parties, can alone apply authoritative interpretation thereto and enforce its provisions by appropriate legislation."

As it may be inferred from this statement that the right of the Parliament of Canada to make enactments for the protection of the fisheries of the Dominion, and the power of the Canadian officers to protect those fisheries are questioned, it may be well to state, at the outset, the grounds upon which it is conceived by the undersigned that the jurisdiction in question is clear beyond a doubt.

(1.) In the first place the undersigned would ask it to be remembered that the extent of the jurisdiction of the Parliament of Canada is not limited (nor was that of the provinces before the union) by the sea-coast, but extends to three marine miles from the shore, as to all matters over which any legislative authority can in any country be exercised within that space. The legislation which has been adopted on this subject by the Parliament of Canada (and previously to confederation by the provinces) does not extend beyond that limit. It may be assumed that in the absence of any Treaty stipulation to the contrary this right is so well recognised and established by both British and American law, that the grounds on which it is supported need not be stated here at large. The undersigned will merely add, therefore, to this statement of the position, that so far from the right being limited by the Convention of 1818 that Convention expressly recognises the right.

After renouncing the liberty "to take, cure, or dry fish on or within three marine miles of any of the coasts, bays, &c., there is a stipulation that while American fishing vessels shall be admitted to enter such bays, &c., for the purposes of shelter, and of repairing damages therein, of purchasing wood and of obtaining water," "they shall be under such restrictions as may be necessary to prevent their taking, curing, or drying fish therein, or in any other manner whatever abusing the privileges reserved to them."

(2.) "Appropriate legislation" on this subject was, in the first instance, adopted by the Parliament of the United Kingdom. The Imperial statute, 59 George III., chap. 38, was enacted in the year following the Convention, in order to give that Convention force and effect. That statute declared that except for the purposes before specified it should "not be lawful for any person or persons, not being a natural born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry, or cure any fish of any kind whatever, within three marine miles of any coasts, bays, creeks, or harbours whatever in any part of His Majesty's dominions in America, not included within the limits specified and described in the first Article of the said Convention, and that if such foreign ship, vessel, or boat, or any persons on board thereof, shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks, or harbours within such distance of His Majesty's dominions in America, out of the said limits as aforesaid, all such ships, vessels, and boats, together with their

“ cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be
 “ forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and
 “ condemned by such, and the like ways, means and methods, and in the same courts, as
 “ ships, vessels, or boats may be forfeited, seized, prosecuted, and condemned for any
 “ offence against any laws relating to the Revenue of Customs, or the laws of trade and
 “ navigation, under any Act or Acts of the Parliament of Great Britain, or of the
 “ United Kingdom of Great Britain and Ireland ; provided that nothing contained in
 “ this Act shall apply or be construed to apply to the ships or subjects of any Prince,
 “ Power, or State in amity with His Majesty, who are entitled by treaty with His
 “ Majesty to any privilege of taking, drying, or curing fish on the coasts, bays, creeks,
 “ or harbours, or within the limits in this Act described ;, provided always that it shall
 “ and may be lawful for any fisherman of the said United States to enter into any such
 “ bays or harbours of His Britannic Majesty’s dominions in America as are last-
 “ mentioned, for the purpose of shelter and repairing damages therein, of purchasing
 “ wood, and of obtaining water, and for no other purpose whatever ; subject nevertheless
 “ to such restrictions as may be necessary to prevent such fishermen of the said United
 “ States from taking, drying, or curing fish in the said bays or harbours, or in any other
 “ manner whatever abusing the said privileges by the said Treaty and this Act reserved
 “ to them, and as shall for that purpose be imposed by any order or orders to be from
 “ time to time made by His Majesty in Council, under the authority of this Act, and
 “ by any regulations which shall be issued by the governor or person exercising the office
 “ of governor in any such parts of His Majesty’s dominions in America, under or in
 “ pursuance of any such Order in Council as aforesaid.

“ And that if any person or persons upon requisition made by the Governor of
 “ Newfoundland, or the person exercising the office of governor, or by any governor in
 “ person exercising the office of governor in any other part of His Majesty’s dominions
 “ in America as aforesaid or by any officer or officers acting under such governor or
 “ person, exercising the office of governor in the execution of any orders or instructions
 “ from His Majesty in Council, shall refuse to depart from such bays or harbours, or if
 “ any person or persons shall refuse or neglect to conform to any regulations or directions
 “ which shall be made or given for the execution of any of the purposes of this Act ;
 “ every such person so refusing or otherwise offending against this Act shall forfeit the
 “ sum of two hundred pounds, to be recovered in the Superior Court of Judicature of
 “ the Island of Newfoundland or in the Superior Court of Judicature of the Colony or
 “ Settlement within or near to which such offence shall be committed, or by bill, plaint,
 “ or information in any of His Majesty’s Courts of Record at Westminster ; one
 “ moiety of such penalty to belong to His Majesty, his heirs and successors, and the
 “ other moiety to such person or persons as shall sue or prosecute for the same.”

The Acts passed by the provinces now forming Canada and also by the Parliament of Canada are to the same effect, and may be said to be merely declaratory of the law as established by the Imperial statute.

(3.) The authority of the Parliaments of the provinces, and, after confederation, the authority of the Parliament of Canada, to make enactments to enforce the provisions of the convention, and likewise the authority of Canadian Officers to enforce those Acts, rests on well known constitutional principles. Those Parliaments existed, and the Parliament of Canada now exists, by the authority of the Parliament of Great Britain, which is one of the “ nations ” referred to by Mr. Bayard as the “ contracting parties.” The Colonial statutes have received the sanction of the British Sovereign, who, and not the nation, is actually the party with whom the United States made the convention.

The officers who are engaged in enforcing the Acts of Canada, or the Laws of the Empire, are Her Majesty’s officers, although their authority may have been conveyed through the medium of Her Majesty’s Governor-General.

The jurisdiction thus exercised cannot therefore be properly described in the language used by Mr. Bayard as a “ supposed,” and therefore questionable, “ delegation “ of jurisdiction by the Imperial Government of Great Britain.”

Her Majesty governs in Canada as well as in Great Britain ; the officers in Canada are Her Majesty’s Officers, and the Statutes of Canada are Her Majesty’s Statutes passed on the advice of Her Parliament sitting in Canada.

It is, therefore, an error to conceive that, because Great Britain and the United States were, in the first instance, the contracting parties to the Treaty of 1818, no question arising under that Treaty can be “ responsibly dealt with,” either by the Parliament or by the authorities of the Dominion of Canada.

The undersigned has further to observe, with regard to this contention of Mr. Bayard, that in the proceedings which have recently been taken for the protection of the

Fisheries; no attempt has been made to put any special or novel interpretation on the Treaty of 1818. The seizures of the fishing vessels have been made in order to enforce the explicit provisions of that Treaty, the clear and long established provisions of the Imperial Statute, and of the Statutes of Canada.

The proceedings which have been taken to carry out the law of the Empire in this regard, are the same as those which have been taken, from time to time, during the period in which the Convention has been in force, and the seizures of vessels have been made under process of the Imperial Court of Vice-Admiralty established in one of the provinces of Canada.

Mr. Bayard's statement that "the discussion prior to the conclusion of the Treaty of Washington in 1871 was productive of a substantial agreement between the two countries as to the existence and limit of the three marine miles within the line of which, upon the regions defined in the Treaty of 1818, it should not be lawful for American fishermen to take, cure, or dry fish," does not appear to the undersigned to have any important bearing on the subject under consideration.

The correspondence preceding the Washington Treaty (1871) shows that while the United States insisted that the limit of the three marine miles should follow the sinuosities of the coast, the representatives of Great Britain distinctly claimed that the limit should be three marine miles from the coast line, or from a line drawn across the mouths of bays, harbours, and inlets from headland to headland.

A friendly and conciliatory spirit induced the Government of Great Britain to allow the right in that respect to remain in abeyance, and to refrain from the strict enforcement thereof; but no agreement was come to by which the right to have the line of demarcation drawn from headland to headland was given up on the part of Great Britain, and that right is now insisted upon by the Government of Canada as firmly as it is within the province of a Government subordinate to Imperial authority to do.

Mr. Bayard further observes that since the Treaty of 1818 "a series of laws and regulations affecting the trade between the North American Provinces and the United States, have been respectively adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants," and that "the independent and yet concurrent action of the two Governments has effected a gradual extension from time to time of the provisions of Article I. of the Convention of July 3rd, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the Colonial possessions of Great Britain in North America and the West Indies within the limits of that Treaty." In reference to this statement the undersigned has to observe that Mr. Bayard's letter proceeds to state certain instances in which it appears to be contended that the Laws and regulations so adopted have affected the provisions of the Convention, and the undersigned is obliged to assume that the argument is derived only from those instances, as he is unable to find any Law or Regulation which has been in the least degree infringed by the action of the Dominion Authorities in protecting their Fisheries.

He has referred to the Proclamation of President Jackson in 1830, creating "reciprocal commercial intercourse on terms of perfect equality of flag" between the United States and the British American Dependencies, and has suggested that those "commercial privileges have since received a large extension, and that in some cases favours have been granted by the United States without equivalent concession," such as "the exemption granted by the Shipping Act of June 26th, 1884, amounting to one half of the regular tonnage dues on all vessels from British North America and West Indies entering ports of the United States."

He has also mentioned under this head, "the arrangements for the transit of goods, and the remission by proclamation as to certain British Ports and places of the remainder of the tonnage tax on the evidence of equal treatment being shown" to United States Vessels.

The Proclamation of President Jackson in 1830, had no relation to the subject of the fisheries, and merely had the effect of opening United States Ports to British vessels on terms like those which prevailed in British Ports to vessels of the United States.

The undersigned, while insisting that such legislation can in no way afford a reason for treating the Convention of 1818 as in any way affected, as to its force and operation, desires to call attention to the fact that the object of those "Laws and Regulations" was purely of a commercial character, while the object of the Convention of 1818 was to establish and define the rights of the citizens of the two countries in relation to the fisheries on the British North American Coast. Bearing this reservation in mind, however, it may be conceded that large improvements have been made in aid of

commercial intercourse between the two countries, and that legislation in that direction has not been confined to the Government of the United States, as indeed Mr. Bayard has admitted, in referring to the case of the Imperial Shipping and Navigation Act of 1849. For upwards of forty years Canada has continued to evince her desire for a free exchange of the chief products of the two countries. She has repeatedly urged the desirability of the fuller reciprocity of trade which was established during the period in which the Treaty of 1854 was in force. That Treaty was terminated at the instance of the United States, and the Treaty of 1818 resumed its operation. Afterwards, by the negotiations which led up to the Washington Treaty (1871), Canada again manifested her willingness for even fuller reciprocal relations than the representatives of the United States were willing to sanction by that Treaty.

The same readiness on the part of the Dominion of Canada to extend and facilitate commercial intercourse between the two countries was again shown after the Fishery Clauses of the Treaty of Washington had been rescinded by the Government of the United States, when Canada suggested, through Her Majesty's Government, her willingness to have the subjects of fisheries and trade adjusted on a basis that would promote harmony and commercial intercourse.

Upon that occasion, and in order to give ample time for the consideration of her proposals in that regard, and to avoid an interruption in the meantime of friendly relations, she continued to allow the United States fishermen, for six months, all the advantages which the rescinded Fishery Clauses had previously given them; although her people received from the United States none of the corresponding advantages, which the Treaty of 1871 had declared to be an equivalent for the benefits secured thereby to the fishermen of the United States.

The laws prevailing in Canada in relation to the registry of shipping, extend still more liberty than those of the United States, while in relation to the reduction of tonnage dues on Canadian vessels it has escaped the attention of Mr. Bayard that Canada imposes no such dues on United States vessels.

The Ports of Canada in inland waters are free to vessels of the United States, and those vessels are admitted to the use of her canals on equal terms with Canadian vessels.

Canada allows free registry to vessels built in the United States and purchased by British citizens, charges no tonnage or light dues on United States shipping, and extends a standing invitation for a large measure of reciprocity in trade.

Whatever relevancy therefore the argument may have to the subject under consideration, the undersigned submits that the concessions which Mr. Bayard refers to as "favours," can hardly be said not to have been met by equivalent concessions on the part of Canada, and inasmuch as the disposition of Canada continues to be the same as was evinced in the friendly legislation just referred to, it would seem that Mr. Bayard's charge of "showing hostility to commerce under the guise of protection to inshore fisheries," or "interrupting ordinary commercial intercourse by harsh measures and unfriendly administration," is hardly justified.

But even if the Convention of 1818 had been a Treaty of Commerce the undersigned suggests that the adoption by either country of domestic laws extending commercial relations could not be held to abrogate the terms of agreement between the two countries. The questions, however, as has already been suggested, which are in controversy between Great Britain and the United States prior to 1818 related, not to shipping and commerce, but to the liberties of United States fishermen in waters adjacent to the British North American provinces. Those questions were definitely settled by the Convention of that year, and although the terms of that Convention have since been twice suspended, first by the Treaty of 1854, and afterwards by the Treaty of 1871, after the lapse of these two latter Treaties, the provisions made in 1818 came again into operation, and were carried out by the Imperial and Colonial Authorities without the slightest doubt being raised as to their being in full force and vigour.

Mr. Bayard's contention that the effect of the legislation which has taken place under the Convention of 1818, and of executive action thereunder would be "to expand the restrictions and renunciations of that Treaty which related solely to inshore fishing within the three mile limit, so as to affect the deep sea fisheries," and so as "to diminish and practically destroy the privileges expressly secured to American fishing vessels to visit these inshore waters for the objects of shelter, and repair of damages and purchasing wood and obtaining water," appears to the undersigned to be unfounded. The legislation referred to in no way affects those privileges, nor has the Government of Canada taken any action towards their restriction. In the cases of the recent seizures, which are the immediate subject of Mr. Bayard's letter, the vessels seized had not resorted to Canadian waters for any one

of the purposes allowed. They were United States fishing vessels, and, against the plain terms of the Convention of 1818, had entered harbours of Canada for purposes other than those enumerated as lawful. In doing so the "David J. Adams" was not even possessed of a permit "to touch and trade," even if such a document could be supposed to divest her of the character of a fishing vessel. While the Government of Canada has no desire to expand the restrictions of the Convention of 1818, the undersigned believes that the fair inference to be drawn from Mr. Bayard's contention is that the desire of the United States Government is to extend very largely the privileges which their citizens enjoy under its terms. The contention that the changes which may from time to time take place in the habits of the fish taken off our coasts, or in the methods of taking them, should be regarded as justifying a periodical revision of the provisions of the Treaty, cannot be acceded to. Such changes may from time to time render the provisions of the compact inconvenient to one party or the other, but the validity of the agreement can hardly be said to depend on the convenience or inconvenience which it imposes from time to time on one or other of the contracting parties. When the operation of its provisions can be shown to have become manifestly inequitable and unfair, the utmost that goodwill and fair dealing can suggest is that the terms should be reconsidered, and a new compact entered into; but this the Government of the United States does not appear to have considered desirable.

It is not, however, the case that the Convention of 1818 affected only the inshore fisheries of the British Provinces; it was framed with the object of affording a complete and exclusive definition of the rights and liberties which the fishermen of the United States were thenceforward to enjoy in following their vocation, so far as those rights could be affected by facilities for access to the shores or waters of the British Provinces, or for intercourse with their people. It is, therefore, no undue expansion of the scope of that Convention to interpret strictly those of its provisions by which such access is denied, except to vessels requiring it for the purposes specifically described. An undue expansion of the scope of the Convention would, upon the other hand, certainly take place, if under cover of its provisions, or of any agreements relating to general commercial intercourse which may have since been made, permission were accorded to United States fishermen to resort habitually to the harbours of the Dominion, not for the sake of seeking safety for their vessels, or of avoiding risk to human life, but in order to use those harbours as a general base of operations from which to prosecute and organize, with greater advantage to themselves, the industry in which they are engaged. The undersigned, therefore, cannot concur in Mr. Bayard's contention, that "to prevent the purchase of bait, or any other supply needed for deep sea fishing," "would be to expand the Convention to objects wholly beyond the purview, scope, and intent" of the Treaty, and to "give to it an effect never contemplated."

Mr. Bayard suggests that the possession by a fishing vessel of a permit to "touch and trade" should give her a right to enter Canadian ports for other than the purposes named in the Treaty, or, in other words, should give her perfect immunity from the provisions of the Treaty. This would amount to a practical repeal of the Treaty, because it would enable a United States Collector of Customs, by issuing a license, originally only intended for purposes of domestic Customs regulation, to give exemption from the Treaty to every United States fishing vessel. The observation that similar vessels under the British flag have the right to enter the ports of the United States for the purchase of supplies, loses its force when it is remembered that the Treaty of 1818 contained no restrictions on British vessels, and no renunciation of any privileges in regard to them.

Mr. Bayard states that in the proceedings prior to the Treaty of 1818, the British Commissioners proposed that United States fishing vessels should be excluded "from carrying also merchandise," but that this proposition "being resisted by the American negotiators was abandoned," and goes on to say, "This fact would seem clearly to indicate that the business of fishing did not then and does not now disqualify vessels from also trading in the regular 'ports of entry.'" A reference to the proceedings alluded to will show that the proposition mentioned had reference only to United States vessels visiting those portions of the coast of Labrador and Newfoundland on which the United States fishermen had been granted the right to fish, and to land for drying and curing fish, and the rejection of the proposal can only, therefore, be used to indicate that the right to carry merchandise exists in relation to those coasts, and is no ground for supposing that the right extends to the regular ports of entry, against the express words of the Treaty.

The proposition of the British negotiators was to append to Article 1 the following words: "It is, therefore, well understood that the liberty of taking, drying, and curing

“ fish, granted in the preceding part of this Article, shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty’s subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States.” It was also proposed to limit them to having on board such goods as might be necessary for the prosecution of the fishery, or the support of the fishermen while engaged therein, or in the prosecution of their voyages to and from the fishing ground.”

To this the American negotiators objected on the ground that the search for contraband goods, and the liability to seizure for having them in possession, would expose the fishermen to endless vexation, and in consequence the proposal was abandoned. It is apparent, therefore, that this proviso in no way referred to the bays or harbours outside the limits assigned to the American fishermen, from which bays and harbours, before and after this proposition was discussed, it was agreed that United States fishing vessels were to be excluded for all purposes other than for shelter and repairs and purchasing wood and obtaining water.

But Mr. Bayard’s argument that the rejection of a proposition should lead to an interpretation adverse to the tenor of such proposition suggests strong evidence that United States fishing vessels were not intended to have the right to enter Canadian waters for bait, to be used even in the prosecution of the deep sea fisheries. The United States negotiators made the proposition that the words “and bait” be added to the enumeration of objects for which their fishermen might be allowed to enter, and the proposition was rejected. This could only have referred to the deep sea fishing, because the inshore fisheries had already been specifically renounced.

Mr. Bayard on more than one occasion intimates that the interpretation of the Treaty and its enforcement are dictated by local and hostile feelings, and that the main question is being “obscured by partizan advocacy and distorted by the heat of local interests,” and that the administration of the laws is being “conducted in a punitive and hostile spirit which can only tend to induce steps of a retaliatory nature,” and in conclusion expresses a hope that “ordinary commercial intercourse shall not be interrupted by harsh measures and unfriendly administration.”

The undersigned observes that it is not the wish of the Government or the people of Canada to interrupt for a moment the most friendly commercial intercourse. The mercantile vessels and the commerce of the United States have at present exactly the same freedom that they have for years past enjoyed in Canada, and the disposition of the Canadian Government is to extend reciprocal trade with the United States beyond its present limits; nor can it be admitted that the charge of local prejudice or hostile feeling is justified by the calm enforcement, through the courts of the country, of the plain terms of a Treaty between Great Britain and the United States, and the statutes which have been in operation for nearly seventy years, excepting in intervals during which (until put an end to by the United States Government) special and more liberal provisions existed in relation to the commerce and fisheries of the two countries.

The undersigned has also to call attention to the letter of Mr. Bayard of the 20th instant, likewise addressed to Her Majesty’s Minister at Washington, relating also to the seizure of the “David J. Adams” in the Port of Digby, Nova Scotia. That vessel was seized, as has been explained on a previous occasion, by the Commander of the Canadian steamer “Lansdowne,” under the following circumstances. She was a United States fishing vessel, and entered the harbour of Digby for purposes other than those for which entry is permitted by the Treaty and by the Imperial and Canadian Statutes. As soon as practicable legal process was obtained from the Vice-Admiralty Court at Halifax, and the vessel was delivered to the officers of that Court. The paper referred to in Mr. Bayard’s letter as having been nailed to her mast, was doubtless a copy of the warrant which commanded the marshal, or his deputy, to make the arrest. The undersigned is informed that there was no intention whatever of so adjusting the paper that its contents could not be read; but it is doubtless correct that the officer of the Court in charge declined to allow the document to be removed. Both the United States Consul-General and the Captain of the “David J. Adams” were made acquainted with the reasons for the seizure, and the only ground for the statement, that a respectful application to ascertain the nature of the complaint was fruitless, was that the Commander of the “Lansdowne,” after the nature of the complaint had been stated to those concerned and was published, and had become notorious to the people of both countries, declined to give the United States Consul-General a specific and precise statement of the charges upon which the vessel would be proceeded against, but referred him to his superior.

While it is to be regretted that this should seem to be discourteous, the officer of the “Lansdowne” can hardly be said to have been pursuing an “extraordinary” course.

The legal proceedings had at that time been commenced in the Court of Vice-Admiralty at Halifax, where the United States Consul-General resides, and the officer at Digby could not state with precision, as he was called on to do, the grounds on which the intervention of the Court had been claimed in the proceedings therein. There was not in this instance the slightest difficulty in the United States Consul-General, and those interested in the vessel, obtaining the fullest information; and no information which could have been given by those to whom they applied was withheld. Apart from the general knowledge of the offences which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the Registry of the Court, and from the Solicitor for the Crown, and would have been furnished immediately on application to the authority to whom the Commander of the "Lansdowne" requested the United States Consul-General to apply. No such information could have been obtained from the paper attached to the vessel's mast. Instructions have, however, been given to the Commander of the "Lansdowne" and other officers of the Marine Police, that in the event of any further seizures, a statement in writing shall be given to the master of the seized vessel of the offences charged, and that a copy thereof shall be sent to the United States Consul-General at Halifax, and to the nearest United States Consular Agent. There can be no objection to the Solicitor for the Crown being instructed likewise to furnish the Consul-General with a copy of the legal process in each case, if it can be supposed that any fuller information will thereby be given.

Mr. Bayard is correct in his statement of the reasons for which the "David J. Adams" was seized and is now held. It is claimed that the vessel violated the Treaty of 1818, and consequently the statutes which exist for the enforcement of that Treaty, and it is also claimed that she violated the Customs Laws of Canada of 1883. The undersigned recommends that copies of these statutes be furnished for the information of Mr. Bayard.

Mr. Bayard has in the same despatch recalled the attention of Her Majesty's Minister to the correspondence and action which took place in the year 1870, when the Fishery question was under consideration, and especially to the instructions of the Royal Admiralty to Vice-Admiral Wellesley, in which that officer was directed to observe great caution in the arrest of American fishermen, and to confine his action to one class of offences against the Treaty. Mr. Bayard, however, appears to have attached unwarranted importance to the correspondence and instructions of 1870, when he refers to them as implying an "understanding between the two Governments." An understanding which should, in his opinion, at other times, and under other circumstances, govern the conduct of the authorities, whether Imperial or Colonial, to whom, under the laws of the Empire, is committed the duty of enforcing the Treaty in question. When, therefore, Mr. Bayard points out the "absolute and instant necessity that now exists for "a restriction of the seizure of American vessels charged with violations of the Treaty of 1818," to "the conditions specified under those instructions," it is necessary to recall the fact that in the year 1870 the action of the Imperial Government was probably influenced very largely by the prospect which then existed of an arrangement such as was accomplished in the following year by the Treaty of Washington, and that it may be inferred, in view of the disposition made apparent on both sides to arrive at such an understanding, that the Imperial Authorities, without any surrender of Imperial or Colonial rights, and without acquiescing in any limited construction of the Treaty, instructed their Vice-Admiral in British North America to confine his seizures to the more open and injurious class of offences, which were especially likely to be brought within the cognisance of the Naval Officers of the Imperial service.

The condition of affairs at the present time is entirely different. No circumstances exist which would seem to call for any such restrictive instructions. The Canadian Government, as has been already stated, for six months left its fishing grounds open to American fishermen without any corresponding advantage in return, in order to afford time for the action of Congress in regard to the President's suggestion that a commission should be appointed to consider the subjects involved in the Fishery clauses of the Treaty of Washington. Congress has evinced no desire to carry out that recommendation, and the undersigned respectfully submits that the adoption of instructions, limiting in any way the enforcement of the laws for the protection of the Fisheries is a step against which it is the duty of the Government of Canada most respectfully to protest.

10,107.

No. 61.

Governor Sir G. W. des Vœux, K.C.M.G., (Newfoundland) to the Right Hon. the Earl Granville, K.G. (Received June 11, 1886.)

TELEGRAPHIC.

10th June. My Ministers, in accordance with very strong and almost unanimous public opinion, and at request of Joint Committee of Houses of Legislature, desire me to request orders or instructions under Act of Parliament 59 George III, cap. 38, section 4, to require American fishermen to depart from bays and harbours of Newfoundland. No seizure contemplated, and penalties can rarely, if ever, be enforced. Measure intended rather as moral support to Canadian Government, and considered may have deterrent effect.

10,335.

No. 62.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 14th, 1886.)

(No. 176.)

GOVERNMENT HOUSE, OTTAWA,
31st May, 1886.

MY LORD,

With reference to previous correspondence I have the honour to transmit herewith, for your Lordship's information, copies of two despatches which I have received from Her Majesty's Minister at Washington, enclosing copies of further notes from Mr. Bayard, in connection with the action of this Government in respect of the fisheries.

I have communicated copies of Sir Lionel West's despatches and their enclosures to my Ministers.

I have, &c.,
(Signed) LANSDOWNE.

The Right Hon.

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

Enclosure 1 in No. 62.

(No. 60.)

BRITISH LEGATION, WASHINGTON,
21st May, 1886.

MY LORD,

I have the honour to enclose herewith for your Excellency's information, copy of a further note* which I have received from the Secretary of State respecting the seizure of American fishing vessels in Canadian waters.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

To the Marquis of Lansdowne, G.C.M.G.,
&c., &c., &c.

Enclosure 2 in No. 62.

(No. 61.)

BRITISH LEGATION, WASHINGTON,
21st May, 1886.

MY LORD,

I have the honour to enclose to your Excellency herewith copy of a private note† which I have received from Mr. Bayard, asking for information as to the alleged proceedings of the Canadian authorities at Digby, N. S., in the case of the American schooner "Jennie and Julia."

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

To the Marquis of Lansdowne, G.C.M.G.,
&c., &c., &c.

* See Enclosure in No. 59.

† See Enclosure 2 in No. 44.

10,133.

No. 62A.

Colonial Office to Foreign Office.

Confidential.

DOWNING STREET,
June 14th, 1886.

SIR,

With reference to your letters of the 26th ult. and 3rd inst.,* I am directed by Earl Granville to transmit to you to be laid before the Earl of Rosebery a copy of a despatch from the Governor-General of Canada, enclosing a Report by the Dominion Minister of Justice on Mr. Bayard's notes of the 10th and 20th ult., relative to the North American Fisheries Question.

I am, &c.,

(Signed) EDWARD WINGFIELD.

The Under-Secretary of State,
Foreign Office.

10,449

No. 63.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 14, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you, to be laid before Earl Granville, a copy of a Note from the United States' Minister at this Court containing representations respecting the recent seizures of American Fishing Vessels in Canadian Ports, and I am to state that His Lordship has referred this communication, as well as Mr. Bayard's Note enclosed in Sir L. West's despatch Treaty No. 28 of the 11th ultimo, to the Law Officers of the Crown for any observations they may have to offer in anticipation of the detailed exposition of the views of the Canadian Government which Lord Rosebery hopes may now be received before long.

I am, &c.,

(Signed) J. PAUNCEFOTE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 63.

*Mr. Phelps to the Earl of Rosebery. (Received June 7.)*LEGATION OF THE UNITED STATES, LONDON,
June 2, 1886.

MY LORD,

Since the conversation I had the honour to hold with your Lordship on the morning of the 29th ultimo, I have received from my Government a copy of the Report of the Consul-General of the United States at Halifax, giving full details and depositions relative to the seizure of the "David J. Adams," and the correspondence between the Consul-General and the Colonial authorities in reference thereto.

The Report of the Consul-General, and the evidence annexed to it, appear fully to sustain the points I submitted to your Lordship in the interview above referred to, touching the seizure of this vessel by the Canadian officials.

I do not understand it to be claimed by the Canadian authorities that the vessel seized had been engaged, or was intending to engage, in fishing within any limit prohibited by the Treaty of 1818. The occupation of the vessel was exclusively deep sea fishing, a business in which it had a perfect right to be employed. The ground upon which the capture was made was that the master of the vessel had purchased of an inhabitant of Nova Scotia, near the port of Digby in that province, a day or two before, a small quantity of bait to be used in fishing in the deep sea, outside the three mile limit.

The question presented is whether under the terms of the Treaty, and the construction placed upon them in practice for many years by the British Government, and in view of the existing relations between the United States and Great Britain, that transaction affords a sufficient reason for making such a seizure, and for proceeding under it to the confiscation of the vessel and its contents.

I am not unaware that the Canadian authorities, conscious, apparently, that the affirmative of this proposition could not easily be maintained, deemed it advisable to supplement it with a charge against the vessel of a violation of the Canadian Customs Act of 1833, in not reporting her arrival at Digby to the Customs officer. But this charge is not the one on which the vessel was seized, or which must now be principally relied on for its condemnation, and standing alone could hardly, even if well founded, be the source of any serious controversy. It would be at most, under the circumstances, only an accidental and purely technical breach of a Custom-house Regulation, by which no harm was intended, and from which no harm came, and would, in ordinary cases, be easily condoned by an apology, and perhaps the payment of costs.

But trivial as it is, this charge does not appear to be well founded in point of fact. Digby is a small fishing settlement, and its harbour not defined. The vessel had moved about and anchored in the outer part of the harbour, having no business at or communication with Digby, and no reason for reporting to the officer of Customs.

It appears by the Report of the Consul-General to be conceded by the Customs authorities there that fishing-vessels have for forty years been accustomed to go in and out of the bay at pleasure, and have never been required to send ashore and report when they had no business with the port, and made no landing, and that no seizure had ever before been made or claimed against them for so doing.

Can it be reasonably insisted under these circumstances that by the sudden adoption, without notice, of a new rule, a vessel of a friendly nation should be seized and forfeited for doing what all similar vessels had for so long a period been allowed to do without question?

It is sufficiently evident that the claim of a violation of the Customs Act was an afterthought brought forward to give whatever added strength it might to the principal claim on which the seizure had been made.

Recurring, then, to the only real question in the case, whether the vessel is to be forfeited for purchasing bait of an inhabitant of Nova Scotia to be used in lawful fishing, it may be readily admitted that, if the language of the Treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port "for any purpose whatever," except to obtain wood or water, to repair damages, or to seek shelter. Whether it would be liable to the extreme penalty of confiscation for a breach of this prohibition, in a trifling and harmless instance, might be quite another question.

Such a literal construction is best refuted by considering its preposterous consequences. If a vessel enters a port to post a letter, or send a telegram, or buy a newspaper, to obtain a physician in case of illness, or a surgeon in case of accident, to land or bring off a passenger, or even to lend assistance to the inhabitants in fire, flood, or pestilence, it would, upon this construction, be held to violate the Treaty stipulations maintained between two enlightened, maritime, and most friendly nations, whose ports are freely open to each other in all other places and under all other circumstances. If a vessel is not engaged in fishing, she may enter all ports. But if employed in fishing not denied to be lawful, she is excluded, though on the most innocent errand. She may buy water, but not food or medicine; wood, but not coal. She may repair rigging, but not purchase a new rope, though the inhabitants are desirous to sell it. If she even entered the port (having no other business) to report herself to the Custom House, as the vessel in question is now seized for not doing, she would be equally within the interdiction of the Treaty. If it be said these are extreme instances of violation of the Treaty, not likely to be insisted on, I reply that no one of them is more extreme than the one relied upon in this case.

I am persuaded that your Lordship will, upon reflection, concur with me that an intention so narrow, and in its results so unreasonable and so unfair, is not to be attributed to the High Contracting Parties who entered into this Treaty.

It seems to me clear that the Treaty must be construed in accordance with those ordinary and well-settled rules applicable to all written instruments, which, without such salutary assistance, must constantly fail of their purpose. By these rules the letter often gives way to the intent, or, rather, is only used to ascertain the intent. The whole document will be taken together, and will be considered in connection with the attendant circumstances, the situation of the parties, and the object in view. And thus

the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended.

Upon these principles of construction, the meaning of the clause in question does not seem doubtful. It is a Treaty of friendship, and not of hostility. Its object was to define and protect the relative rights of the people of the two countries in these fisheries, not to establish a system of non-intercourse, or the means of mutual and unnecessary annoyance. It should be judged in view of the general rules of international comity, and of maritime intercourse and usage, and its restrictions considered in the light of the purposes they were designed to serve.

Thus regarded, it appears to me clear that the words, "for no other purpose whatever," as employed in the Treaty, mean no other purposes inconsistent with the provisions of the Treaty, or prejudicial to the interests of the provinces or their inhabitants, and were not intended to prevent the entry of American fishing-vessels into Canadian ports for innocent and mutually beneficial purposes, or unnecessarily to restrict the free and friendly intercourse customary between all civilized maritime nations, and especially between the United States and Great Britain. Such, I cannot but believe, is the construction that would be placed upon this Treaty by any enlightened Court of Justice.

But even were it conceded that if the Treaty was a private contract instead of an international one, a Court, in dealing with an action upon it, might find itself hampered by the letter from giving effect to the intent, that would not be decisive of the present case.

The interpretation of Treaties between nations in their intercourse with each other proceeds upon broader and higher considerations. The question is not what is the technical effect of the words, but what is the construction most consonant to the dignity, the just interests, and the friendly relations of the sovereign Powers. I submit to your Lordship that a construction so harsh, so unfriendly, so unnecessary, and so irritating as that set up by the Canadian authorities is not such as Her Majesty's Government has been accustomed either to accord or to submit to. It would find no precedent in the history of British diplomacy, and no provocation in any action or assertion of the Government of the United States.

These views derive great if not conclusive force from the action of the British Parliament on the subject, adopted very soon after the Treaty of 1818 took effect, and continued without change to the present time. An Act of Parliament (59 Geo. III, cap. 38) was passed on the 14th June, 1819, to provide for carrying into effect the provisions of the Treaty. After reciting the terms of the Treaty, it enacts (in substance) that it shall be lawful for His Majesty, by Orders in Council, to make such regulations and to give such directions, orders, and instructions to the Governor of Newfoundland, or to any officer or officers in that station, or to any other persons, "as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of said Convention with relation to the taking, drying, and curing of fish by inhabitants of the United States of America, in common with British subjects, within the limits set forth in the aforesaid Convention."

It further enacts that any foreign vessel engaged in fishing or preparing to fish within three marine miles of the coast (not authorized to do so by Treaty) shall be seized or forfeited upon prosecution in the proper Court.

It further provides as follows:—

"That it shall and may be lawful for any fisherman of the said United States to enter into any such bays or harbours of His Britannic Majesty's dominions in America as are last mentioned, for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever; subject, nevertheless, to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying, or curing fish in the said bays or harbours, or in any other manner whatever abusing the said privileges by the said Treaty and this Act reserved to them, and as shall for that purpose be imposed by any Order or Orders to be from time to time made by His Majesty in Council under the authority of this Act; and by any regulations which shall be issued by the Governor, or person exercising the office of Governor, in any such parts of His Majesty's dominions in America, under or in pursuance of any such Order in Council as aforesaid."

It further enacts as follows:—

"That if any person or persons, upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor in any other parts of His Majesty's dominions in America as aforesaid, or by any officer or officers acting under such Governor or

“ person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbours ; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act ; every such person so refusing, or otherwise offending against this Act, shall forfeit the sum of 200*l.*, to be recovered,” &c.

It will be perceived from these extracts, and still more clearly from a perusal of the entire Act, that while reciting the language of the Treaty in respect to the purposes for which American fishermen may enter British ports, it provides no forfeiture or penalty for any such entry, unless accompanied either (1) by fishing, or preparing to fish, within the prohibited limits ; or (2) by the infringement of restrictions that may be imposed by Orders in Council to prevent such fishing, or the drying or curing of fish, or the abuse of privileges reserved by the Treaty ; or (3) by a refusal to depart from the bays or harbours upon proper requisition.

It thus plainly appears that it was not the intention of Parliament, nor its understanding of the Treaty, that any other entry by an American fishing vessel into a British port should be regarded as an infraction of its provisions, or as affording the basis of proceedings against it.

No other Act of Parliament for the carrying out of this Treaty has ever been passed. It is unnecessary to point out that it is not in the power of the Canadian Parliament to enlarge or alter the provisions of the Act of the Imperial Parliament, or to give to the Treaty either a construction or a legal effect not warranted by that Act.

But until the effort which I am informed is now in progress in the Canadian Parliament for the passage of a new Act on this subject, introduced since the seizures under consideration, I do not understand that any Statute has ever been enacted in that Parliament which attempts to give any different construction or effect to the Treaty from that given by the Act of 59 George III.

The only Provincial Statutes which, in the proceedings against the “ David J. Adams,” that vessel has thus far been charged with infringing are the Colonial Acts of 1868, 1870, and 1883. It is therefore fair to presume that there are no other Colonial Acts applicable to the case, and I know of none.

The Act of 1868, among other provisions not material to this discussion, provides for a forfeiture of foreign vessels “ found fishing, or preparing to fish, or to have been fishing in British waters within three marine miles of the coast ;” and also provides a penalty of 400 dollars against a master of a foreign vessel within the harbour who shall fail to answer questions put in an examination by the authorities. No other Act is, by this Statute, declared to be illegal, and no other penalty or forfeiture is provided for.

The very extraordinary provisions in this Statute for facilitating forfeitures, and embarrassing defence against or appeal from them, not material to the present case, would, on a proper occasion, deserve very serious attention.

The Act of 1870 is an amendment of the Act just referred to, and adds nothing to it affecting the present case.

The Act of 1883 has no application to the case, except upon the point of the omission of the vessel to report to the Customs Officer, already considered.

It results, therefore, that, at the time of the seizure of the “ David J. Adams ” and other vessels, there was no Act whatever, either of the British or Colonial Parliaments which made the purchase of bait by those vessels illegal or provided for any forfeiture, penalty, or proceedings against them for such transaction. And even if such purchase could be regarded as a violation of that clause of the Treaty which is relied on, no Law existed under which the seizure could be justified. It will not be contended that Custom House Authorities or Colonial Courts can seize and condemn vessels for a breach of the stipulations of a Treaty, when no legislation exists which authorises them to take cognizance of the subject, or invests them with any jurisdiction in the premises. Of this obvious conclusion the Canadian authorities seem to be quite aware. I am informed that since the seizures they have pressed, or are pressing, through the Canadian Parliament in much haste an Act which is designed, for the first time in the history of the legislation under this Treaty, to make the facts upon which the American vessels have been seized illegal, and to authorize proceedings against them therefor.

What the effect of such an Act will be in enlarging the provisions of an existing Treaty between the United States and Great Britain need not be considered here. The question under discussion depends upon the Treaty, and upon such legislation, warranted by the Treaty, as existed when the seizures took place.

The practical construction given to the Treaty down to the present time has been in entire accord with the conclusions thus deduced from the Act of Parliament. The

British Government has repeatedly refused to allow interference with American fishing-vessels, unless for illegal fishing, and has given explicit orders to the contrary.

On the 26th May, 1870, Mr. Thornton, the British Minister at Washington, communicated officially to the Secretary of State of the United States copies of the orders addressed by the British Admiralty to Admiral Wellesley, commanding Her Majesty's naval forces on the North American Station, and of a letter from the Colonial Department to the Foreign Office, in order that the Secretary might "see the nature of the instructions to be given to Her Majesty's and the Canadian officers employed in maintaining order at the fisheries in the neighbourhood of the coasts of Canada." Among the documents thus transmitted is a letter from the Foreign Office to the Secretary of the Admiralty, in which the following language is contained:—

"The Canadian Government has recently determined, with the concurrence of Her Majesty's Ministers, to increase the stringency of the existing practice of dispensing with the warnings hitherto given, and seizing at once any vessel detected in violating the law.

"In view of this change, and of the questions to which it may give rise, I am directed by Lord Granville to request that you will move their Lordships to instruct the officers of Her Majesty's ships employed in the protection of the fisheries that they are not to seize any vessel unless it is evident, and can be clearly proved, that the offence of fishing has been committed, and the vessel itself captured, within three miles of land."

In the letter from the Lords of the Admiralty to Vice-Admiral Wellesley of the 5th May, 1870, in accordance with the foregoing request, and transmitting the letter above quoted from, there occurs the following language:

"My Lords desire me to remind you of the extreme importance of Commanding Officers of the ships selected to protect the fisheries exercising the utmost discretion in carrying out their instructions, paying special attention to Lord Granville's observation, that no vessel should be seized unless it is evident, and can be clearly proved, that the offence of fishing has been committed, and that the vessel is captured within three miles of land."

Lord Granville, in transmitting to Sir John Young the aforesaid instructions, makes use of the following language:—

"Her Majesty's Government do not doubt that your Ministers will agree with them as to the propriety of these instructions, and will give corresponding instructions to the vessels employed by them."

These instructions were again officially stated by the British Minister at Washington, to the Secretary of State of the United States, in a letter dated the 11th June, 1870.

Again, in February, 1871, Lord Kimberley, Colonial Secretary, wrote to the Governor-General of Canada as follows:—

"The exclusion of American fishermen from resorting to Canadian ports, except for the purpose of shelter, and of repairing damages therein, purchasing wood, and of obtaining water, might be warranted by the letter of the Treaty of 1818, and by the terms of the Imperial Act 59 Geo. III. cap. 38; but Her Majesty's Government feel bound to state that it seems to them an extreme measure, inconsistent with the general policy of the Empire, and they are disposed to concede this point to the United States' Government, under such restrictions as may be necessary to prevent smuggling, and to guard against any substantial invasion of the exclusive rights of fishing which may be reserved to British subjects."

And in a subsequent letter from the same source to the Governor-General, the following language is used:—

"I think it right, however, to add that the responsibility of determining what is the true construction of a Treaty made by Her Majesty with any foreign Power must remain with Her Majesty's Government, and that the degree to which this country would make itself a party to the strict enforcement of the Treaty rights may depend not only on the literal construction of the Treaty, but on the moderation and reasonableness with which these rights are asserted."

I am not aware that any modification of these instructions, or any different rule from that therein contained, has ever been adopted or sanctioned by Her Majesty's Government.

Judicial authority upon this question is to the same effect. That the purchase of bait by American fishermen in the provincial ports has been a common practice is well known, but in no case, so far as I can ascertain, has a seizure of an American vessel ever been enforced on the ground of the purchase of bait, or of any other supplies. On

the hearing before the Halifax Fisheries Commission in 1877-78 this question was discussed, and no case could be produced of any such condemnation. Vessels shown to have been condemned were in all cases adjudged guilty either of fishing, or preparing to fish, within the prohibited limit.

And in the case of the "White Fawn," tried in the Admiralty Court at New Brunswick before Judge Hazan in 1870, I understand it to have been distinctly held that the purchase of bait, unless proved to have been in preparation for illegal fishing, was not a violation of the Treaty nor of any existing Law, and afforded no ground for proceedings against the vessel.

But even were it possible to justify on the part of the Canadian authorities the adoption of a construction of the Treaty entirely different from that which has always heretofore prevailed, and to declare those acts criminal which have hitherto been regarded as innocent, upon obvious grounds of reason and justice, and upon common principles of comity to the United States' Government, previous notice should have been given to it or to the American fishermen of the new and stringent restrictions it was intended to enforce.

If it was the intention of Her Majesty's Government to recall the instructions which I have shown had been previously and so explicitly given relative to interference with American vessels, surely notice should have been given accordingly.

The United States have just reason to complain, even if these restrictions could be justified by the Treaty, or by the Acts of Parliament passed to carry it into effect, that they should be enforced in so harsh and unfriendly a manner, without notice to the Government of the change of policy, or to the fishermen of the new danger to which they were thus exposed.

In any view, therefore, which it seems to me can be taken of this question, I feel justified in pronouncing the action of the Canadian authorities in seizing and still retaining the "David J. Adams" to be not only unfriendly and discourteous, but altogether unwarrantable.

The seizure was much aggravated by the manner in which it was carried into effect. It appears that four several visitations and searches of the vessel were made by boats from the Canadian steamer "Lansdowne" in Annapolis Basin, Nova Scotia. The "Adams" was finally taken into custody, and carried out of the Province of Nova Scotia across the Bay of Fundy and into the port of St. John's, New Brunswick; and, without explanation or warning, on the following Monday, the 10th May, taken back by an armed crew to Digby, in Nova Scotia. That, in Digby, the paper alleged to be the legal precept for the capture and detention of the vessel was nailed to her mast in such manner as to prevent its contents being read, and the request of the Captain of the "David J. Adams," and of the United States' Consul-General, to be allowed to detach the writ from the mast, for the purpose of learning its contents, was positively refused by the provincial official in charge. Nor was the United States' Consul-General able to learn from the Commander of the "Lansdowne" the nature of the complaint against the vessel, and his respectful application to that effect was fruitless.

From all the circumstances attending this case, and other recent cases like it, it seems to me very apparent that the seizure was not made for the purpose of enforcing any right or redressing any wrong. As I have before remarked, it is not pretended that the vessel had been engaged in fishing, or was intended to fish, in the prohibited waters, or that it had done, or was intending to do, any other injurious act. It was proceeding upon its regular and lawful business of fishing in the deep sea. It had received no request, and, of course, could have disregarded no request, to depart, and was in fact departing when seized; nor had its master refused to answer any questions put by the authorities.

It had violated no existing law, and had incurred no penalty that any known statute imposed.

It seems to me impossible to escape the conclusion that this and other similar seizures were made by the Canadian authorities for the deliberate purpose of harassing and embarrassing the American fishing vessels in the pursuit of their lawful employment, and the injury, which would have been a serious one if committed under a mistake, is very much aggravated by the motives which appear to have prompted it.

I am instructed by my Government earnestly to protest against these proceedings as wholly unwarranted by the Treaty of 1818, and altogether inconsistent with the friendly relations hitherto existing between the United States and Her Majesty's Government; to request that the "David J. Adams" and the other American fishing vessels now under seizure in Canadian ports be immediately released; and that proper orders may be issued to prevent similar proceedings in the future; and I am also

instructed to inform you that the United States will hold Her Majesty's Government responsible for all losses which may be sustained by American citizens in the dispossession of their property growing out of the search, seizure, detention, or sale of their vessels lawfully within the territorial waters of British North America.

The real source of the difficulty that has arisen is well understood. It is to be found in the irritation that has taken place among a portion of the Canadian people on account of the termination, by the United States' Government, of the Treaty of Washington on the 1st July last, whereby fish imported from Canada into the United States, and which, so long as that Treaty remained in force, was admitted free, is now liable to the import duty provided by the General Revenue Laws. And the opinion appears to have gained ground in Canada that the United States may be driven, by harassing and annoying their fishermen, into the adoption of a new Treaty by which Canadian fish shall be admitted free.

It is not necessary to say that this scheme is likely to prove as mistaken in policy as it is indefensible in principle. In terminating the Treaty of Washington the United States were simply exercising a right expressly reserved to both parties by the Treaty itself, and of the exercise of which by either party neither can complain. They will not be coerced by wanton injury into the making of a new one. Nor would a negotiation that had its origin in mutual irritation be promising of success. The question now is not what fresh Treaty may or might be desirable, but what is the true and just construction, as between the two nations, of the Treaty that already exists.

The Government of the United States, approaching this question in the most friendly spirit, cannot doubt that it will be met by Her Majesty's Government in the same spirit, and feels every confidence that the action of Her Majesty's Government in the premises will be such as to maintain the cordial relations between the two countries that have so long happily prevailed.

I have, &c.,
(Signed) E. J. PHELPS.

10,698.

No. 64.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 16th, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you, to be laid before Earl Granville, copies of despatches from Her Majesty's Minister at Washington relative to the North American Fisheries Question, and with reference to Mr. Bayard's note of the 29th ultimo, I am to suggest that a copy of the Circular therein alluded to should be obtained from the Canadian Government.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 64.

Sir L. West to the Earl of Rosebery. (Received June 7.)

(No. 45. Treaty. Confidential.)

WASHINGTON,
May 27, 1886.

MY LORD,

In connection with the fishery dispute, several important considerations occur bearing on the maintenance of the amicable relations between the two countries. My correspondence with your Lordship's predecessor sets forth the serious difficulty which arose in consequence of the policy pursued by this Government in dealing with the representations of Her Majesty's Government relative to the proceedings of the Irish "suspects," as well as the fixed purpose of the Irish party to take advantage of any circumstances which might arise, for the purpose of creating ill-feeling between the two

Governments. But this difficulty having been happily got over, and the endeavour to foment discord out of it having failed, other circumstances which have arisen seem likely to afford a still more favourable opportunity for the furtherance of this object, and it is to the situation thus created that I am desirous of calling the attention of Her Majesty's Government, and to submit that the matter now in dispute may thus be made the cause of serious complications, apart from the merits of the fisheries question. Another consideration also is, that any misunderstanding with Her Majesty's Government growing out of a dispute with that of the Dominion would probably interrupt the friendly intercourse hitherto carried on through Her Majesty's Legation between Canada and the United States in all matters concerning extradition cases, and questions arising out of Indian insurrections and raids. The United States' Government, as your Lordship is aware, ignores the independent action of the Canadian Government where Treaty rights are involved, and looks to the Imperial Government alone for all authoritative decisions concerning their interpretation.

Were ill-feeling engendered by any passing events, they might also refuse to treat directly with Canada those questions to which I have alluded, and to which contiguity necessarily gives rise, even although the inconvenience of such a course might be as great to themselves as to the Canadian Government. The proximity of British possessions is a source of constant irritation, and the hope of annexation is ever present. It is thought that retaliatory measures inflicting injury on Canadian industry will promote this end, and that the discontent in consequence caused by the interruption of the ordinary fishing transactions which, it is asserted by the American press, exists in the Canadian fishing provinces, may lead to complications between those provinces and the Dominion Government which will have the effect of causing at least separation, and perhaps, also, antagonism between the Imperial Government and that of Canada. There appear, therefore, to be political reasons for keeping alive the irritation which has been the outcome of the fishery dispute, and they also must be borne in mind in dealing with the present situation, inasmuch as they may be made the means of thwarting any amicable arrangement.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Enclosure 2 in No. 64.

Sir L. West to the Earl of Rosebery. (Received June 11.)

(No. 46. Treaty.)

WASHINGTON,
May 30, 1886.

MY LORD,

With reference to my Treaty telegram of this day's date, I have the honour to inclose to your Lordship herewith copy of the note therein alluded to which I have received from the Secretary of State, protesting against the provisions of the Bill in the Canadian Parliament as an assumption of jurisdiction unwarranted by existing Conventions between Great Britain and the United States, and informing me that the United States' Minister in London had been instructed in this sense.

At an interview which I had yesterday with Mr. Bayard, he again alluded to the right of the Dominion Government to interpret a Treaty between Great Britain and the United States, but he was not at the time aware of the proceedings in the Canadian Parliament, and only sought for information as to the relation of the Legislatures of Great Britain and Canada. It was only after I left him that he received the copy of the Bill in question, upon which he addressed to me the note, copy of which accompanies this despatch.

I have forwarded copy of Mr. Bayard's note to the Marquis of Lansdowne for his Excellency's information.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON,

May 29, 1886.

SIR,

I have just received an official imprint of House of Commons Bill No. 136, now pending in the Canadian Parliament, entitled "An Act further to amend the Act respecting fishing by foreign vessels," and am informed that it has passed the House, and is now pending in the Senate.

This Bill proposes the forcible search, seizure, and forfeiture of any foreign vessel within any harbour in Canada or hovering within three marine miles of any of the coasts, bays, creeks, or harbours in Canada, where such vessel has entered such waters for any purpose not permitted by the laws of nations, or by Treaty or Convention, or by any law of the United Kingdom or of Canada now in force.

I hasten to draw your attention to the wholly unwarranted proposition of the Canadian authorities, through their local agents, arbitrarily to enforce according to their own construction the provisions of any Convention between the United States and Great Britain, and, by the interpolation of language not found in any such Treaty, and by interpretation not claimed or conceded by either party to such Treaty, to invade and destroy the commercial rights and privileges of citizens of the United States under and by virtue of Treaty stipulations with Great Britain and Statutes in that behalf made and provided.

I have also been furnished with a copy of Circular No. 371, purporting to be from the Customs Department at Ottawa, dated the 7th May, 1886, and to be signed by J. Johnson, Commissioner of Customs, assuming to execute the provisions of the Treaty between the United States and Great Britain concluded the 20th October, 1818; and printed copies of a "Warning" purporting to be issued by George E. Foster, Minister of Marine and Fisheries, dated Ottawa, 5th March, 1886, of a similar tenour, although capable of unequal results in its execution.

Such proceedings I conceive to be flagrantly violative of the reciprocal commercial privileges to which citizens of the United States are lawfully entitled under Statutes of Great Britain and the well-defined and publicly proclaimed authority of both countries, besides being in respect of the existing Conventions between the two countries an assumption of jurisdiction entirely unwarranted, and which is wholly denied by the United States.

In the interest of the maintenance of peaceful and friendly relations I give you my earliest information on this subject, adding that I have telegraphed Mr. Phelps, our Minister at London, to make earnest protest to Her Majesty's Government against such arbitrary, unlawful, unwarranted; and unfriendly action on the part of the Canadian Government and its officials, and have instructed Mr. Phelps to give notice that the Government of Great Britain will be held liable for all losses and injuries to citizens of the United States and their property caused by the unauthorized and unfriendly action of the Canadian officials to which I have referred.

I have, &c.,
(Signed) T. F. BAYARD.

Enclosure 3 in No. 64.

Sir L. West to the Earl of Rosebery. (Received June 11.)

(No. 48. Treaty.)

WASHINGTON,
30th May, 1886.

MY LORD,

In my despatch, No. 26, Treaty, of the 19th ultimo, I had the honour to forward to your Lordship the Report of the proceedings in the House of Representatives with reference to the seizure of American fishing vessels by the Canadian authorities. It will be observed that it was stated that the reciprocal legislation, subsequent to the Treaty of 1818, "culminated with a reciprocal legislative Arrangement, which took effect the 1st January, 1850, having all the force of a solemn Treaty by which Great Britain and the United States have placed the vessels of each nation respectively on the same footing in all their ports, including the Colonies of Great Britain," and the legislation of the United States was also referred to. As I was unable to find any such legislative

arrangement to this effect, or any corresponding legislation on the part of the United States' Government, I referred to Mr. Carlisle for information, and I have now the honour to inclose copy of a letter which I have received from him on the subject.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Mr. Carlisle to Sir L. West.

307, D STREET, WASHINGTON,
May 28, 1886.

MY DEAR SIR LIONEL,

I have examined the Act of Parliament of the 26th June, 1849, and see that by Sections 10 and 11 it is made lawful for her Majesty (in her discretion) by Orders in Council to regulate the privileges, &c., of foreign vessels in British ports according to the treatment vessels of Great Britain receive in foreign ports. This is all that I can find in this Act which has any bearing on the alleged Agreement which, Mr. Dingley asserts, had all the force of a solemn Treaty.

You may remember that Mr. Dingley referred me to an Act of Congress of 1824, without giving the date, by the same Memorandum in which he cited the above-mentioned Act of Parliament. I find no Act of Congress passed in the year 1824 on any subject connected with the matter, and the only Acts prior to 1850 which I can find are the Acts of the 1st March, 1823, and the Act of the 29th May, 1830. These, however, are not now in force, and, besides, do not bear out Mr. Dingley's assertion in his speech "that there has been reciprocal legislation by both countries, culminating with a reciprocal legislative Agreement, which took effect the 1st January, 1850, having all the force of a solemn Treaty, by which Great Britain and the United States have placed the vessels of each nation respectively on the same footing in all their ports, including the Colonies of Great Britain."

Any "reciprocal legislative Agreement," in order to have the force of a "solemn Treaty," must be backed by such negotiations or promises between the two Governments as would bind them, and, indeed, nations usually resort to reciprocal legislation in cases where they do not desire to bind themselves by Treaties, the Municipal law of a nation being always within its own control.

Very truly yours,
(Signed) CALDERON CARLISLE.

10,107.

No. 65.

*The Rt. Hon. the Earl Granville, K.G., to Governor Sir G. W. Des Vœux, K.C.M.G.
(Newfoundland.)*

TELEGRAPHIC.

June 17.—I await your despatch.

10,716.

No. 66.

*Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right
Hon. the Earl Granville, K.G. (Received June 18, 1886.)*

(Confidential.)

CITADEL, QUEBEC,
7th June, 1886.

MY LORD,

I had the honour of receiving your Lordship's telegraphic message of the 2nd instant,* intimating to me that it was not desirable that the Bill referred to in my despatch No. 162† for amending the Act for fishing by foreign vessels should be allowed to come into operation at present, as it was calculated to embarrass negotiations pending with the United States in regard to the Fishery question.

* No. 35.

† No. 31.

2. Under these circumstances, as your Lordship's message reached me within a few hours of the prorogation of Parliament, and as it was no longer possible to insert a clause in the Bill suspending its operation until such time as Her Majesty's Government should have had an opportunity of considering its provisions, I thought it my duty to reserve it for the signification of her Majesty's pleasure thereon, and I have informed my advisers that I have taken this course upon the ground mentioned in the previous paragraph.

3. It is, however, in my opinion, very important that there should be no misapprehension as to the reasons for which the measure has thus been reserved.

4. Her Majesty's Minister at Washington has been good enough to communicate to me for my information copy of a note received by him from the Secretary of State of the United States, in which the Bill is criticised, not so much on account of its policy, or because its introduction is regarded as inopportune and inconvenient, as upon the ground that any legislation by the Parliament of the Dominion for the purpose of interpreting and giving effect to a contract entered into by the Imperial Government is beyond the competence of that Parliament, and "an assumption of jurisdiction entirely unwarranted," and therefore "wholly denied by the United States."

5. Your Lordship is no doubt aware that legislation of this kind has been frequently resorted to by the Parliament of the Dominion, for the purpose of enforcing Treaties or Conventions entered into by the Imperial Government. In the present case the legislation proposed was introduced not with the object of making a change in the terms of the Convention of 1818, nor with the intention of representing as breaches of the Convention any acts which are not now punishable as breaches of it. What the framers of the Bill sought was merely to amend the procedure by which the Convention is enforced, and to do this by attaching a particular penalty to a particular breach of the Convention after that breach had been proved before a competent tribunal. It must be remembered that the Convention itself is silent as to the procedure to be taken in enforcing it, and that effect has accordingly been given to its provisions at different times both through the means of Acts passed, on the one side, by Congress, and, on the other, by the Imperial Parliament, as well as by the Legislatures of the British North American provinces previous to Confederation, and since Confederation by the Parliament of the Dominion. The right of the Dominion Parliament to legislate for these purposes, and the validity of such legislation as against the citizens of a foreign country has, as far as I am aware, not been seriously called in question. Such legislation, unless it is disallowed by the Imperial Government, becomes part of the law of the Empire.

6. The Government of the United States has long been aware of the necessity of reference to the Dominion Parliament in matters affecting Canadian interests, and has, I believe, never raised any objection to such reference. The Treaties of 1854 and 1871, so far as they related to the Fisheries or to the commercial relations of the Dominion, were made subject to ratification by her Legislature. In the same way the Treaty under which fugitive criminals from the United States into Canada are surrendered, is carried into effect by means of a Canadian Statute. If a foreigner commits a murder in Canada, he is tried, convicted, and executed by virtue of a Canadian, and not of an Imperial Act of Parliament. Seizures of goods and vessels for breaches of the local customs law have in like manner been made for many years past without any protest on the ground that such laws involved an usurpation of power by the colony.

7. Mr. Bayard's statement that the Dominion Government is seeking by its action in this matter to "invade and destroy the commercial rights and privileges secured to citizens of the United States under and by virtue of Treaty stipulations with Great Britain" is not warranted by the facts of the case. No attempt has been made either by the authorities entrusted with the enforcement of the existing law, or by the Parliament of the Dominion to interfere with vessels engaged in *bond fide* commercial transactions upon the coast of the Dominion. The two vessels which have been seized are, both of them beyond all question, fishing vessels and not traders, and therefore liable, subject to the finding of the Courts, to any penalties imposed by law for the enforcement of the Convention of 1818 on parties violating the terms of that Convention.

8. When, therefore, Mr. Bayard protests against all such proceedings as being "flagrantly violative of reciprocal commercial privileges to which citizens of the United States are lawfully entitled under Statutes of Great Britain, and the well defined and publicly proclaimed authority of both countries," and when he denies the competence of the Fishery Department to issue, under the Convention of 1818, such a paper as the "Warning," dated 5th March, 1886, of which a copy has been supplied to your Lordship, he is in effect denying to the Dominion the right of taking any steps for the protection of its own rights secured under the Convention referred to.

9. It is no doubt open to the Government of the United States to call in question any act of legislation, whether of the Imperial or Canadian Parliament, on the ground either that it is a breach of Treaty obligations or that it involves an injustice to citizens of the United States of which their Government can reasonably complain. Mr. Bayard's contention, however, goes very far beyond this, and I trust that Her Majesty's Government will be slow to admit its force, and that care will be taken to make it appear that the Amendment Bill was reserved solely upon the ground that Her Majesty's Government, being engaged in negotiations with that of the United States in regard to the question of the Fisheries, desired to have a full opportunity of considering any measure affecting that question before such a measure was allowed to come into operation.

(Signed) I have, &c.,
LANSDOWNE.

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

10,107.

No. 67.

Colonial Office to Foreign Office.

DOWNING STREET,
June 18th, 1886.

SIR,

With reference to previous correspondence relating to the position of the North American Fishery question consequent upon the termination of the Fishery Articles of the Treaty of Washington, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a telegram* received in code from the Governor of Newfoundland requesting orders or instructions under the Act of the Imperial Parliament 59 Geo. III. cap. 38, to require American fishermen to depart from bays and harbours of that island.

Lord Granville, as at present advised, sees no ground for entertaining this request and will await further explanations from the Governor, whom he has informed by telegram that he awaits his despatch.

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

The Under-Secretary of State,
Foreign Office.

10,801.

No. 68.

Foreign Office to Colonial Office.

Secret.

FOREIGN OFFICE,
June 19, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you a copy of a telegram from Her Majesty's Minister at Washington to the effect that the United States Government have protested against the jurisdiction claimed by Canada as regards certain headland lines; and I am to request that Earl Granville will inform his Lordship whether he has received any information to show that such a pretension has lately been advanced by the Colonial Authorities.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 68.

Sir Lionel West.

Decypher.

TELEGRAPHIC.

June 15, 1886. Secretary of State protests against jurisdiction claimed by Canadian Authorities by means of headland lines drawn from Canso to St. Esprit, and from North Cape to East Cape. Note by Post.

10,853.

No. 69.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 20th, 1886.)

(No. 196.)

CITADEL, QUEBEC,
9th June, 1886.

MY LORD,

With reference to previous correspondence I have the honour to forward herewith for your Lordship's information a copy of a despatch from Sir Lionel West, enclosing a note from Mr. Bayard, dated May 29th, on questions arising out of the Bill to amend the Dominion Fishery Act of 1868, recently passed through both Houses of the Dominion Parliament.

2. I have already made your Lordship aware that the Bill referred to by Mr. Bayard was reserved by me for the signification of Her Majesty's pleasure thereon upon the ground that, as it affected matters forming the subject of negotiation between Her Majesty's Government and that of the United States, it was desirable that it should not come into operation until Her Majesty's Government should have had an opportunity of considering its provisions.

3. A copy of the Warning referred to by Mr. Bayard was sent to your Lordship in my confidential despatch of March 25th, and I now enclose a copy of the Customs Circular No. 371 of May 7th, which is mentioned in Mr. Bayard's note.

4. I had the honour of intimating to your Lordship by telegram on the 8th instant* that it had been found necessary to amend the wording of this Circular, the terms of which as they originally stood would have affected all foreign vessels as well as those of the United States.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 69.

Minister at Washington to the Governor-General.

(No. 69.)

WASHINGTON,
May 30th, 1886.

MY LORD,

I have the honour to forward herewith for your Excellency's information, copy of a note† which I have received from the Secretary of State and to which my telegram of this day's date refers.

I have, &c.
(Signed) L. S. SACKVILLE WEST.

His Excellency
The Marquis of Lansdowne, G.C.M.G.,
&c., &c., &c.

Enclosure 2 in No. 69.

(Circular No. 371.)

CUSTOMS DEPARTMENT, OTTAWA,
7th May, 1886.

SIR,

The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London, on the 20th October, 1818:—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's Dominions in America, it

* No. 57.

† See Enclosure 2 in No. 64.

“ is agreed between the High Contracting Parties that the inhabitants of the said United States shall have for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors, and creeks from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company ; and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador ; but so soon as the same, or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground.”

“ And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits ; provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them.”

Attention is also called to the following provisions of the Act of the Parliament of Canada, cap. 61, of the Acts of 1868, intituled, “ An Act respecting fishing by foreign vessels.”

2nd. “ Any commissioned officer of Her Majesty's Navy, serving on board of any vessel of Her Majesty's Navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty's subjects engaged in the fisheries, or any commissioned officer of Her Majesty's Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, Sheriff, Magistrate, or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat, within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board so long as she may remain within such place or distance.”

3rd. “ If such ship, vessel, or boat be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-fours after the Master shall have been required to depart, any one of such officers or persons as are above-mentioned may bring such ship, vessel, or boat into port and search her cargo, and may also examine the Master upon oath touching the cargo and voyage ; and if the Master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars ; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above-mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.”

4th. “ All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act ; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.”

Having reference to the above, you are requested to furnish any foreign fishing vessels, boats, or fishermen found within three marine miles of the shore, within your district, for other purposes than those of shelter and of repairing damages, of purchasing wood and of obtaining water, with a printed copy of the warning enclosed herewith.

If such vessel or boat is found fishing, preparing to fish, or violating the provisions

of the Convention of 1818, by shipping men, or supplies, or trading, or if hovering within the three mile limit, does not depart within twenty-four hours after receiving such warning, you will place an officer on board of such vessel, and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions.

J. JOHNSON,

Commissioner of Customs.

To the Collector of Customs

at _____

10,795.

No. 70.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 21st, 1886.)

(No. 188.)

QUEBEC,

8th June, 1886.

MY LORD,

In reference to Sir Lionel West's letter to me of the 21st May, enclosing one from Mr. Bayard, complaining of the treatment of the American schooner "Jennie and Julia," of Eastport, Maine, which vessel was represented to have, after she had made due entry at the port of Digby, Nova Scotia, attempted to purchase herrings for smoking, and to have been thereupon warned and compelled to leave without taking any cargo, I have the honour to enclose copy of a report which I have received from my Minister of Marine and Fisheries, dealing fully with the case in question.

Your Lordship will observe that the "Jennie and Julia" is described as being to all intents and purposes a fishing vessel, fully equipped for fishing, and that as such she was regarded as debarred by the Convention of 1818 from trading in Canadian Ports, and therefore warned to desist from so doing.

I have, &c.

(Signed) LANSDOWNE.

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

Enclosure in No. 70.

OTTAWA,

5th June, 1886.

With reference to a despatch from the British Minister at Washington, to his Excellency the Governor-General, dated 21st May last, and enclosing a letter from Mr. Secretary Bayard, regarding the refusal of the Collector of Customs at Digby, Nova Scotia, to allow the United States schooner "Jennie and Julia" the right of exercising commercial privileges at the said port, the undersigned has the honour to make the following observations:—

It appears the "Jennie and Julia" is a vessel of about 14 tons register, that she was to all intents and purposes a fishing vessel, and, at the time of her entry into the port of Digby, had fishing gear and apparatus on board, and that the Collector fully satisfied himself of these facts. According to the master's declaration, she was there to purchase fresh herring only, and wished to get them direct from the weir fishermen. The Collector acted upon his conviction that she was a fishing vessel, and as such debarred by the Treaty of 1818 from entering Canadian ports for purposes of trade. He, therefore, in the exercise of his plain duty, warned her off.

The Treaty of 1818 is explicit in its terms, and by it United States fishing vessels are allowed to enter Canadian ports for shelter, repairs, wood and water, and "for no other purpose whatever."

The undersigned is of the opinion that it cannot be successfully contended, that a *bonâ fide* fishing vessel can by simply declaring her intention of purchasing fresh fish for other than baiting purposes, evade the provisions of the Treaty of 1818 and obtain privileges not contemplated thereby. If that were admitted, the provision of the Treaty which excludes United States fishing vessels for all purposes but the four above mentioned would be rendered null and void, and the whole United States fishing fleet

be at once lifted out of the category of fishing vessels, and allowed the free use of Canadian ports for baiting, obtaining supplies and transshipping cargoes.

It appears to the undersigned that the question as to whether a vessel is a fishing vessel or a legitimate trader or merchant vessel, is one of fact and to be decided by the character of the vessel and the nature of her outfit, and that the class to which she belongs is not to be determined by the simple declaration of her master that he is not at any given time acting in the character of a fisherman.

At the same time, the undersigned begs again to observe that Canada has no desire to interrupt the long established and legitimate commercial intercourse with the United States, but rather to encourage and maintain it, and that Canadian ports are at present open to the whole merchant navy of the United States on the same liberal conditions as heretofore accorded.

The whole respectfully submitted,

Minister of Marine and Fisheries.

10,799.

No. 71.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 21st, 1886.)

(Confidential.)

CITADEL, QUEBEC,
8th June, 1886.

MY LORD,

In reference to your Lordship's telegrams of the 3rd and 4th inst.,* in which you have called the attention of my Government to Customs circular, No. 371, and to the Warning enclosed therein, I think it desirable to make the following observations in explanation of the telegraphic replies which I have addressed to your Lordship.

2. In your telegram of the 4th inst., your Lordship pointed out that the terms of the concluding paragraph of the Warning in question had the effect of excluding, not only vessels belonging to the United States, but all foreign vessels from Canadian bays and harbours, and you observed that this was probably not intentional as nothing in the act recited would justify such an exclusion.

3. I have ascertained that the warning, as originally issued from the Department of Marine and Fisheries, after reciting the first article of the Convention of 1818 and sections two, three, and four of the Canadian Act of 1868, respecting fishing by foreign vessels, contained the following paragraph:—

“Therefore be it known that by virtue of the Treaty provisions and Act of Parliament above recited, all foreign vessels or boats are forbidden from fishing or taking fish by any means whatever, within three marine miles of any of the coasts, bays, creeks, and harbours in Canada, or to enter such bays, harbours and creeks, except for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever; of all of which you will take notice and govern yourself accordingly.”

4. The passage quoted would, as your Lordship has pointed out, have affected all foreign vessels, whether belonging to the United States or not. The mistake was however detected, and the “Warning” issued in a revised form, from which the passage which I have quoted was omitted and replaced by the words: “of all of which you will take notice and govern yourselves accordingly.”

5. I enclose herewith copies of the Warning in its original and its amended form. It is possible that your Lordship, as the American Minister, may have seen the Warning before it had been amended in the manner which I have described. The amended form, which merely recites Article I. of the Convention of 1818 and the Canadian Statute of 1868, appears to me to be entirely free from any objection. The latter of these statutes is, as your Lordship is aware, substantially the same as the Imperial Act of 1819 [59 George III. cap. 58], although the provisions relating to hovering are taken from another Imperial Statute [9 George III. cap. 35.] The law of the United States as to hovering is, I believe, the same as that embodied in this Statute.

6. The concluding paragraphs of the Circular, No. 371, to which and not to the

* Nos. 43 and 46.

warning your Lordship's telegram of the 4th of June may have been intended to refer, are also I think open to objection. After reciting the Dominion Act of 1868, which, like the Imperial Statute of 1819, applies to foreign vessels generally, the Circular proceeds to mention specially certain Acts as violations not of either of the Statutes in question but of the Convention of 1818, and declares that if "such vessels or boats," that is any foreign fishing vessels or boats, are found committing those acts they are to be detained. As however the Convention has reference to the fishing rights of the United States and not to those of other Foreign Powers the passages which I have quoted are, I think, certainly open to the criticism, not only that they assume that the Acts described are violations of the Convention, but that they seek to apply whatever penalties may be enforced against parties contravening the Convention to vessels to which those provisions are not properly applicable.

7. This point has been considered by my Government with every desire to revise the Circular in such a manner as to remove all reasonable objections to it upon these or other grounds, and I have much pleasure in informing your Lordship that the Circular will be re-issued, with the following concluding paragraphs in lieu of those referred to above:—

"Having reference to the above you are requested to furnish any foreign vessels, boats, or fishermen, found within three marine miles of the shore within your district, with a printed copy of the warning enclosed herewith.

"If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or if hovering within the three mile limit, does not depart within twenty-four hours after receiving such warning, you will place an officer on board of such vessel and at once telegraph the facts to the Fisheries Department at Ottawa, and await instructions."

8. The effect of these words will be that every foreign fisherman found within the three mile limit will receive a warning, which will make him aware of the state of the law, while every fishing vessel belonging to the United States found contravening the existing Canadian Statutes, which, as I have already reminded your Lordship, in these respects follow closely those passed by the Imperial Parliament, will, if not departing within twenty-four hours after receiving such warning, be detained under the conditions described.

9. Your Lordship will observe that the Circular as amended not only avoids seeking to apply to foreign vessels, other than those of the United States the provisions of the Convention of 1818, but also avoids directing the officers to whom the instructions are issued to treat "the shipping of men, or supplies, or trading" as violations of the Convention.

10. I trust that the above explanation will be satisfactory to your Lordship.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 71.

* WARNING.

TO ALL WHOM IT MAY CONCERN.

Enclosure 2 in No. 71.

WARNING.

TO ALL WHOM IT MAY CONCERN.

The Government of the United States having by notice terminated Articles 18 to 25, both inclusive, and Article 30, known as the Fishery Articles of the Washington Treaty, attention is called to the following provision of the Convention between the United States and Great Britain, signed at London, on the 20th October, 1818:—

Article 1st. "Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry and cure fish, on certain

* See Enclosure 2 in No. 3.

“coasts, bays, harbors and creeks, of His Britannic Majesty’s Dominions in America, it is agreed between the high Contracting Parties, that the inhabitants of the said United States shall have, for ever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the Southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbors and creeks, from Mount Joly, on the Southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson’s Bay Company; and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbors and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the inhabitants, proprietors, or possessors of the ground.”

“And the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish, on or within three marine miles, of any of the coasts, bays, creeks or harbors of His Britannic Majesty’s Dominions in America, not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbors, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any manner whatever abusing the privileges hereby reserved to them.”

Attention is called to the following provisions of the Act of the Parliament of Canada, Cap. 61, of the Acts of 1868, intituled “An Act respecting fishing by foreign vessels.”

2nd. “Any commissioned officer of Her Majesty’s Navy, serving on board of any vessels of Her Majesty’s Navy, cruising and being in the waters of Canada for purpose of affording protection to Her Majesty’s Subjects engaged in the Fisheries, or any commissioned officer of Her Majesty’s Navy, Fishery Officer, or Stipendiary Magistrate on board of any vessel belonging to or in the service of the Government of Canada and employed in the service of protecting the fisheries, or any officer of the Customs of Canada, Sheriff, Magistrate or other person duly commissioned for that purpose, may go on board of any ship, vessel, or boat, within any harbor in Canada, or hovering (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors in Canada, and stay on board so long as she may remain within such place or distance.”

3rd. “If such ship, vessel, or boat, be bound elsewhere, and shall continue within such harbor, or so hovering for twenty-four hours after the master shall have been required to depart, any one of such officers or persons as are above mentioned may bring such ship, vessel, or boat into port, and search her cargo, and may also examine the master upon oath touching the cargo and voyage; and if the master or person in command shall not truly answer the questions put to him in such examination, he shall forfeit four hundred dollars; and if such ship, vessel, or boat be foreign, or not navigated according to the laws of the United Kingdom or of Canada, and have been found fishing, or preparing to fish, or to have been fishing (in British waters) within three marine miles of any of the coasts, bays, creeks, or harbors of Canada, not included within the above mentioned limits, without a license, or after the expiration of the period named in the last license granted to such ship, vessel, or boat under the first section of this Act, such ship, vessel, or boat, and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.”

4th. “All goods, ships, vessels, and boats, and the tackle, rigging, apparel, furniture, stores, and cargo liable to forfeiture under this Act, may be seized and secured by any officers or persons mentioned in the second section of this Act; and every person opposing any officer or person in the execution of his duty under this Act, or aiding or abetting any other person in any opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction be liable to imprisonment for a term not exceeding two years.”

Of all of which you will take notice and govern yourself accordingly.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

Department of Fisheries.
Ottawa, 5th March, 1886.

10,861.

No. 72.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
June 21, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you, to be laid before Earl Granville, a copy of a despatch from Her Majesty's Minister at Washington, enclosing copy of a Note from the United States Secretary of State protesting against the action of the Canadian Custom authorities at the port of St. Andrews, New Brunswick, in the case of the United States fishing vessel, "Annie M. Jordan," and I am to state that Lord Rosebery would be glad to be furnished with a report from the Dominion Government in regard to this case.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 72.

(Treaty. No. 52.)

WASHINGTON,
June 8, 1886.

MY LORD,

I have the honour to enclose to your Lordship herewith copy of a further note which I have received from the Secretary of State protesting against the action of the Canadian Customs authorities at the port of St. Andrews, New Brunswick, in the case of the American fishing vessel, "Annie M. Jordan."

Your Lordship will observe that it is again intimated (see Note of 29th May, 1886) that Her Majesty's Government will be held liable for the loss and damage consequent on the seizures and detention of American vessels.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

The Earl of Rosebery,
&c., &c., &c.

DEPARTMENT OF STATE, WASHINGTON,
June 7, 1886.

SIR,

I regret exceedingly to communicate that report is to-day made to me, accompanied by affidavit, of the refusal of the Collector of Customs of the port of St. Andrews, New Brunswick, to allow the Master of the American schooner, "Annie M. Jordan," of Gloucester, Massachusetts, to enter the said vessel at that port, although properly documented as a fishing vessel, with permission to touch and trade at any foreign port or place during her voyage.

The object of such entry was explained by the Master to be the purchase and exportation of "certain merchandize" (possibly fresh fish for food, or bait for deep-sea fishing).

The vessel was threatened with seizure by the Canadian authorities, and her owners allege that they have sustained damage from this refusal of commercial rights.

I earnestly protest against this unwarranted withholding of lawful commercial privileges from an American vessel and her owners, and for the loss and damage consequent thereon the Government of Great Britain will be held liable.

I have, &c.,
(Signed) T. F. BAYARD.

The Honourable
Sir L. S. West, K.C.M.G.,
&c., &c., &c.

10,860.

No. 73.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 21, 1886.

SIR,

I am directed by the Earl of Rosebery to acknowledge the receipt of your letter of the 14th instant,* inclosing a copy of a Report by the Canadian Minister of Justice upon Mr. Bayard's notes of the 10th and 20th of May last, relative to the North American Fisheries Question.

His Lordship observes that this Report is confined to a review of the points dealt with in the two notes in question, viz., the construction to be placed upon Article I of the Convention of 1818, and the effect of the subsequent legislation of the two countries and relations to trade and navigation.

This report will at once be forwarded to the Law Officers, with reference to the papers already before them, with the view to obtaining their suggestions as to the reply to be made to Mr. Bayard's note of the 10th of May.

Earl Granville will, however, recollect that in Mr. Phelps' note of the 2nd June (copy of which was inclosed in my letter of the 14th instant) a further and more serious point is raised, whether the seizure of the "D. J. Adams" was justified under the existing legislation (whether Imperial and Colonial) passed to enforce the observance of Article I of the Convention of 1818, or was warranted under any other laws relating to the Customs or otherwise.

It is probable that the Canadian Government are preparing a Report upon this point also, but, in the meantime, I am to suggest that it will be advisable to acquaint the Dominion Government that a justification of their action in the recent cases of seizure, as being warranted by the existing law, should be forthcoming as soon as possible, in order to enable Her Majesty's Government to reply to the arguments advanced by Mr. Phelps.

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

The Under-Secretary of State,
Colonial Office.

10,716.

No. 74.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
22nd June, 1886.

SIR,

With reference to the letter from this department of the 2nd instant,† I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a despatch‡ from the Governor-General of Canada stating the grounds on which he has reserved for the signification of Her Majesty's pleasure, the Bill respecting fishing by foreign vessels recently passed by the Dominion Legislature.

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

The Under-Secretary of State,
Foreign Office.

* No. 62A.

† No. 36.

‡ No. 66.

10,850.

No. 75.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 22, 1886.)

(No. 193.)

CITADEL, QUEBEC,
9th June, 1886.

MY LORD,

I have the honour to forward herewith, for your Lordship's information, copies of two despatches which I have received from Her Majesty's Minister at Washington in regard to the detention and subsequent release of the Canadian schooner "Sisters," at Portland, Maine, for violation of the Customs Regulations of the United States.

2. The vessel in question arrived in the port of Portland with a cargo of fish, and became liable to a fine of \$500 for the failure of her captain to produce a manifest of her cargo upon his arrival within the limits of the Customs jurisdiction of the port. As, however, the United States authorities were satisfied that there was no intention on the part of the captain of the "Sisters" to defraud the revenue, the fine was remitted and the vessel released.

I have communicated copies of Sir Lionel West's despatches to my Government.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 75.

Minister at Washington to the Governor-General.

(No. 67.)

WASHINGTON,
May 29th, 1886.

MY LORD,

I have the honour to enclose herewith to your Excellency copy of the report of the Collector of Customs, at Portland (Maine), in regard to the detention of the schooner "Sisters."

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

His Excellency
The Marquis of Lansdowne,
&c., &c., &c.

Washington Republic, 29th May, 1886.

THE SEIZURE OF THE "SISTERS."

A Report by Collector Anderson on the subject.

Acting Secretary Fairchild yesterday received a report from Collector Anderson at Portland in regard to the alleged detention of the British schooner "Sisters," in which he says:—

"Herewith I transmit a statement of Jesse Ellis, Master of British schooner 'Sisters,' of Yarmouth, Nova Scotia, relating to a penalty incurred by him in consequence of violation of provisions of Section 2,814 Revised Statutes of the United States. On this case I have respectfully to report that this vessel arrived and entered at this port under circumstances substantially as stated by Captain Ellis. The 'clearance' he alludes to has on its face the single word 'fish' as a description of cargo. Nowhere on 'clearance' is any reference made to kind, condition, quantity, by whom shipped, or to whom consigned. Very likely the discrepancy between his statement and the fact arises through an inadvertence on the part of the person he employed to draw up the statement. The Acting Boarding Officer at this port reported to me, through the Surveyor, under date of the 24th instant, that this vessel arrived at this port to-day, and the Captain failed to produce a manifest of the cargo on board such schooner.

"In consequence of this the Master was informed on entry that he was liable to a penalty of \$500 for failure to produce a manifest upon his arrival within the limits of this collection district, as provided by Section 2,814 Revised Statutes of the United States; that under an article of Treasury Regulations, 1884, relating to Customs and Navigation Laws, the case would be submitted to the Secretary of the Treasury before enforcing the penalty. I believe the reasons he assigns for his failure to comply with the requirements of the Navigation Laws and Customs Regulations of the United States to be true. I have not discovered any attempt on his part to defraud the revenue. He presented a manifest in proper form on entry of his vessel, in which cargo was set up as taken on board at Farnsworth, Nova Scotia; contents, 20,000 fresh mackerel, shipped by W. A. Killian, and consigned to W. L. Clements and Co.; consignee's residence, Portland; and port of destination, Portland. In view of the fact that the morning papers of this city publish in full a statement of Captain Ellis, as herein enclosed, I deem it proper to say that the document was not furnished the press by an officer connected with the Customs Service at this port, to my knowledge. I respectfully submit the case and await your instructions thereon."

Captain Ellis's statement, referred to in the above letter, has already been published.

Enclosure 2 in No. 75.

Minister at Washington to the Governor-General.

(No. 70.)

BRITISH LEGATION, WASHINGTON,
31st May, 1886.

MY LORD,

I have the honour to inform your Excellency that the fine imposed on the Nova Scotia fishing schooner "Sisters," seized at Portland (Maine) for a violation of the Customs Regulations, has been remitted by the Acting Secretary of the Treasury. I enclose herewith an article from the "New York Herald" in connection therewith.

I have, &c.,

(Signed) L. S. SACKVILLE WEST.

His Excellency

The Marquis of Lansdowne, G.C.M.G.,
&c., &c., &c.

Extract from the "New York Herald" of May 31st, 1886.

"ERRING SISTERS, GO IN PEACE."

Mr. Fairchild, the Acting Secretary to the Treasury, has remitted the fine to which the Nova Scotia fishing schooner "Sisters," which was seized at Portland last Monday, was liable for want of a manifest. The "Herald" anticipated this remission. On the morning after the seizure we expressed our confidence that the Treasury Department would temper justice with mercy as soon as it received an official certificate of the facts which our correspondent at Portland already had ascertained and reported to us. The skipper was just as devoid of evil intention as were the captains and crews of those fishing schooners from Gloucester and Portland which the Canadians have seized and are prosecuting not only unmercifully but unjustly.

The difference between the conduct of the authorities on this side of the border and on the other side is a great one, and will not fail to be noticed wherever the fishery questions are discussed. No special merit, to be sure, attaches to our Treasury Department for its course in this case. It has done only what was to be expected of a civilized administration, and the Canadians have only themselves to blame for the contrast.

10,860.

No. 76.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

24th June, 1886. United States Government raise question whether seizure of "D. Adams" was justified by existing legislation, whether Imperial or Colonial, passed in order to enforce Article No. I Convention of 1818, or warranted by any other laws relative to Customs or otherwise.

Her Majesty's Government anxious for reply from Dominion Government on this point.

10,860.

No. 77.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

DOWNING STREET,
24 June, 1886.

(Confidential.)

MY LORD,

With reference to your Lordship's confidential despatch of the 31st ult., and to my telegram of to-day's date* respecting the North American Fisheries Question, I have the honour to transmit to you, for confidential communication to your Government, copies of two letters† from the Foreign Office on the subject.

I have, &c.,
(Signed) GRANVILLE.

The Marquis of Lansdowne.

10,795.

No. 78.

Colonial Office to Foreign Office.

DOWNING STREET,
24 June, 1886.

SIR,

With reference to Sir Lionel West's despatch No. 37 of the 21st May, a copy of which was enclosed in your letter of the 4th inst.,‡ I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a despatch§ with its enclosure from the Governor-General of Canada relative to the case of the United States schooner "Jennie and Julia."

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

The Under-Secretary of State,
Foreign Office.

10,861.

No. 79.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

24th June, 1886. "Annie M. Jordan." Send Report on case of

* Nos. 60 and 76.

† Nos. 63 and 73.

‡ No. 44.

§ No. 70.

11,038.

No. 80.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 25, 1886.)

CITADEL, QUEBEC,
14th June, 1886.

(No. 199.)

MY LORD,

I have the honour to enclose herewith a certified copy of an approved report of my Privy Council upon Mr. Bayard's notes of the 10th and 20th of May, dealing with the seizure of the American fishing vessel "David J. Adams," and the questions affecting the rights of United States fishermen within the territorial waters of the Dominion which have arisen in consequence of that seizure.

2. The report bears the strongest testimony to the desire of my Government not only to avoid any action which might unnecessarily interrupt the amicable and neighbourly relations of the two countries, but also to establish if possible upon a wider and mutually advantageous basis the commercial relations of Canada and the United States.

3. Your Lordship will observe that whatever action has been resorted to by the Dominion Government has been taken solely with the object of maintaining valuable rights secured to the subjects of Her Majesty by contracts entered into by the Imperial Government, and by legislation carrying out the terms of those contracts. The report expresses the conviction of my Government that such legislation, together with the administrative acts of those to whom has been entrusted the duty of giving effect to it, are not, as the Secretary of State of the United States has asserted, usurpations of power on the part of the Canadian Legislatures or of the Canadian Executive, but clearly within the competence of both.

4. In another portion of the report your Lordship will find a statement of the reasons for which it is held that the provisions of the Convention of 1818 have not, as Mr. Bayard appears to suppose, been superseded or rendered of doubtful validity by subsequent laws and regulations affecting the trade of the two countries, but that they are still undoubtedly in force, and it is pointed out that now that the Convention has been once more brought into operation by the action, not of the Dominion, but of the United States, the Government of this country cannot consistently with its duty abandon or suspend any of the privileges secured by that Convention to its people.

5. Your Lordship will find that a full, and I trust satisfactory, explanation has been given of the circumstances under which the "David J. Adams" was seized, and of the conduct of the Officers of the Canadian Fisheries Police in dealing with that vessel.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure in No. 80.

Certified Copy of a Report of a Committee of the Honourable the Privy Council for Canada approved by His Excellency The Governor-General on the 14th June, 1886.

The Committee of the Privy Council have had under consideration a Report from the Minister of Marine and Fisheries upon the communications dated 10th and 20th May last from the Hon. Mr. Bayard, Secretary of State of the United States to Her Majesty's Minister at Washington in reference to the seizure of the American fishing vessel "David J. Adams."

The Committee concur in the annexed report, and they advise that your Excellency be moved to transmit a copy thereof to the Right Hon. the Secretary of State for the Colonies.

All of which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk Privy Council, Canada.

The undersigned having had his attention called by your Excellency to a communication from Mr. Bayard, Secretary of State of the United States, dated the 10th May, and addressed to Her Majesty's Minister at Washington, and to a further communication from Mr. Bayard, dated the 20th May, inst. in reference to the seizure of the American fishing vessel "David J. Adams," begs leave to submit the following observations thereon :—

Your Excellency's Government fully appreciates and reciprocates Mr. Bayard's desire that the administration of the laws regulating the commercial interests and the mercantile marine of the two countries might be such as to promote good feeling and mutual advantage.

Canada has given many indisputable proofs of an earnest desire to cultivate and extend her commercial relations with the United States, and it may not be without advantage to recapitulate some of those proofs.

For many years before 1854, the maritime provinces of British North America had complained to Her Majesty's Government of the continuous invasion of their inshore fisheries (sometimes accompanied, it was alleged, with violence) by American fishermen and fishing vessels.

Much irritation naturally ensued, and it was felt to be expedient by both Governments to put an end to this unseemly state of things by Treaty, and at the same time to arrange for enlarged trade relations between the United States and the British North American Colonies. The Reciprocity Treaty of 1854 was the result, by which were not only our inshore fisheries opened to the Americans, but provision was made for the free interchange of the principal natural products of both countries, including those of the sea. Peace was preserved on our waters, and the volume of international trade steadily increased during the existence of this Treaty, and until it was terminated in 1866, not by Great Britain, but by the United States.

In the following year Canada (then become a Dominion and united to Nova Scotia and New Brunswick) was thrown back on the Convention of 1818, and obliged to fit out a Marine Police to enforce the laws and defend her rights, still desiring, however, to cultivate friendly relations with her great neighbour, and, not too suddenly to deprive the American fishermen of their accustomed fishing grounds and means of livelihood, she readily acquiesced in the proposal of Her Majesty's Government for the temporary issue of annual licenses to fish, on payment of a moderate fee. Your Excellency is aware of the failure of that scheme. A few licenses were issued at first, but the applications for them soon ceased, and the American fishermen persisted in forcing themselves into our waters "without leave or license."

Then came the recurrence, in an aggravated form, of all the troubles which had occurred anterior to the Reciprocity Treaty. There were invasions of our waters, personal conflicts between our fishermen and American crews, the destruction of nets, the seizure and condemnation of vessels, and intense consequent irritation on both sides.

This was happily put an end to by the Washington Treaty of 1871. In the interval between the termination of the first Treaty and the ratification of that by which it was eventually replaced, Canada on several occasions pressed, without success, through the British Minister at Washington for a renewal of the Reciprocity Treaty, or for the negotiation of another on a still wider basis.

When in 1874 Sir Edward Thornton, then British Minister at Washington, and the late Hon. George Brown, of Toronto, were appointed joint Plenipotentiaries for the purpose of negotiating and concluding a Treaty relating to Fisheries, Commerce, and Navigation, a Provisional Treaty was arranged by them with the United States Government, but the Senate decided that it was not expedient to ratify it, and the negotiation fell to the ground.

The Treaty of Washington, while it failed to restore the provisions of the Treaty of 1854, for reciprocal free trade (except in fish), at least kept the peace, and there was tranquillity along our shores until July, 1885, when it was terminated again by the United States Government and not by Great Britain.

With a desire to show that she wished to be a good neighbour, and in order to prevent loss and disappointment on the part of the United States fishermen by their sudden exclusion from her waters in the middle of the fishing season, Canada continued to allow them for six months all the advantages which the rescinded Fishery Clauses had previously given them, although her people received from the United States none of the corresponding advantages which the Treaty of 1871 had declared to be an equivalent for the benefits secured thereby to the American fishermen.

The President in return for this courtesy, promised to recommend to Congress the appointment of a joint commission by the two Governments of the United Kingdom and

the United States to consider the Fishery question, with permission also to consider the whole state of the trade relations between the United States and Canada.

This promise was fulfilled by the President, but the Senate rejected his recommendation and refused to sanction the Commission.

Under these circumstances Canada, having exhausted every effort to procure an amicable arrangement, has been driven again to fall back upon the Convention of 1818, the provisions of which she is now enforcing and will enforce, in no punitive or hostile spirit as Mr. Bayard supposes, but solely in protection of her fisheries, and in vindication of the right secured to her by Treaty.

“Mr. Bayard suggests that the Treaty of 1818 was between two nations, the United States of America and Great Britain, who, as the contracting parties, can alone apply authoritative interpretation thereto, and enforce its provisions by appropriate legislation.”

As it may be inferred from this statement that the right of the Parliament of Canada to make enactments for the protection of the fisheries of the Dominion, and the power of the Canadian officers to protect those fisheries, are questioned, it may be well to state at the outset the grounds upon which it is conceived by the undersigned that the jurisdiction in question is clear beyond a doubt.

1. In the first place the undersigned would ask it to be remembered that the extent of the jurisdiction of the Parliament of Canada is not limited (nor was that of the provinces before the Union) to the sea coast, but extends for three marine miles from the shore as to all matters over which any legislative authority can in any country be exercised within that space. The legislation which has been adopted on this subject by the Parliament of Canada (and, previously to Confederation, by the Provinces) does not reach beyond that limit. It may be assumed that in the absence of any Treaty stipulation to the contrary this right is so well recognized and established by both British and American law that the grounds on which it is supported need not be stated here at large, the undersigned will merely add, therefore, to this statement of the position, that so far from the right being limited by the Convention of 1818, that Convention expressly recognizes it.

After renouncing “the liberty to take, cure or dry fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Majesty’s dominions in America,” there is a stipulation that while American fishing vessels shall be admitted to enter such bays, &c., “for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, they shall be under such restrictions as may be necessary to prevent their taking, curing, or drying fish therein, or in any other manner whatever abusing the privileges reserved to them.”

2. Appropriate legislation on this subject was, in the first instance, adopted by the Parliament of the United Kingdom. The Imperial Statute Geo. III., cap. 38, was enacted in the year following the Convention, in order to give that Convention force and effect. That statute declared that except for the purposes before specified it should “not be lawful for any person or persons, not being a natural born subject of His Majesty, in any foreign ship, vessel, or boat, nor for any person in any ship, vessel, or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry, or cure any fish of any kind whatever within three marine miles of any coasts, bays, creeks, or harbors whatever, in any part of His Majesty’s dominions in America, not included within the limits specified and described in the first Article of the said Convention, and that if such foreign ship, vessel, or boat, or any person or persons on board thereof shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks, or harbors within such parts of His Majesty’s dominions in America, out of the said limits as aforesaid, all such ships, vessels, and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture, and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered, and condemned by such and the like ways, means, and methods, and in the same Courts as ships, vessels, or boats may be forfeited, seized, prosecuted, and condemned for any offence against any laws relating to the Revenue of Customs, or the laws of Trade and Navigation, under any Act or Acts of the Parliament of Great Britain or the United Kingdom of Great Britain and Ireland, provided that nothing contained in this Act shall apply or be construed to apply to the ships or subjects of any Prince, Power, or State in amity with His Majesty who are entitled by Treaty with His Majesty to any privileges of taking, drying, or curing fish on the coasts, bays, creeks, or harbors, or within the limits in this Act described. Provided always, that it shall and may be lawful for any fishermen of the

“ said United States to enter into any such bays or harbors of His Britannic Majesty’s Dominions in America as are last mentioned, for the purpose of shelter and repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever, subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying, or curing fish in the said bays or harbors, or in any other manner whatever abusing the said privileges by the said Treaty and this Act reserved to them and as shall for that purpose be imposed by any order or orders to be from time to time made by His Majesty in Council under the authority of this Act, and by any regulations which shall be issued by the Governor or person exercising the office of Governor in any such parts of His Majesty’s Dominions in America, under or in pursuance of any such order in Council as aforesaid.”

“ And that if any person or persons upon requisition made by the Governor of Newfoundland, or the person exercising the office of Governor, or by any Governor in person exercising the office of Governor in any other parts of His Majesty’s Dominions in America, as aforesaid, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from His Majesty in Council, shall refuse to depart from such bays or harbors, or if any person or persons shall refuse, or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this Act, every such person so refusing or otherwise offending against this Act shall forfeit the sum of two hundred pounds, to be recovered in the Superior Court of Judicature of the Island of Newfoundland, or in the Superior Court of Judicature of the colony or settlement within or near to which such offence shall be committed, or by Bill, plaint, or information in any of His Majesty’s Courts of Record at Westminster, one moiety of such penalty to belong to His Majesty, his heirs, and successors, and the other moiety to such person or persons as shall sue or prosecute for the same.”

The Acts passed by the provinces now forming Canada, and also by the Parliament of Canada (now noted in the margin)* are to the same effect, and may be said to be merely declaratory of the law as established by the Imperial Statute.

3. The authority of the Legislatures of the Provinces, and after confederation the authority of the Parliament of Canada, to make enactments to enforce the provisions of the Convention, as well as the authority of Canadian officers to enforce those Acts, rests on well-known constitutional principles.

Those Legislatures existed, and the Parliament of Canada now exists, by the authority of the Parliament of the United Kingdom of Great Britain and Ireland, which is one of the nations referred to by Mr. Bayard as the “contracting parties.” The Colonial statutes have received the sanction of the British Sovereign who, and not the nation, is actually the party with whom the United States made the convention. The officers who are engaged in enforcing the Acts of Canada or the laws of the Empire, are Her Majesty’s officers, whether their authority emanates directly from the Queen, or from Her Representative, the Governor-General. The jurisdiction thus exercised cannot therefore be properly described in the language used by Mr. Bayard as a supposed and therefore questionable delegation of jurisdiction by the Imperial Government of Great Britain. Her Majesty governs in Canada as well as in Great Britain; the officers of Canada are Her officers; the statutes of Canada are Her statutes, passed on the advice of Her Parliament sitting in Canada.

It is, therefore, an error to conceive that because the United States and Great Britain were in the first instance the contracting parties to the Treaty of 1818, no question arising under that Treaty can be “responsibly dealt with,” either by the Parliament, or by the Authorities of the Dominion.

The raising of this objection now is the more remarkable, as the Government of the United States has long been aware of the necessity of reference to the Colonial Legislatures in matters affecting their interests.

The Treaties of 1854 and 1871 expressly provide, that so far as they concerned the fisheries or trade relations with the Provinces, they should be subject to ratification by their several Legislatures, and seizures of American vessels and goods, followed by condemnation for breach of the Provincial Customs Laws have been made for forty years without protest or objection on the part of the United States Government.

* Dominion Acts, 31 Vic. Cap. 6; 33 Vic. Cap. 16; now incorporated in revised Statutes of 1886, Cap. 90. Nova Scotia Acts, revised Statutes 3rd series, C. 94, 29 Vic. (1866) C. 35. New Brunswick Acts, 16 Vic. (1853) C. 69, Prince Edward Island Act, 6 Vic. (1843) C. 14.

The undersigned, with regard to this contention of Mr. Bayard, has further to observe that in the proceedings which have recently been taken for the protection of the fisheries, no attempt has been made to put any special or novel interpretation on the Convention of 1818. The seizures of the fishing vessels have been made in order to enforce the explicit provisions of that Treaty, the clear and long established provisions of the Imperial Statute and of the Statutes of Canada, expressed in almost the same language.

The proceedings which have been taken to carry out the law of the Empire in the present case, are the same as those which have been taken from time to time during the period in which the Convention has been in force, and the seizures of vessels have been made under process of the Imperial Court of Vice-Admiralty, established in the Provinces of Canada.

Mr. Bayard further observes that since the Treaty of 1818 "A series of laws and regulations affecting the trade between the North American Provinces and the United States have been respectively adopted by the two countries, and have led to amicable and mutually beneficial relations between their respective inhabitants," and that "the independent and yet concurrent action of the two Governments has effected a gradual extension from time to time of the provisions of Article I. of the Convention of July 3rd, 1815, providing for reciprocal liberty of commerce between the United States and the territories of Great Britain in Europe, so as gradually to include the Colonial possessions of Great Britain in North America and the West Indies within the limits of that Treaty."

The undersigned has not been able to discover, in the instances given by Mr. Bayard, any evidence that the Laws and Regulations affecting the trade between the British North American Provinces and the United States, or that, "the independent and yet concurrent action of the two Governments" have either extended or restricted the terms of the Convention of 1818, or affected in any way the right to enforce its provisions according to the plain meaning of the Articles of the Treaty, on the contrary a reference to the 18th Article of the Washington Treaty will show that the contracting parties made the Convention the basis of the further privileges granted by the Treaty, and it does not allege that its provisions are in any way extended or affected by subsequent legislation or Acts of Administration.

Mr. Bayard has referred to the Proclamation of President Jackson in 1830, creating "reciprocal commercial intercourse on terms of perfect equality of flag" between the United States and the British American Dependencies, and has suggested that these "commercial privileges have since received a large extension, and that in some cases 'favours' have been granted by the United States without equivalent 'concession' such as the exemption granted by the Shipping Act of June 26th, 1884, amounting to one half of the regular tonnage dues on all vessels from British North America and West Indies entering Ports of the United States."

He has also mentioned under this head "the arrangement for the transit of goods, and the remission by Proclamation as to certain British Ports and places of the remainder of the tonnage tax on evidence of equal treatment being shown" to United States vessels.

The Proclamation of President Jackson in 1830 had no relation to the subject of the fisheries, and merely had the effect of opening United States Ports to British vessels on terms similar to those which had already been granted in British Ports to vessels of the United States. The object of these "Laws and Regulations" mentioned by Mr. Bayard was purely of a commercial character, while the sole purpose of the Convention of 1818 was to establish and define the rights of the citizens of the two countries in relation to the fisheries on the British North American coast.

Bearing this distinction in mind, however, it may be conceded that substantial assistance has been given to the development of commercial intercourse between the two countries.

But legislation in that direction has not been confined to the Government of the United States, as indeed Mr. Bayard has admitted in referring to the case of the Imperial Shipping and Navigation Act of 1849.

For upwards of forty years, as has already been stated, Canada has continued to evince her desire for a free exchange of the chief products of the two countries. She has repeatedly urged the desirability of the fuller reciprocity of trade which was established during the period in which the Treaty of 1854 was in force.

The laws of Canada with regard to the registry of vessels, tonnage dues, and shipping generally, are more liberal than those of the United States. The ports of Canada in inland waters are free to vessels of the United States, which are admitted to the use of her canals on equal terms with Canadian vessels.

Canada allows free registry to ships built in the United States and purchased by British citizens, charges no tonnage or light dues on United States shipping, and extends a standing invitation for a large measure of reciprocity in trade by her tariff legislation.

Whatever relevancy therefore the argument may have to the subject under consideration, the undersigned submits that the concessions which Mr. Bayard refers to as "favours" granted by United States can hardly be said not to have been met by equivalent concessions on the part of the Dominion, and inasmuch as the disposition of Canada continues to be the same, as was evinced in the friendly legislation just referred to, it would seem that Mr. Bayard's charge of showing "hostility to commerce under the guise of protection to inshore fisheries," or of interrupting ordinary commercial intercourse by harsh measures and unfriendly administration is hardly justified.

The questions, which were in controversy between Great Britain and the United States prior to 1818, related not to shipping and commerce but to the claims of United States Fishermen to fish in waters adjacent to the British North American Provinces.

Those questions were definitely settled by the Convention of that year, and although the terms of that Convention have since been twice suspended, first by the Treaty of 1854 and subsequently by that of 1871, after the lapse of each of these two Treaties the provision made in 1818 came again into operation, and were carried out by the Imperial and Colonial Authorities without the slightest doubt being raised as to their being in full force and vigour.

Mr. Bayard's contention that the effect of the legislation which has taken place under the Convention of 1818, and of Executive action thereunder, would be "to expand the restrictions and renunciations of that Treaty which related solely to the inshore fishing within the three mile limit, so as to affect the deep sea fisheries," and "to diminish and practically destroy the privileges expressly secured to American fishing vessels to visit these inshore waters for the objects of shelter and repair of damages, and purchasing wood and obtaining water," appears to the undersigned to be unfounded. The legislation referred to in no way affects those privileges, nor has the Government of Canada taken any action towards their restriction. In the cases of the recent seizures, which are the immediate subject of Mr. Bayard's letter, the vessel seized had not resorted to Canadian waters for any one of the purposes specified in the Convention of 1818 as lawful. They were United States fishing vessels, and, against the plain terms of the Convention, had entered Canadian harbours. In doing so the "David J. Adams" was not even possessed of a permit "to touch and trade," even if such a document could be supposed to divest her of the character of a fishing vessel.

The undersigned is of opinion that while, for the reasons which he has advanced, there is no evidence to show that the Government of Canada has sought to expand the scope of the Convention of 1818 or to increase the extent of its restrictions, it would not be difficult to prove that the construction which the United States seek to place on that Convention would have the effect of extending very largely the privileges which their citizens enjoy under its terms. The contention that the changes which may from time to time occur in the habits of the fish taken off our coasts, or in the methods of taking them, should be regarded as justifying a periodical revision of the terms of the treaty, or a new interpretation of its provisions cannot be acceded to. Such changes may from time to time render the conditions of the contract inconvenient to one party or the other, but the validity of the agreement can hardly be said to depend on the convenience or inconvenience which it imposes from time to time on one or other of the contracting parties. When the operation of its provisions can be shown to have become manifestly inequitable, the utmost that goodwill and fair dealing can suggest is that the terms should be reconsidered and a new arrangement entered into, but this the Government of the United States does not appear to have considered desirable.

It is not, however, the case that the Convention of 1818 affected only the inshore fisheries of the British Provinces; it was framed with the object of affording a complete and exclusive definition of the rights and liberties which the fishermen of the United States were thenceforward to enjoy in following their vocation, so far as those rights could be affected by facilities for access to the shores or waters of the British Provinces, or for intercourse with their people. It is therefore no undue expansion of the scope of that Convention to interpret strictly those of its provisions by which such access is desired except to vessels requiring it for the purposes specifically described.

Such an undue expansion would, upon the other hand, certainly take place, if, under cover of its provisions, or of any agreements relating to general commercial intercourse which may have since been made, permission were accorded to United States fishermen to resort habitually to the harbours of the Dominion, not for the sake of

seeking safety for their vessels or of avoiding risk to human life, but in order to use those harbours as a general base of operations from which to prosecute and organize with greater advantage to themselves the industry in which they are engaged.

It was in order to guard against such an abuse of the provisions of the treaty that amongst them was included the stipulation that not only should the inshore fisheries be reserved to British fishermen but that the United States should renounce the right of their fishermen to enter the bays or harbours excepting for the four specified purposes, which do not include the purchase of bait or other appliances whether intended for the deep sea fisheries or not.

The undersigned therefore cannot concur in Mr. Bayard's contention that "to permit the purchase of bait or any other supply needed for deep sea fishing, would be to expand the Convention to objects wholly beyond the purview, scope and intent of the Treaty, and to give to it an effect never contemplated."

Mr. Bayard suggests that the possession by a fishing vessel of a permit to "touch and trade" should give her a right to enter Canadian ports for other than the purposes named in the Treaty, or, in other words, should give her perfect immunity from its provisions. This would amount to a practical repeal of the Treaty, because it would enable a United States Collector of Customs by issuing a license, originally only intended for purposes of domestic customs regulation, to give exemption from the Treaty to every United States fishing vessel. The observation that similar vessels under the British flag have the right to enter the ports of the United States for the purchase of supplies, loses its force when it is remembered that the Convention of 1818 contained no restrictions on British vessels, and no renunciation of any privileges in regard to them.

Mr. Bayard states that in the proceedings prior to the Treaty of 1818, the British Commissioners proposed that United States fishing vessels should be excluded "from carrying also merchandize," but that this proposition "being resisted by the American negotiators was abandoned," and goes on to say, "this fact would seem clearly to indicate that the business of fishing did not then, and does not now, disqualify vessels from also trading in the regular ports of entry." A reference to the proceedings alluded to will show that the proposition mentioned related only to United States vessels visiting those portions of the coast of Labrador and Newfoundland on which the United States fishermen had been granted the right to fish, and to land for drying and curing fish, and the rejection of the proposal can at the utmost be supposed only to indicate that the liberty to carry merchandize might exist without objection in relation to those coasts, and is no ground for supposing that the right extends to the regular ports of entry, against the express words of the Treaty.

The proposition of the British negotiators was to append to Article I. the following words, "It is therefore well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this Article shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States."

It was also proposed to limit them to having on board such goods as might "be necessary for the prosecution of the fishery or the support of the fishermen while engaged therein, or in the prosecution of their voyages to and from the fishing grounds."

To this the American negotiators objected on the ground that the search for contraband goods, and the liability to seizure for having them in possession, would expose the fishermen to endless vexation, and in consequence the proposal was abandoned. It is apparent, therefore, that this proviso in no way referred to the bays or harbours outside of the limits assigned to the American fishermen, from which bays and harbours it was agreed, both before and after this proposition was discussed, that United States fishing vessels were to be excluded for all purposes other than for shelter and repairs, and purchasing wood and obtaining water.

If, however, weight is to be given to Mr. Bayard's argument that the rejection of a proposition advanced by either side during the course of the negotiations should be held to necessitate an interpretation adverse to the tenor of such proposition, that argument may certainly be used to prove that American fishing vessels were not intended to have the right to enter Canadian waters for bait to be used even in the prosecution of the deep sea fisheries. The United States negotiators in 1818 made the proposition that the words "and bait" be added to the enumeration of the objects for which these fishermen might be allowed to enter, and the proviso as first submitted had read "provided, however, that American fishermen shall be permitted to enter such bays and harbours for the purpose only of obtaining shelter, wood, water, and bait." The addition of the two last words was, however, resisted by the British Plenipotentiaries, and their omission acquiesced in by their American colleagues. It is, moreover, to

be observed that this proposition could only have had reference to the deep sea fishing, because the inshore fisheries had already been specifically renounced by the representatives of the United States.

In addition to this evidence it must be remembered that the United States Government admitted, in the case submitted by them before the Halifax Commission in 1877, that neither the Convention of 1818, nor the Treaty of Washington, conferred any right or privilege of trading on American Fishermen. The British case claimed compensation for the privilege which had been given since the ratification of the latter treaty to United States fishing vessels "to transfer cargoes, to outfit vessels, buy supplies, obtain ice, engage sailors, procure bait, and traffic generally in British ports and harbours."

This claim was, however, successfully resisted, and in the United States case it is maintained "that the various incidental and reciprocal advantages of the Treaty, such as the privileges of traffic, purchasing bait and other supplies, are not the subject of compensation, because the Treaty of Washington confers no such rights on the inhabitants of the United States, who now enjoy them merely by sufferance, and who can at any time be deprived of them by the enforcement of existing laws or the re-enactment of former oppressive statutes. Moreover, the Treaty does not provide for any possible compensation for such privileges."

Now, the existing laws referred to in this extract are the various statutes passed by the Imperial and Colonial Legislatures to give effect to the Treaty of 1818, which it is admitted in the said case could at any time have been enforced (even during the existence of the Washington Treaty) if the Canadian Authorities had chosen to do so.

Mr. Bayard on more than one occasion intimates that the interpretation of the Treaty and its enforcement are dictated by local and hostile feelings, and that the main question is being "obscured by partizan advocacy and distorted by the heat of local interests," and in conclusion, expresses a hope that "ordinary commercial intercourse shall not be interrupted by harsh measures and unfriendly administration."

The undersigned desires emphatically to state that it is not the wish of the Government or the people of Canada to interrupt for a moment the most friendly and free commercial intercourse with the neighbouring Republic.

The mercantile vessels and the commerce of the United States have at present exactly the same freedom that they have for years passed enjoyed in Canada, and the disposition of the Canadian Government is to extend reciprocal trade with the United States beyond its present limits, nor can it be admitted that the charge of local prejudice or hostile feeling is justified by the calm enforcement, through the legal tribunals of the country, of the plain terms of a Treaty between Great Britain and the United States, and of the statutes which have been in operation for nearly seventy years, excepting in intervals during which (until put an end to by the United States Government) special and more liberal provisions existed in relation to the commerce and fisheries of the two countries.

The undersigned has further to call attention to the letter of Mr. Bayard of the 20th May, relating also to the seizure of the "David J. Adams" in the Port of Digby, Nova Scotia.

That vessel was seized, as has been explained on a previous occasion, by the commander of the Canadian steamer "Lansdowne" under the following circumstances.

She was a United States fishing vessel, and entered the harbour of Digby for purposes other than those for which entry is permitted by the Treaty and by the Imperial and Canadian Statutes.

As soon as practicable, legal process was obtained from the Vice-Admiralty Court at Halifax, and the vessel was delivered to the Officer of that Court. The paper referred to in Mr. Bayard's letter as having been nailed to her mast, was doubtless a copy of the warrant which commanded the Marshal or his deputy to make the arrest.

The undersigned is informed that there was no intention whatever of so adjusting the paper that its contents could not be read, but it is doubtless correct that the officer of the Court in charge declined to allow the document to be removed. Both the United States Consul-General and the Captain of the "David J. Adams" were made acquainted with the reasons for the seizure, and the only ground for the statement that a respectful application to ascertain the nature of the complaint was fruitless, was that the Commander of the "Lansdowne," after the nature of the complaint had been stated to those concerned and was published, and had become notorious to the people of both countries, declined to give the United States Consul-General a specific and precise statement of the charges upon which the vessel would be proceeded against, but referred him to his superior.

Such conduct on the part of the officer of the "Lansdowne" can hardly be said to have been extraordinary under the present circumstances.

The legal proceedings had at that time been commenced in the Court of Vice-Admiralty at Halifax, where the United States Consul-General resides, and the officer at Digby could not have stated with precision, as he was called upon to do, the grounds on which the intervention of the Court had been claimed in the proceedings therein.

There was not, in this instance, the slightest difficulty in the United States Consul-General and those interested in the vessel, obtaining the fullest information, and no information which could have been given by those to whom they applied was withheld.

Apart from the general knowledge of the offences which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the Registry of the Court and from the solicitors for the Crown, and would have been furnished immediately on application to the authority to whom the Commander of the "Lansdowne" requested the United States Consul-General to apply. No such information could have been obtained from the paper attached to the vessel's mast.

Instructions have, however, been given to the Commander of the "Lansdowne," and other officers of the Marine Police, that in the event of any further seizures, a statement in writing shall be given to the master of the seized vessel, of the offences for which the vessel may be detained, and that a copy thereof shall be sent to the United States Consul-General at Halifax, and to the nearest United States Consular Agent, and there can be no objection to the Solicitor for the Crown being instructed likewise to furnish the Consul-General with a copy of the legal process in each case if it can be supposed that any fuller information will thereby be given.

Mr. Bayard is correct in his statement of the reasons for which the "David J. Adams" was seized and is now held. It is claimed that that vessel violated the Treaty of 1818, and consequently the statutes which exist for the enforcement of that Treaty, and it is also claimed that she violated the Customs Laws of Canada of 1883.

The undersigned recommends that copies of those Statutes be furnished for the information of Mr. Bayard.

Mr. Bayard has in the same despatch recalled the attention of Her Majesty's Minister to the correspondence and action which took place in the year 1870, when the Fishery question was under consideration, and especially to the instructions from the Lords of the Admiralty to Vice-Admiral Wellesley, in which that officer was directed to observe great caution in the arrest of American fishermen, and to confine his action to one class of offences against the Treaty. Mr. Bayard, however, appears to have attached unwarranted importance to the correspondence and instructions of 1870, when he refers to them as implying "an understanding between the two Governments," an understanding which should, in his opinion, at other times and under other circumstances, govern the conduct of the authorities, whether Imperial or Colonial, to whom, under the laws of the Empire, is committed the duty of enforcing the Treaty in question.

When, therefore, Mr. Bayard points out the "absolute and instant necessity that" "now exists for a restriction of the seizure of American vessels charged with violations" "of the Treaty of 1818" to the conditions specified under those instructions, it is necessary to recall the fact that in the year 1870 the principal cause of complaint on the part of Canadian fishermen was that the American vessels were trespassing on the inshore fishing grounds and interfering with the catch of mackerel in Canadian waters, the purchase of bait being then a matter of secondary importance.

It is probable, too, that the action of the Imperial Government was influenced very largely by the prospect which then existed of an arrangement such as was accomplished in the following year by the Treaty of Washington, and that it may be inferred, in view of this disposition made apparent on both sides to arrive at such an understanding, that the Imperial authorities, without any surrender of Imperial or Colonial rights, and without acquiescing in any limited construction of the Treaty, instructed the Vice-Admiral to confine his seizures to the more open and injurious class of offences which were especially likely to be brought within the cognizance of the naval officers of the Imperial service.

The Canadian Government, as has been already stated, for six months left its fishing grounds open to American fishermen, without any corresponding advantage in return, in order to prevent loss to those fishermen, and to afford time for the action of Congress, on the President's recommendation that a joint Commission should be appointed to consider the whole question relating to the fisheries.

That recommendation has been rejected by Congress. Canadian fish is by prohibitory duties excluded from the United States market. The American fishermen clamour

against the removal of those duties, and in order to maintain a monopoly of the trade, continue against all law to force themselves into our waters and harbours, and make our shores their base for supplies, especially of bait, which is necessary to the successful prosecution of their business.

They hope by this course to supply the demand for their Home market, and thus to make Canada indirectly the means of injuring her own trade.

It is surely, therefore, not unreasonable that Canada should insist on the rights secured to her by Treaty. She is simply acting on the defensive, and no trouble can arise between the two countries if American fishermen will only recognise the provisions of the Convention of 1818 as obligatory upon them, and until a new arrangement is made, abstain both from fishing in her waters and from visiting her bays and harbours for any purposes save those specified in the Treaty.

In conclusion the undersigned would express the hope that the discussion which has arisen on this question may lead to renewed negotiations between Great Britain and the United States, and may have the result of establishing extended trade relations between the Republic and Canada, and of removing all sources of irritation between the two countries.

(Signed) GEORGE E. FOSTER,
Minister of Marine and Fisheries.

11,177.

No. 81.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
June 25th, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, a copy of a Treasury Circular issued by the United States' Government ordering the return of Fisheries Statistics.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 81.

CIRCULAR.

STATISTICS OF THE FISHERIES.

(See Circular 177 of 1885.)

1886

Department No. 63
Bureau of Navigation

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
WASHINGTON, D. C.,
May 28, 1886.

TO COLLECTORS OF CUSTOMS AND OTHERS :

It is represented to this Department by the Honorable Spencer F. Baird, Commissioner of Fish and Fisheries, that, in view of the questions arising as to the shaping and negotiating of a new fishery treaty with Great Britain, affecting Colonial waters in North America and for other reasons, it is desirable to have at hand, available for reference, full and accurate information regarding our fisheries.

A large percentage of the product of the fisheries of the United States is taken by vessels licensed for the fisheries or the coasting trade, and the owner or master in each case are thoroughly informed relative to the movements of the vessel and the quantity of fish, shell fish, and other products obtained.

It is, therefore, directed that whenever the owner, master, or agent of any vessel of over five tons burden, engaged in the capture or transportation of any kind of fish, shell-fish, crustacæ, or other products of the seas, rivers, or lakes, shall present himself at the

custom-house for the purpose of obtaining or renewing his marine papers, the collector or his deputy will question him regarding the information required by the blank appended hereto, and will fill out the blank from the details thus obtained, and certify that it is correct. The statistics should include the period covered by the papers about to be surrendered.

On the first day of each month the collector will forward by mail all such blanks filled out during the preceding month, addressed to "The Commissioner of Fish and Fisheries, Washington, D.C."

Such additional copies of this circular as may be necessary for your use will be furnished by the Bureau of Navigation on requisition.

C. S. FAIRCHILD,
Acting Secretary.

TREASURY DEPARTMENT.

Statistics of the Vessel Fisheries of the United States furnished by _____, *Collector*
of Customs for the Port of _____, *Date of Record,*

Name of vessel, _____; rig, _____; net tonnage, _____
 Present value of vessel, \$ _____; value of apparatus and outfit, \$ _____
 Hailing port, _____; fishing port, _____
 Period covered by papers about to be surrendered or renewed began _____, 188
 and ended _____, 188 .
 Name of owner or agent, _____; P.O. address, _____
 Name of master, _____; P.O. address, _____
 Number of persons on vessel, as follows: American subjects, (white,) _____;
 American subjects, (coloured,) _____; British provincials, _____; other foreigners,
 _____; total, _____
 Name separately all fisheries engaged in during period covered by papers mentioned
 above,
 Where fishing, and on what grounds, _____
 Kinds of apparatus used, _____
 Date of starting on first trip, _____; date of return from last trip, _____
 Total number of trips made, _____; how long idle during period covered by
 last papers, _____
 Quantity of fish or other products taken during period covered by last papers, as
 follows :
 Pounds sold fresh : Mackerel, _____; cod, _____; halibut, _____;
 herring, _____; haddock, _____; white-fish, _____; lake trout,
 menhaden, (bbls.) _____; other fish (specifying kinds and qualities). _____
 Pounds dry salted or split for salting : Cod, _____; hake, _____; haddock,
 _____; pollack, _____; other fish (specifying kinds and qualities). _____
 Barrels brine-salted (sea-packed :) Mackerel, _____; sea herring, _____;
 white-fish, ($\frac{1}{2}$ -bbls.) _____; lake trout, ($\frac{1}{2}$ -bbls.) _____; lake
 herring, ($\frac{1}{2}$ -bbls.) _____; other fish, _____
 Bushels of shell-fish : Oysters taken, _____; oysters transported only,
 _____, clams taken, _____; clams transported only, _____;
 scallops, _____; other shell-fish, _____
 Number of lobsters : lobsters taken, _____; lobsters transported only, _____
 Gallons of oil (specify kind and quantity), _____
 Miscellaneous products : Seal-skins, _____; sponges, _____; other products
 (specify kind and quantity), _____

Total value of fish and other products taken, before deducting any expenses, \$

Disposition made of fish or other products, (where landed,)

Estimate of rounds of above-named fish taken within three miles of the mainland or islands, as follows:

Mackerel, ; cod, ; hake, ; haddock, ; pollack
; herring, ; menhaden, (bbls.) ; other fish,

Total value of fish taken within three miles of the mainland or islands, \$

Has the vessel entered foreign waters for any purpose whatever during the above period? If so, please answer fully the questions on the following page; if not, they may be neglected.

Statistics of American Fishing Vessels entering foreign waters, especially those of Canada, Newfoundland, Iceland, or Greenland.

Name of vessel, ; rig, ; net tonnage,

Number of weeks actually fishing in foreign waters,

Where fishing, and on what grounds,

Kinds of apparatus used,

Total quantity of fish or other products taken in foreign waters, as follows:

Pounds sold fresh: Mackerel, ; herring, ; cod, ;
halibut, ; white fish, ; lake trout, ; other fish,

Pounds dry salted: Cod, ; hake, ; haddock, ;
halibut, ; other fish,

Barrels brine salted, (sea-packed): Mackerel ; sea herring ;
white fish, ($\frac{1}{2}$ -bbls.), ; lake trout, ($\frac{1}{2}$ -bbls.), ; lake herring,
($\frac{1}{2}$ -bbls.), ; other fish,

Other products (state kind and quantity),

State fully the quantity of each kind taken within three miles of any land, and locality where taken,

Total value of fish taken in foreign waters, \$

Value of portion taken within three miles of land, \$

Money paid to foreign merchants for ice, \$; bait, \$; supplies, \$;
gear, \$; other expenditures and repairs, \$

Number of times entering foreign ports for shelter, repairs, bait, or supplies during period covered by last papers,

Port of

, 188 .

I CERTIFY that the above information was obtained as prescribed by the Circular of the Treasury Department dated December 16, 1885.

Collector of Customs.

10,860.

No. 82.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
26 June, 1886.

SIR,

With reference to your letter of the 21st instant* respecting the North American Fisheries Question, I am directed by Earl Granville to transmit to you, for the information of the Earl of Rosebery, a copy of a telegram† which his Lordship has addressed to the Governor-General of Canada on the subject.

I am to add that copies of your letters of the 14th and 21st instant‡ were transmitted by the mail of the 24th instant to the Marquis of Lansdowne for confidential communication to his Ministers.

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

The Under-Secretary of State,
Foreign Office.

10,801.

No. 83.

Colonial Office to the High Commissioner for Canada.

Secret.

DOWNING STREET,
26th June, 1886.

SIR,

I am directed by Earl Granville to transmit to you a copy of a letter§ with its enclosure from the Foreign Office, respecting an alleged claim by the Canadian Authorities to jurisdiction by means of headland lines drawn from Canso to St. Esprit and from North Cape to East Cape.

Lord Granville would be glad to learn whether you are in possession of any information on the subject.

I am to take this opportunity of transmitting to you a printed copy of recent correspondence relative to the North American Fisheries Question; and I am to request that you will treat these papers, as well as those which you will from time to time receive from this department, as strictly confidential.

I am, &c.,
(Signed) EDWARD WINGFIELD.

The High Commissioner for Canada.

10,801.

No. 84.

Colonial Office to Foreign Office.

Confidential.

DOWNING STREET,
26th June, 1886.

SIR,

I am directed by Earl Granville to acknowledge the receipt of your letter of the 19th inst.|| respecting an alleged claim by the Canadian Authorities to jurisdiction by means of headland lines drawn from Canso to St. Esprit, and from North Cape to East Cape.

I am to request that you will inform the Earl of Rosebery that Lord Granville is not in possession of any information on the subject.

I am, &c.,
(Signed) EDWARD WINGFIELD.

The Under-Secretary of State,
Foreign Office.

* No. 73.

† No. 76.

‡ Nos. 63 and 73.

§ No. 68.

|| No. 68.

10,799.

No. 85.

Colonial Office to Foreign Office.

Confidential.

DOWNING STREET,
26th June, 1886.

SIR,

With reference to your letter of the 1st inst.* relative to the Warning to Fishermen issued by the Canadian Government, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery a copy of a despatch† with its enclosure from the Governor-General of the Dominion on the subject.

I am, &c.,
(Signed) JOHN BRAMSTON.The Under-Secretary of State,
Foreign Office.

56. Secret.

No. 86.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received June 27, 1886.)

TELEGRAPHIC.

26th June. Your telegrams 24th.‡ Vice-Admiralty Court 1871 decided that purchase of bait was evidence of preparing to fish. Master of "Adams" having bought bait, his vessel becomes liable under Imperial Statute 1819, section 2. Canadian Statute to same effect. Master also liable to penalty for entering Canadian waters for purpose not recognized by Convention. "Adams" also liable under Customs Act until a penalty of 400 dollars paid for not making proper entry at Customs.

Have no knowledge of the "Annie M. Jordan."

11,038.

No. 87.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
29 June, 1886.

SIR,

With reference to your two letters of the 21st inst.,§ and to the reply from this department of the 26th inst.,|| respecting the North American Fisheries Question, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, the decypher of a telegram ¶ from the Governor-General of Canada on the subject.

I am also to transmit a copy of a despatch** from the Governor-General, forwarding a copy of an approved report of his Privy Council on Mr. Bayard's notes of the 10th and 20th ult.

I am, &c.,
(Signed) R. H. MEADE.The Under-Secretary of State,
Foreign Office.* No. 32.
§ Nos. 72 and 73.† No. 71.
|| No. 82.‡ Nos. 76 and 79.
¶ No. 86.
** No. 80.

11,696.

No. 88.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 30th, 1886.

SIR,

With reference to your letter of the 26th instant,* I am directed by the Earl of Rosebery to state that his Lordship would be glad if Earl Granville could ascertain whether any instructions have been given by the Canadian Government to Customs' officers on the subject of headland lines, which might have given rise to the alleged claim to exclude United States' fishing vessels from the waters covered by lines drawn from Cape Canso to St. Esprit, and from North Cape to East Cape of Prince Edward Island.

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

The Under-Secretary of State,
Colonial Office.

11,695.

No. 89.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
June 30, 1886.

SIR,

With reference to my letter of the 19th instant,† I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, a copy of a despatch from Her Majesty's Minister at Washington relative to the headland question in connection with the North American Fisheries.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 89.

WASHINGTON,
June 15, 1886.

MY LORD,

I have the honour to enclose to your Lordship herewith copy of a note which I have received from the Secretary of State requesting the attention of Her Majesty's Government to certain warnings alleged to have been given to American fishing vessels by the Canadian authorities to keep outside imaginary lines drawn from headlands to headlands which he characterizes as wholly unwarranted pretensions of extra territorial authority and usurpations of jurisdiction.

I have, &c.,
(Signed) L. S. S. WEST.

The Earl of Rosebery,
&c., &c. &c.

WASHINGTON,
June 14, 1886.

SIR,

The Consul-General of the United States at Halifax communicates to me the information derived by him from the Collector of Customs at that port to the effect that American fishing vessels will not be permitted to land fish at that port of entry for transportation in bond across the province.

I have also to inform you that the masters of the four American fishing vessels of Gloucester, Mass., "Martha A. Bradly," "Rattler," "Eliza Boynton," and "Pioneer," have severally reported to the Consul-General at Halifax that the sub-collector of

* No. 84.

† No. 68.

Customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso Head to a point three miles outside St. Esprit on the Cape Breton Coast, a distance of 40 miles. This line for nearly its entire continuance is distant 12 to 25 miles from the coast. The same masters also report that they were warned against going inside an imaginary line drawn from a point three miles outside North Cape on Prince Edward Island to a point three miles outside of East Point on the same island, a distance of 100 miles, and that this last named line was for nearly that entire distance about 30 miles from the shore.

The same authority informed the masters of the vessels referred to that they would not be permitted to enter Bay Chaleur.

Such warnings are, as you must be well aware, wholly unwarranted pretensions of extra territorial authority, and usurpations of jurisdiction by the provincial officials.

It becomes my duty, in bringing this information to your notice, to request, that if any such orders for interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores, and within the defined limits as to which renunciation of the liberty to fish was expressed in the Treaty of 1818, may have been issued, the same may at once be revoked as violative of the rights of citizens of the United States under Convention with Great Britain.

I will ask you to bring this subject to the immediate attention of Her Britannic Majesty's Government, to the end that proper remedial orders may be forthwith issued.

It seems most unfortunate and regrettable that questions which have been long since settled between the United States and Great Britain should now be sought to be revived.

The Hon. Sir L. West,
&c., &c., &c.

I have, &c.,
(Signed) T. F. BAYARD.

10,853.

No. 90.

Colonial Office to Foreign Office.

DOWNING STREET,
July 1, 1886.

SIR,

With reference to your letter of the 16th ult.,* respecting the North American Fishery Question, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a despatch,† with its enclosures, from the Governor-General of Canada on the subject.

I am also to enclose the decypher of a telegram‡ from the Marquis of Lansdowne, explaining the amendments which have been made in the Customs Circular now forwarded.

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

The Under-Secretary of State,
Foreign Office.

11,735.

No. 91.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
1 July, 1886.

SIR,

With reference to your letter of the 26th ultimo,§ I am directed by the Earl of Rosebery to request you to state to Earl Granville that his Lordship approves of the amendment which has been introduced into the warning to United States' fishermen which was issued by the Dominion Government.

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

The Under-Secretary of State,
Colonial Office.

* No. 64.

† No. 69.

‡ No. 57.

§ No. 85.

11.718

No. 92.

Governor Sir G. W. Des Vœux, K.C.M.G. (Newfoundland) to the Right Hon. the Earl Granville, K.G. (Received July 2, 1886.)

GOVERNMENT HOUSE, NEWFOUNDLAND.
June 17th, 1886.

No. 67.

MY LORD,

On the 10th instant I had the honour to forward to your Lordship a telegram* in which I informed you of the desire of my Ministers that I should request orders or instructions under the Act of Parliament 59 George III., cap. 38, section 4, to require American fishermen to depart from bays and harbours of Newfoundland. I further informed you that no seizures were contemplated, and that penalties could rarely, if ever, be enforced; but that the contemplated measure was intended rather as a moral support to the action of Canada, and was also considered as likely to have some deterrent effect.

2. In reply, I have received a telegram† from your Lordship informing me that you purpose awaiting my despatch.

3. The view of the Colonists of Newfoundland, which has found expression in this request of the Colonial Ministry is in effect as follows:

4. The Treaty of Washington having expired, and the Government of the United States having declined to enter into negotiations for another with a like object, the position reverts to that created by the treaty of 1818, according to which American fishermen can resort to the shores of Newfoundland only "for the purpose of shelter and repairing damages, and of purchasing wood and water," and may be rightfully precluded from obtaining supplies of any other kind. These fishermen are in the habit of resorting to the coasts of Newfoundland in large numbers, the principal object of their coming being to obtain supplies of bait-fishes and ice for their preservation.

The Colonists regard the permission to obtain these supplies as a privilege, the value of which to the Americans was shown by its being the principal one ceded in the Washington Treaty in return for a large sum of money, and for the free entry of colonial fish into United States ports.

They hold that they are not bound either legally or morally to grant this privilege for nothing, and that they are fully justified in withdrawing it now that the United States Government not only refuses to negotiate for a new treaty but imposes an almost prohibitory duty upon Newfoundland fish in American markets, thus inflicting serious injury upon the industry which is in competition with that supported by the bait-supply.

5. What with French competition, stimulated by export bounties on the one hand, and American competition, protected by import-duties on the other, the colonists believe that they are receiving injury of so serious a nature that if permitted to continue, it threatens at no distant period (to adopt the language of the petition of the Legislature, forwarded by the same mail which carries this despatch)—"Starvation to our fishermen, ruin to our mercantile and industrial classes, and bankruptcy to the Colonial Exchequer."

6. To prevent such a result, the Colonists believe that they have only one resource open to them, viz., to prohibit the supply of bait to foreigners, and with a view to give effect to their purpose as regards the Americans, they desire to be furnished with the means provided by the Imperial Act above referred to.

7. By the 4th section of the Act in question it is enacted that "if any person or persons, upon requisition made by the Governor of Newfoundland * * * in the execution of any orders or instructions from his Majesty in Council shall refuse to depart from such bays or harbours, or," &c. &c., he shall be liable to penalty.

8. What the Ministers desire therefore is that I should obtain through your Lordship from Her Majesty in Council the "orders or instructions" which are necessary to enable this provision to be put into force; and this was the object of my telegram.

9. The Ministers hope that if such instructions are obtained, and if a requisition of the Governor in accordance with them should be published, this colony would no longer remain in a negative attitude, which if maintained, would to a very material extent, weaken the effect of the action recently taken by the Canadian Government. As this Colony, unlike Canada, has no vessels for the enforcement of its policy on this question,

* No. 61.

† No. 65.

and there is, I understand, no immediate intention of obtaining any, it is improbable that any of the penalties prescribed by the Act can be recovered this year; but it is hoped that a requisition of the kind described may in addition to the advantage above indicated have a certain temporary effect of a deterrent nature, and that before next season the question will in some way or other be brought to a settlement, while this will never be reached if the United States believed that their fishermen would always get what they require without the necessity of any concession in exchange.

10. I should mention that as the action contemplated by this Colony is not likely to have any very appreciable effect in diminishing the supply of bait this year, the suffering that would be caused on the southern coast by complete preclusion of supply does not require to be taken into immediate account. But even if the whole means of livelihood were taken away from the two or three thousand people who live by this trade the Colonists argue that it would be far preferable to provide for these than to have the whole population reduced to a state of pauperism.

11. I have endeavoured above to present to your Lordship, to the best of my ability, the views of the Colonists on this important question, and as your Lordship is better able than I am to form an opinion on them, I shall not presume to express one; and I therefore content myself with saying that the prospect in front of this colony appears to be indeed a serious one. So many fishermen are out of employment this summer, that the distress among them next winter is likely to be very severe; and unless some improvement takes place in the price of fish by the removal of the French bounties or the American import duties or otherwise, this distress is likely to become more and more aggravated each year. For even if other pursuits can be found for the fishermen, it is very doubtful whether so large a proportion of the population could be trained to them with sufficient quickness to avert a very large amount of suffering and death.

With such a condition of things in front of them, it is scarcely to be wondered at that the colonists should desire to use the only weapon at their command against those Powers who by their unfair competition are contributing to bring it about; and though the means proposed appear inadequate to the end in view, I feel it my duty to inform your Lordship that to prevent their employment would create intense bitterness in this Colony.

I have, &c.,
(Signed) G. WILLIAM DES VŒUX.

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

11,824.

No. 93.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
July 3rd, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copies of despatches from Her Majesty's Minister at Washington relative to the Fisheries Question.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 93.

Sir L. West to the Earl of Rosebery. (Received June 11.)

(No. 49. Treaty.)

WASHINGTON,
June 3, 1886.

MY LORD,

I have the honour to inclose to your Lordship herewith copies of two letters which I have received from Mr. Bayard respecting the proceeding of the Canadian authorities against American fishing vessels. I have explained to Mr. Bayard that I am powerless to deal with these matters.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON.

June 1, 1886.

MY DEAR SIR LIONEL,

I send you a copy of a telegram I have received from our Consul-General at Halifax reporting additional cases of interference with American vessels by the Canadian authorities.

There is no possible justification apparent in the repetition and continuance of such harsh and harassing action on the part of the provincial authorities against peaceful commerce. It can only be productive of injury to the efforts to establish a just mutual understanding, and obstruct the amicable international arrangement of a vexed question.

Very sincerely yours,

(Signed) T. F. BAYARD.

Mr. Phelan to Mr. Bayard.

TELEGRAPHIC.

HALIFAX, NOVA SCOTIA,

May 30, 1886.

Cutter "Houlet" boarded American vessel at Canso and searched her. I have not particulars.

Schooner "Matthew Keany" detained one day at Souris, Prince Edward's Island, for purchasing ten bushels potatoes. The potatoes were landed and vessel allowed to go.

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, WASHINGTON,

June 2, 1886.

MY DEAR SIR LIONEL,

A telegram from Eastport, in Maine, to the Member of Congress from that district announces a threat by Dominion Collectors of Customs to seize American boats if they buy herring for canning in the Dominion weirs.

This additional threatened inhibition of trade relates to the sardine industry, which consists in canning in the United States very small and young herring, which I am informed are caught very closely inshore in weirs in Canadian waters by the inhabitants and sold to citizens of the United States.

The occupation is carried on solely by Canadian fishermen along the coasts of their own country, so that the interference suggested is with their freedom of contract to dispose of property lawfully, the result of their own labours, because the sale is to citizens of the United States.

It is important that the facts should be made known plainly.

Yours, &c.

(Signed) T. F. BAYARD.

Enclosure 2 in No. 93.

Sir L. West to the Earl of Rosebery. (Received June 14.)

(No. 51. Treaty.)

Washington, June 4, 1886.

MY LORD.

With reference to my despatch No. 29, Treaty, of the 11th May, I have the honour to enclose to your Lordship herewith the text of the Bill relating to American shipping which has passed Congress. Section 12 refers to reciprocity of tonnage dues, and section 17 is the retaliatory clause directed against Canada.

Official copies of the Act when approved by the President will be forwarded.

I have, &c.,

(Signed) L. S. SACKVILLE WEST.

Newspaper Extract.

[From our regular Correspondent.]

"Herald" Bureau, Corner Fifteenth and G Streets, N.W.,

WASHINGTON,

May 27, 1886.

The Bill to abolish certain fees for official services to American vessels and to amend the laws relating to shipping Commissioners, seamen, and owners of vessels, and for other purposes, will go to the President for his signature to-morrow. The main features were printed in the "Herald" of to-day, but as most of the amendments and new provisions will go into effect immediately, the maritime interests of New York and other ports are eagerly seeking for the text of the new Act, that it may be definitely understood what the modifications of the law are to be. The first two sections do not go into effect until the 1st July. Following is the full text of the Bill :—

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that on and after the 1st July, 1886, no fees shall be charged or collected by collectors or other officers of Customs, or by inspectors of steam-vessels or shipping commissioners, for the following services to vessels of the United States, to wit :—

"Measurement of tonnage and certifying the same; issuing of license or granting of certificate of registry, record or enrolment, including all indorsements on the same and bond and oath: indorsement of change of master; certifying and receiving manifest, including master's oath and permit; granting permit to vessels licensed for the fisheries to touch and trade; granting certificate of payment of tonnage dues; recording bill of sale, mortgage, hypothecation or conveyance, or the discharge of such mortgage or hypothecation; furnishing certificate of title; furnishing the crew list, including bond; certificate of protection to seamen; bill of health; shipping or discharging of seamen, as provided by title 53 of the Revised Statutes and section 2 of this Act; apprenticing boys to the merchant service; inspecting, examining and licensing steam vessels, including inspection certificate and copies thereof, and licensing of master, engineer pilot or mate of a vessel, and all provisions of laws authorizing or requiring the collection of fees for such services are repealed, such repeal to take effect the 1st July, 1886.

"Collectors or other officers of Customs, inspectors of steam-vessels and shipping Commissioners who are paid wholly or partly by fees, shall make a detailed Report of such services and the fees provided by law to the Secretary of the Treasury, under such Regulations as that officer may prescribe; and the Secretary of the Treasury shall allow and pay from any money in the Treasury not otherwise appropriated said officers such compensation for said services as each would have received prior to the passage of this Act; also such compensation to clerks of shipping Commissioners as would have been paid them had this Act not passed; provided that such services have, in the opinion of the Secretary of the Treasury, been necessarily rendered.

"Section 2. That shipping Commissioners may ship and discharge crews for any vessel engaged in the coastwise trade or the trade with the United States and the Dominion of Canada or Newfoundland or the West Indies or the Republic of Mexico at the request of the master or owner of such vessel, the shipping and discharging fees in such cases to be one-half that prescribed by Section 4612 of the Revised Statutes, for the purpose of determining the compensation of shipping Commissioners.

"Section 3. That Section 10 of the Act entitled, 'An Act to remove certain Burdens on the American Merchant Marine and encourage the American Foreign Carrying Trade, and for other Purposes,' approved 26th June, 1884, be amended by striking out the words, 'that it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages which he may earn to his wife, mother, or other relative, but to no other person or corporation,' and inserting in lieu thereof the following :—

"That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of all or any portion of the wages which he may earn to his wife, mother, or other relative, or to an original creditor in liquidation of any just debt for board or clothing which he may have contracted prior to engagement, not exceeding 10 dollars per month for each month of the time usually required for the voyage for which the

“ seaman has shipped, under such Regulations as the Secretary of the Treasury may prescribe, but no allotment to any other person or corporation shall be lawful.”

“ And said Section 10 is further amended by striking out all of the last paragraph after the words ‘ vessels of the United States,’ and inserting in lieu of such words stricken out the following :—

“ ‘ And any master, owner, consignee, or agent of any foreign vessel who has violated this section shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for a similar violation.’

“ Section 4. That Section 4289 of the Revised Statutes be amended so as to read as follows :—

“ ‘ Section 4289. The provisions of the seven preceding sections and of Section 18 of an Act entitled, “ An Act to remove certain Burdens on the American Merchant Marine and to encourage the American Foreign Carrying Trade, and for other Purposes,” approved 26th June, 1884, relating to the limitations of the liability of the owners of vessels, shall apply to all sea-going vessels, and also to all vessels used on lakes or rivers or in inland navigation, including canal-boats, barges, and lighters.’

“ Section 5. That Section 4153 of the Revised Statutes be amended by striking out the last sentence of the last paragraph and inserting instead the following :—

“ ‘ In every vessel documented as a vessel of the United States, the number denoting her net tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued ; and if the number at any time cease to be continued, such vessel shall be subject to a fine of 30 dollars on every arrival in a port of the United States if she have not her tonnage number legally carved or permanently marked.’

“ Section 6. That from the close of Section 4177 of said Statutes the following words shall be stricken out, to wit :—

“ ‘ Such vessel shall be no longer recognized as a vessel of the United States,’ and in lieu thereof there shall be inserted the words following :—

“ ‘ Such vessel shall be liable to a fine of 30 dollars on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked.’

“ Section 7. Every vessel of twenty tons or upward, entitled to be documented as a vessel of the United States, other than registered vessels, found trading between district and district or between different places in the same district, or carrying on the fishery without being enrolled and licensed, and every vessel of less than twenty tons and not less than five tons burden found trading or carrying on the fishery as aforesaid without a license obtained as provided by this title, shall be liable to a fine of 30 dollars at every port of arrival without such enrolment or license. But if the license shall have expired while the vessel was at sea, and there shall have been no opportunity to renew such license, then said fine of 30 dollars shall not be incurred, and so much of Section 4371 of the Revised Statutes as relates to vessels entitled to be documented as vessels of the United States is hereby repealed.

“ Section 8. That foreign vessels found transporting passengers between places or ports in the United States, when such passengers have been taken on board in the United States, shall be liable to a fine of 2 dollars for every passenger landed.

“ Section 9. That the fines imposed by Sections 5, 6, and 8 of this Act shall be subject to remission or mitigation by the Secretary of the Treasury when the offence was not wilfully committed, under such Regulations and methods of ascertaining the facts as may seem to him advisable.

“ Section 10. That the provision of Schedule N. of ‘ An Act to reduce Internal Revenue Taxation, and for other Purposes,’ approved 3rd March, 1883, allowing a drawback on imported bituminous coal used for fuel on vessels propelled by steam, shall be construed to apply only to vessels of the United States.

“ Section 11. That Section 14 of ‘ An Act to remove certain Burdens on the American Merchant Marine and encourage the American Foreign Carrying Trade, and for other Purposes,’ approved the 26th June, 1884, be amended so as to read as follows :—

“ ‘ Section 14. That in lieu of the tax on tonnage of 30 cents per ton per annum imposed prior to the 1st July, 1884, a duty of 3 cents per ton, not to exceed in the aggregate 15 cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any ports of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or the Sandwich Islands, or Newfoundland ; and a duty of

“ ‘ 6 cents per ton, not to exceed 30 cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports, not, however, to include vessels in distress or not engaged in trade.

“ ‘ Provided that the President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any foreign port as may be in excess of the tonnage and lighthouse dues, or other equivalent tax or taxes imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this Act, and from time to time thereafter as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by Proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension.

“ ‘ Provided further, that such Proclamation shall exclude from the benefits of the suspension herein authorised the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on the cargoes are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels.’

“ And Sections 4223 and 4224, and so much of Section 4219 of the Revised Statutes as conflicts with this section, are hereby repealed.

“ Section 12. That the President be, and hereby is, directed to cause the Governments of foreign countries which, at any of their ports, impose on American vessels a tonnage tax or lighthouse dues, or other equivalent tax, or taxes, or any other fees, charges, or dues, to be informed of the provisions of the preceding section and invited to co-operate with the Government of the United States in abolishing all lighthouse dues, tonnage taxes, or other equivalent tax or taxes on, and also all other fees for official services to the vessels of the respective nations employed in the trade between the ports of such foreign country and the ports of the United States.

“ Section 13. That Section 11 of ‘An Act to remove certain Burdens on the American Merchant Marine and encourage the American Foreign Carrying Trade, and for other Purposes,’ approved the 26th June, 1884, shall not be construed to apply to vessels engaged in the whaling or fishing business.

“ Section 14. That Section 4418 of the Revised Statutes is hereby amended by striking out from the nineteenth and following lines thereof the words, ‘and, to indicate the pressure of steam, suitable steam registers that will correctly record each excess of steam carried above the prescribed limit and the highest point attained,’ and inserting in lieu thereof the words following, ‘and suitable steam gauges to indicate the pressure of steam.’

“ Section 15. That the provisions of Sections 2510 and 2511 of the Revised Statutes, as the sections of title 33 are numbered, in ‘An Act to reduce Internal Revenue Taxation, and for other Purposes,’ approved the 3rd March, 1883, and the provisions of Section 16 of ‘An Act to remove certain Burdens on the American Merchant Marine and encourage the American Foreign Carrying Trade, and for other Purposes,’ approved the 26th June, 1884, shall apply to the construction, equipment, repairs, and supplies of vessels of the United States employed in the fisheries or in the whaling business in the same manner as to vessels of the United States engaged in the foreign trade.

“ Section 16. That Rule 12 of Section 4233 of the Revised Statutes shall be so construed as not to require rowboats and skiffs upon the River St. Lawrence to carry lights.

“ Section 17. That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coast-wise trade excepted) shall deny to any vessels in the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his Proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such Proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said

“ Proclamation from the exercise of any commercial privileges shall do any act prohibited by said Proclamation in the ports, harbours, or waters of the United States for or on account of such vessel, such vessel and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this act, or aiding and abetting any other person in such opposition, shall forfeit 800 dollars, and shall be guilty of a misdemeanour, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years.

“ Section 18. Section 9 of ‘An Act to remove certain Burdens on the American Merchant Marine and encourage the American Foreign Carrying Trade, and for other Purposes,’ approved the 26th June, 1884, is hereby amended in the eighth line by inserting after the words ‘and the Consular offices’ the following: ‘When the transportation is by a sailing-vessel, and the regular steerage passenger rate, not to exceed 2 cents per mile, when the transportation is by steamer;’ and the said section is further amended by adding at the end the following: ‘or to take any seaman having a contagious disease.’”

11,843.

No. 94.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G. to the Right Hon. the Earl Granville, K.G. (Received July 5, 1886.)

(No. 204.)

CASCAPEDIA RIVER, NEW RICHMOND,
PROVINCE OF QUEBEC,
18th June, 1886.

MY LORD,

I have the honour to forward herewith for your information a copy of the amended Customs' Circular No. 371,* issued under the authority of the Government of Canada to the Collectors of Customs throughout the Dominion.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure in No. 94.

Confidential.Circular No. 371.

CUSTOMS DEPARTMENT, OTTAWA,
7th May, 1886.

The last paragraph of this Circular only is printed herewith. For original text see Governor-General's Despatch No. 196 of 9th June, 1886.†

Having reference to the above, you are requested to furnish any foreign fishing vessels, boats or fishermen, found within three marine miles of the shore, within your district, with a printed copy of the "WARNING" enclosed herewith. If any fishing vessel or boat of the United States is found fishing, or to have been fishing, or preparing to fish, or if hovering within the three mile limit, does not depart within twenty-four hours after receiving such "WARNING," you will please place an officer on board such vessel and at once telegraph the facts to the Fisheries Department at Ottawa and await instructions.

(Signed) J. JOHNSON,
Commissioner of Customs.

* Last paragraph only printed.

† No 69.

56.—Secret.

No. 95.

The Right Honourable the Earl Granville, K.G., to Governor-General the Most Honourable the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

6th July, 1886. American Minister asserts American vessels warned by Collector Canso keep three miles outside line from Canso to St. Esprit, also North Cape to East Point. Report immediately if this correct. Very desirable Her Majesty's Government be at once informed if Canadian Government desire to modify view taken in Confidential instructions of 23rd March on headland question.

57. Secret.

No. 96.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G. to the Right Hon. the Earl Granville, K.G. (Received 9th July, 1886.)

TELEGRAPHIC.

8th July. Your telegram of the 6th.* We still desire to avoid raising headland question in conformity with instructions of 23rd March, but Americans seem to be resolved to force it on by invading Canadian bays.

Fisheries Department has not been informed of warnings referred to, but Collector has been called on for Report.

12,133.

No. 97.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
July 9, 1886.

(Confidential.)

SIR,

With reference to previous correspondence, I am directed by the Earl of Rosebery to transmit to you drafts of despatches† which his Lordship proposes to address to Her Majesty's Minister at Washington, and to the United States' Minister at this Court, relative to the North American Fisheries Question, and I am to request that Earl Granville will inform his Lordship whether he concurs therein, and, if so, to communicate copies confidentially to the Canadian Government.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 97.

FOREIGN OFFICE,
July, 1886.

SIR,

I have to acknowledge the receipt of your Despatch Treaty No. 46, of the 30th of May last, inclosing a copy of a note from Mr. Bayard, in which he protests against the provisions of a Bill recently introduced into the Canadian Parliament for the purpose of regulating the fishing operations by foreign vessels in Canadian waters.

In reply I have to state to you that in order not to embarrass any negotiations on this question with the United States, the Bill alluded to by Mr. Bayard has been reserved for the signification of Her Majesty's pleasure thereon, and I now enclose a copy of a despatch from the Governor-General of Canada explaining the reasons for which this course has been pursued. I have to add that Her Majesty's Government

* No. 95

† For the first and fourth of these drafts, see Enclosures 3 and 4 in No 118.

entirely concur in the views expressed by the Marquis of Lansdowne in this despatch, of which you will communicate a copy to Mr. Bayard, together with a copy of the present despatch.

With regard to Mr. Bayard's observations in the same note respecting a Customs' Circular and a Warning issued by the Canadian authorities, and dated respectively the 7th of May and 5th of March last, I have to acquaint you that these documents have now been amended so as to bring them into exact accordance with Treaty stipulations, and I enclose, for communication to the United States' Government, printed copies of these documents as amended.

Sir L. West.

Enclosure 2 in No. 97.

FOREIGN OFFICE,
July, 1886.

SIR,

I have received your Despatch, Treaty No. 55, of the 15th ult., in which you enclose a copy of a note from Mr. Bayard protesting against a warning alleged to have been given to United States' fishing vessels by a Canadian Customs' official, with the view to prevent them from fishing within lines drawn from headland to headland, from Cape Canso to St. Esprit, and from North Cape to East Cape of Prince Edward Island.

In reply I have to request you to acquaint Mr. Bayard that no information has reached Her Majesty's Government tending to show that any instructions to this effect have been issued by the Canadian Government, but that further inquiry is being made upon the subject.

Sir L. West.

57. Secret.

No. 98.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
July 10th, 1886.

SIR,

With reference to your letter of the 30th ult.* relative to the North American Fishery Question, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a telegraphic correspondence† with the Governor-General of Canada on the subject.

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

The Under-Secretary of State,
Foreign Office.

58. Secret.

No. 99.

Governor-General the Most Honourable the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received July 11th, 1886.)

TELEGRAPHIC.

10th July. My despatch 30th March.‡ Have instructions been issued to Naval Commander-in-chief?

* No. 89.

† Nos. 95 and 96.

‡ No. 7.

59. Secret.

No. 100.

Governor-General the Most Honourable the Marquis of Lansdowne, G.C.M.G. to the Right Hon. the Earl Granville, K.G. (Received July 13th, 1886.)

TELEGRAPHIC.

12th July. Your telegram of the 6th.* Have ascertained that no warning was issued by Canso Collector except official warning which you have seen. Collector, in conversation with master of a fishing-vessel, expressed opinion that headland line ran from Cranberry Island to St. Esprit, but this was wholly unauthorized.

11,177.

No. 101.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET.

14th July, 1886.

SIR,

I am directed by Earl Granville to acknowledge the receipt of your letter of the 25th ult.† forwarding a copy of a 'Treasury circular issued by the United States' Government ordering the return of Fisheries Statistics.

Lord Granville observes that on the last page of the return, which is devoted to statistics of American fishing vessels entering foreign waters, there occur the entries, "Total value of fish taken in Foreign Waters," and "Value of portion taken within three miles of land." The expression "Foreign Waters" as here used, would appear not to be susceptible of any other interpretation than "territorial waters of a foreign power;" and if this is so the above entries contain an obvious admission that these territorial waters are not bounded by the three mile limit. As the United States' Government have shown a disposition to press the narrower view upon Her Majesty's Government in the course of this controversy, it appears to Lord Granville that it might be of advantage to enquire confidentially of Her Majesty's Minister at Washington what he understands to be the meaning of the Returns above referred to.

I am, &c.,

(Signed) R. H. MEADE.

The Under-Secretary of State,
Foreign Office.

57. Secret.

No. 102.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

Secret.

DOWNING STREET,

July 15, 1886.

MY LORD,

With reference to my telegram of the 6th of July, and to your telegraphic replies of the 8th and 12th instants,‡ relating to warnings alleged to have been given to fishing vessels of the United States by the Collector of Customs at Canso, I have the honour to transmit to you the accompanying copy of a letter from the Foreign Office§ with its enclosure on which my telegram was forwarded.

I should be glad to receive a report from your Government at their early convenience on the subject of these papers.

I have, &c.,

(Signed) GRANVILLE.

The Marquis of Lansdowne.

* No. 95.

† No. 81.

‡ Nos. 95, 96, and 100.

§ No. 88.

10,799.

No. 103.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

Secret.

DOWNING STREET,
15 July, 1886.

MY LORD,

I have the honour to acknowledge the receipt of your confidential despatch of the 8th of June last,* and to acquaint you that Her Majesty's Government observe with satisfaction the amendments which have been made in the Customs' Circular No. 371 and in the warning to be given to United States' fishing vessels frequenting the waters of Canada.

I have, &c.,
(Signed) GRANVILLE

The Marquis of Lansdowne.

59.—Secret.

No. 104.

Colonial Office to Foreign Office.

DOWNING STREET,
16th July, 1886.

SIR,

With reference to the letter from this Department of the 10th instant,† relating to the North American Fishery Question, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a further telegram‡ received from the Governor-General of Canada, relating to the warning issued by the collector of Customs at Canso, to which the enclosure to your letters of the 30th ult.§ referred.

Lord Granville thinks it may be well in order to avoid complications with the United States' Government in connection with the fishery question to invite the Government of Canada to consider whether it might not be preferable, instead of exacting heavy penalties from United States' vessels infringing Canadian rights, that the Government of the Dominion should release such vessels with a nominal or with no penalty, as those principles for which Canada contends would thereby be maintained, and exasperation on the part of the United States' Government, injurious to a friendly settlement, be thereby diminished. I am to add that the Governor-General of Canada has been requested to obtain from his Government a Report on the subject of your letters of the 30th ult.§

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

The Under-Secretary of State,
Foreign Office.

58.—Secret.

No. 105.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
July 16, 1886.

SIR,

With reference to the letter from this Department of the 21st April last|| relative to the instructions to be issued to the Commanders of Her Majesty's vessels on the North American Station, in consequence of the termination of the Fishery Articles of the Treaty of Washington, I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, the decypher of a telegram from the Governor-General of Canada on the subject.

Lord Granville is of opinion that it may be well, in replying that no instructions

* No. 71.

† No. 98.

‡ No. 100.

§ Nos. 88 and 89. || No. 10.

have been given to Her Majesty's Naval Commander-in-Chief, to say that it has appeared to Her Majesty's Government to be preferable, under all the circumstances of the present moment, that the Canadian officers and vessels should continue to protect the Fisheries, and that before any instructions could be issued to the naval officer commanding, it would be necessary to consider with the Dominion Government the details of the procedure to be followed.

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

The Under-Secretary of State,
Foreign Office.

57.—Secret.

No. 106.

Colonial Office to the High Commissioner for Canada.

DOWNING STREET,
July 16, 1886.

SIR,

I am directed by Earl Granville to transmit to you, for your information, copies of two letters from the Foreign Office,* together with a copy of a telegraphic correspondence† which has ensued with the Governor-General of Canada relating to certain warnings alleged to have been given to American fishing vessels by the Collector of Customs at Canso.

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

The High Commissioner for Canada.

12,133.

No. 107.

Colonial Office to Foreign Office.

DOWNING STREET,
16 July, 1886.

SIR,

I am directed by Earl Granville to acknowledge the receipt of your letter of the 9th instant‡ enclosing drafts of four despatches which the Earl of Rosebery proposes to address to Her Majesty's Minister at Washington with reference to the Fishery Question.

I am to state that Lord Granville concurs in the terms of the first and fourth drafts.

With regard to the second draft his Lordship would suggest that as Lord Lansdowne's despatch of 7th June is a confidential one, and contains observations which it may be preferable not to communicate to the United States' Government, it may be better to send to Sir L. West only paragraphs 4 to 8 inclusive of that despatch, after first obtaining the Governor-General's concurrence by telegraph.

With reference to the observations in the draft as to the reservation of the Canadian Bill and the reasons for that course, I am to state that it has been strongly urged by Sir Charles Tupper (and also, unofficially, by Sir A. Galt) that the Bill should be assented to without any delay, in order to put a stop to the injurious statements which have been circulated in the press and elsewhere to the effect that Her Majesty's Government dissent from, and will disallow, the action of the Dominion Government. It will be for Lord Rosebery's consideration whether there is sufficient reason, as regards the negotiations, to prevent this course being now taken.

The third draft is affected by the telegram from the Governor-General of the 12th instant forwarded in the letter from this department of to-day's date,§ a portion of which might be incorporated in the despatch.

Copies of these two drafts are enclosed,|| showing in red ink the alterations which Lord Granville would propose.

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

The Under-Secretary of State,
Foreign Office.

* Nos. 88 and 89.

† Nos. 95, 96, and 100.

‡ No. 97.

§ No. 104.

|| For the drafts as altered see Enclosures 5 and 6 in No. 118.

11,718.

No. 108.

*Colonial Office to Foreign Office.*DOWNING STREET,
July 17th, 1886.

SIR,

With reference to the letter from this department of the 18th ult.,* relative to the North American Fishery Question, I am directed by Earl Granville, to transmit to you, for the consideration of the Earl of Rosebery a copy of a despatch† from the Governor of Newfoundland on the subject.

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

The Under-Secretary of State,
Foreign Office.

11,843.

No. 109.

*Colonial Office to Foreign Office.*DOWNING STREET,
17th July, 1886.

SIR,

With reference to the letter from this department of the 1st instant,‡ relative to the North American Fisheries Question, I am directed by Earl Granville to state, for the information of the Earl of Rosebery, that his Lordship has now received from the Governor-General of Canada a copy of the Customs' circular No. 371 as amended.

A copy of the last paragraph of the circular in enclosed,§ which, if compared with that forwarded in the letter from this department above referred to, will show the alterations that have been made.

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

The Under-Secretary of State,
Foreign Office.

12,773.

No. 110.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
July 17, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you a copy of a despatch from Her Majesty's Minister at Washington, inclosing a copy of a note from Mr. Bayard in which he protests against the detention of the American schooner "City Point" at Shelburne, Nova Scotia, and I am to request that Earl Granville will instruct the Marquis of Lansdowne, by telegraph, to send home a report on the subject, if possible by cable.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 110.

Treaty No. 60.

WASHINGTON,
July 3, 1886.

MY LORD,

I have the honour to enclose to your Lordship herewith copy of a further note which I have received from the Secretary of State reporting the detention of the American schooner "City Point," of Portland (Maine), by the Authorities of Nova Scotia.

I have, &c.,
(Signed) L. S. S. WEST.

The Earl of Rosebery,
&c., &c., &c.

* No. 67.

† No. 92.

‡ No. 90.

§ See enclosure in No. 94

DEPARTMENT OF STATE, WASHINGTON,
July 2, 1886.

SIR,

It is my unpleasant duty promptly to communicate to you the telegraphic report to me by the United States Consul-General at Halifax, that the schooner "City Point," of Portland (Maine), arrived at the port of Shelburne, Nova Scotia, landed two men, obtained water, and is detained by the authorities until further instructions are received from Ottawa. The case as thus reported is an infringement of the ordinary rights of international hospitality, and constitutes a violation of Treaty stipulations and commercial privileges, evincing such unfriendliness to the citizens of the United States as is greatly to be deplored, and which I hold it to be the responsible duty of the Government of Great Britain promptly to correct.

I have, &c.,
(Signed) T. F. BAYARD.

The Honble. Sir L. S. West, K.C.M.G.,
&c., &c., &c.

12,775.

No. 111.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
July 17, 1886.

SIR,

In reply to your letter of the 14th instant,* I am directed by the Earl of Rosebery to state to you, for the information of Earl Granville, that his Lordship is inclined to doubt whether there would be any advantage in enquiring as to the precise meaning attached by the United States' Government to the words in the circular relative to Fishery statistics to which you call attention.

It appears that Sir Lionel West could not express any useful opinion on the subject without making enquiry of the United States' Secretary of State, which might occasion a reference to the headland question calculated to give rise to embarrassment.

Under these circumstances, Lord Rosebery would suggest that no instructions on the subject should be sent to Sir Lionel West at the present moment; although the expressions made use of in the Circular may possibly be of use in future argument on the Fisheries Question.

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

The Under-Secretary of State,
Colonial Office.

12,860.

No. 112.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
July 19th, 1886.

Confidential.

SIR,

With reference to your letter of the 16th instant,† I am directed by the Earl of Rosebery to state to you, for the information of Earl Granville, that his Lordship concurs in the reply which it is proposed to make to the Canadian Government on the subject of instructions to the Commanders of Her Majesty's vessels of the North American station in consequence of the termination of the Fishery Articles of the Treaty of Washington.

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

The Under-Secretary of State,
Colonial Office.

* No. 101.

† No. 105.

11,718.

No. 113.

*Colonial Office to Foreign Office.*DOWNING STREET,
July 21st, 1886.

SIR,

With reference to my letter of the 17th instant,* enclosing a copy of a despatch from the Governor of Newfoundland explanatory of the wish of his Ministers that orders or instructions should be issued under the Act of Parliament 59 George III., cap. 38, sec. 4. to require American fishermen to depart from bays and harbours of Newfoundland, I am directed by Earl Granville to request that you will inform the Earl of Rosebery that looking to the strong feeling which has been excited in the United States owing to the position taken by the Canadian Government in pursuance of the Convention of London of 1818 as now revived by the termination of the Treaty of Washington. His Lordship is disposed to think that it would not be expedient, in the absence of any urgent necessity, that her Majesty's Government should at this moment raise a fresh difficulty with the United States Government by issuing orders or instructions in this matter such as are suggested by the Government of Newfoundland.

If Lord Rosebery should concur in this view Lord Granville will inform the Governor of Newfoundland that after careful consideration of the suggestion, Her Majesty's Government are of opinion that it may be better not to take any such action at the present time.

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

The Under Secretary of State,
Foreign Office.

12,773.

No. 114.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

21st July. Secretary of United States has made protest in very strong terms to British Minister against proceedings in case of schooner "City Point," alleged to have been detained at Shelburne for having landed men and obtained water.

Send explanation by telegraph as soon as possible.

61.—Secret.

No. 115.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
21st July, 1886.

SIR,

With reference to the suggestion made in the 3rd paragraph of the letter from this department of the 17th instant,† I am directed by Earl Granville to request that you will inform the Earl of Rosebery that his Lordship has consulted the Governor-General of Canada by telegraph and has ascertained that there is no objection to communicating to the United States' Government paragraphs 4 to 8 of Lord Lansdowne's confidential despatch of the 7th June‡ respecting the Fisheries Question. In the last paragraph but one of the proposed despatch to Sir L. West on this subject, it will be desirable to substitute the word "extract" for "despatch" in the passage instructing Sir L. West to communicate a copy to Mr. Bayard.

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

The Under-Secretary of State,
Foreign Office.

* No. 108.

† No. 107.

‡ No. 66.

12,860.

No. 116.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

July 22. Referring to your telegram of the 10th July*, despatch goes by mail of to-day. No instructions issued.

12,860:

No. 117:

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

DOWNING STREET,

July 22nd, 1886.

Secret.

MY LORD,

I have the honour to acknowledge the receipt of your telegram of the 10th instant,† enquiring whether instructions in connection with the Fisheries question have been issued to the Naval Commander-in-Chief on the North American Station.

In reply I have to inform you that Her Majesty's Government have hitherto deferred giving such instructions, inasmuch as it has appeared to them to be preferable in the circumstances of the present moment that the Canadian officers and vessels should continue to protect the Fisheries. It would moreover be necessary for Her Majesty's Government, before issuing any instructions, to consider with the Dominion Government, the details of the procedure to be followed by officers of Her Majesty's vessels.

I have, &c.,

(Signed) GRANVILLE.

The Marquis of Lansdowne.

13,125.

No. 118.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,

July 23, 1886.

SIR,

With reference to your letter of the 16th instant,‡ I am directed by the Earl of Rosebery to transmit to you, to be laid before Earl Granville, copies of despatches which his Lordship has addressed to Her Majesty's Minister at Washington, and of a note to the United States' Minister at this Court, on the subject of the North American Fisheries Question.

I am also to enclose copies of a note from Mr. Phelps and of Lord Rosebery's reply connected with the same subject.

I am, &c.,

(Signed) J. PAUNCEFOTE.

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 118.

Mr. Phelps to the Earl of Rosebery.

LEGATION OF THE UNITED STATES, LONDON.

July 16, 1886.

MY LORD,

I have the honour to enclose herewith the copy of a telegram which I have just received from the Secretary of State, and to which I beg that your Lordship will give the earliest possible attention.

I have, &c.,

(Signed) E. J. PHELPS.

* No. 99.

† No. 99.

‡ No. 104.

Mr. Bayard to Mr. Phelps.

TELEGRAPHIC.

(Received at the Legation, July 16, 1886.)

You will state to Lord Rosebery that, realizing fully any embarrassment or delays attendant upon pending changes of British Administration, it is our duty to call upon Imperial Government to put a stop to the unjust, arbitrary, and vexatious action of Canadian authorities towards our citizens engaged in open sea fishing and trading, but not violating or contemplating violation of any Law or Treaty. Our readiness, long since expressed, to endeavour to come to a just and fair joint interpretation of Treaty rights and commercial privileges, is ill met by persistent and unfriendly action of Canadian authorities, which is rapidly producing a most injurious and exasperating effect. I am without reply from British Minister, who is now absent.

Enclosure 2 in No. 118.

The Earl of Rosebery to Mr. Phelps.

FOREIGN OFFICE,
July 23, 1886.

SIR,

I have the honour to acknowledge the receipt of your note of the 16th instant, enclosing a copy of a telegram from Mr. Bayard, in which he calls upon Her Majesty's Government to put a stop to the action of Canadian authorities towards United States' fishermen, which he characterises as unjust, arbitrary, and vexatious.

Mr. Bayard further states that the readiness of the United States' Government to endeavour to come to a just and fair joint interpretation of Treaty rights and commercial privileges is ill met by persistent and unfriendly action of the Canadian authorities, which is rapidly producing a most injurious and exasperating effect.

I cannot help regretting that the tone of this communication should not have more corresponded with the conciliatory disposition of Her Majesty's Government, for the expressions which I have cited can hardly tend to facilitate a settlement of the difficult questions involved.

I beg, however, to state that the views of the Canadian Government upon the whole matter will very shortly be communicated to the United States' Government in a despatch which I have addressed to Her Majesty's Minister at Washington, in reply to the various communications which he has received from Mr. Bayard. I shall have the honour to place a copy of the despatch in question in your hands.

As regards the disposition expressed by Mr. Bayard to come to a just and fair joint interpretation of Treaty rights, Her Majesty's Government have already displayed their full readiness to negotiate on more than one occasion, and their view of Treaty rights has been explained both in my conversations with yourself and in despatches.

I trust, therefore, that this expression of the wishes of your Government, corresponding as it does so entirely with our own desire, indicates the willingness of the United States to enter as speedily as possible into definite arrangements which may lead to negotiations on a practical basis for the settlement of this question.

I have, &c.,
(Signed) ROSEBERY.

Enclosure 3 in No. 118.

The Earl of Rosebery to Mr. Phelps.

FOREIGN OFFICE,
July 23, 1886.

SIR,

In reply to your note of the 2nd ultimo relative to the North American Fisheries Question, I have the honour to transmit to you a copy of a despatch, with inclosures, which I have addressed to Her Majesty's Minister at Washington, and which contains a full statement of the views entertained by the Canadian Government on this matter.

The points dealt with in the several communications recently received by Sir L. West from Mr. Bayard are practically the same as those discussed in your note, and I have therefore thought that the most convenient mode of replying to it would be to communicate to you a copy of the despatch which I have addressed to Her Majesty's Minister at Washington.

I need not reiterate the regret that Her Majesty's Government feel at being forced back by circumstances on the provisions of the Treaty of 1818, for I have earnestly and frequently expressed it in conversation with you. Nor need I repeat how anxious Her Majesty's Government are that by formal and friendly negotiation the questions between the two Governments with regard to Canadian fisheries should be put on a mutually satisfactory footing.

I have, &c.,
(Signed) ROSEBERRY.

Enclosure 4 in No. 118.

The Earl of Rosebery to Sir L. West.

FOREIGN OFFICE,
July 23, 1886.

(No. 34. Treaty.)

SIR,

I have received your despatch No. 28, Treaty, of the 11th May last, inclosing a copy of a note addressed to you by Mr. Bayard, in which, whilst expressly referring to the seizure by the Canadian authorities of the American fishing vessels "Joseph Story" and "David J. Adams," he discusses at length the present position of the North American Fisheries Question.

I have also received a communication upon the same subject from the United States' Minister at this Court, dated the 2nd June last, which, although advancing arguments of a somewhat different character, is substantially addressed to the consideration of the same question.

I think it therefore desirable to reply to these two communications together in the present despatch, of which I shall hand a copy to Mr. Phelps.

The matter is one involving the gravest interests of Canada; and upon receipt of the communications above mentioned, I lost no time in requesting the Secretary of State for the Colonies to obtain from the Government of the Dominion an expression of their views thereon. I now inclose a copy of an approved Report of the Canadian Privy Council, in which the case of Canada is so fully set forth that I think it would be desirable, as a preliminary step to the further discussion of the questions involved in this controversy, to communicate a copy of it to Mr. Bayard, as representing the views of the Dominion Government; and I have to request that, in so doing, you will state that Her Majesty's Government will be glad to be favoured with any observations which Mr. Bayard may desire to make thereon.

In regard to those portions of Mr. Phelps' note of the 2nd June, in which he calls in question the competence of the Canadian authorities under existing Statutes, whether Imperial or Colonial, to effect seizures of United States' fishing vessels under circumstances such as those which appear to have led to the capture of the "David J. Adams," I have to observe that Her Majesty's Government do not feel themselves at present in a position to discuss that question, which is now occupying the attention of the Courts of Law in the Dominion, and which may possibly form the subject of an appeal to the Judicial Committee of Her Majesty's Privy Council in England.

It is believed that the Courts in Canada will deliver Judgment in the above cases very shortly; and until the legal proceedings now pending have been brought to a conclusion, Her Majesty's Government do not feel justified in expressing an opinion upon them, either as to the facts or the legality of the action taken by the Colonial authorities.

I do not, therefore, conceive it to be at present necessary to make any specific reply to Mr. Bayard's further notes of the 11th and 12th May and 1st, 2nd, and 7th June last. But with regard to his note of the 20th May relative to the seizure of the United States' fishing vessel "Jennie and Julia," I inclose, for communication to Mr. Bayard, a copy of a Report from the Canadian Minister of Marine and Fisheries, dealing with this case.

I cannot, however, close this despatch without adding that Her Majesty's Govern-

ment entirely concur in that passage of the Report of the Canadian Privy Council, in which it is observed that "if the provisions of the Convention of 1818 have become inconvenient to either Contracting Party, the utmost that good-will and fair dealing can suggest is that the terms shall be reconsidered."

It is assuredly from no fault on the part of Her Majesty's Government that the question has now been relegated to the terms of the Convention of 1818. They have not ceased to express their anxiety to commence negotiations, and they are now prepared to enter upon a frank and friendly consideration of the whole question with the most earnest desire to arrive at a settlement consonant alike with the rights and interests of Canada and of the United States.

Where, as in the present case, conflicting interests are brought into antagonism by Treaty stipulations the strict interpretation of which has scarcely been called in question, the matter appears to Her Majesty's Government to be pre-eminently one for friendly negotiation.

I am, &c.,
(Signed) ROSEBERY.

Enclosure 5 in No. 118.

The Earl of Rosebery to Sir L. West.

(No. 35. Treaty.)

FOREIGN OFFICE,
23 July, 1886.

SIR,

I have to acknowledge the receipt of your despatch No. 46, Treaty, of the 30th May last, inclosing a copy of a note from Mr. Bayard, in which he protests against the provisions of a Bill recently introduced into the Canadian Parliament for the purpose of regulating fishing operations by foreign vessels in Canadian waters.

In reply I inclose an extract of a despatch from the Governor-General of Canada, containing observations on the subject.

I have to add that Her Majesty's Government entirely concur in the views expressed by the Marquis of Lansdowne in this extract, of which you will communicate a copy to Mr. Bayard, together with a copy of the present despatch.

With regard to Mr. Bayard's observations in the same note respecting a Customs' Circular and a Warning issued by the Canadian authorities, and dated respectively the 7th May and 5th March last, I have to acquaint you that these documents have now been amended so as to bring them into exact accordance with Treaty stipulations; and I inclose, for communication to the United States' Government, printed copies of these documents as amended.

I am, &c.,
(Signed) ROSEBERY.

Enclosure 6 in No. 118.

The Earl of Rosebery to Sir L. West.

(No. 36. Treaty.)

FOREIGN OFFICE,
July 23rd, 1886.

SIR,

I have received your despatch No. 55, Treaty, of the 15th ultimo, in which you inclose a copy of a note from Mr. Bayard, protesting against a warning alleged to have been given to United States' fishing-vessels by a Canadian Customs' official, with the view to prevent them from fishing within lines drawn from headland to headland from Cape Canso to St. Esprit, and from North Cape to East Point of Prince Edward Island.

In reply, I have to request you to acquaint Mr. Bayard that Her Majesty's Government have ascertained that no instructions to this effect have been issued by the Canadian Government, but that a further Report is expected upon the subject.

It appears that the Collector at Canso, in conversation with the master of a fishing-vessel, expressed the opinion that the headland line ran from Cranberry Island to St. Esprit, but this was wholly unauthorised.

I am, &c.,
(Signed) ROSEBERY.

62.—Secret.

No. 119.

*Governor-General the Most Honourable the Marquis of Lansdowne, G.C.M.G.
to the Right Hon. the Earl Granville, K.G. (Received July 24, 1886.)*

TELEGRAPHIC.

24th July. Your telegram of the 21st.* "City Point" committed breach of Customs Laws by not reporting to Customs, and landing part of crew and luggage. She was detained, and subsequently released on deposit of 400 dollars.

13,206.

No. 120.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
July 24, 1886.

SIR,

With reference to my letter of the 17th instant,† I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, for his Lordship's information, copies of Despatches, enclosing extracts from the "New York Times" relative to the seizure and detention of United States' fishing vessels.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 120.

WASHINGTON,
July 8, 1886.

Treaty, No. 61.

MY LORD,

With reference to the note of the Secretary of State, copy of which was inclosed in my preceding despatch of this series of to-day's date, I have the honour to enclose to your Lordship herewith an article from the "New York Times," commenting on the detention of the American schooner "City Point."

I have, &c.,
(Signed) L. S. S. WEST.

The Earl of Rosebery,
&c., &c., &c.,

Extract from the "New York Times" of July 3rd, 1886.

THE CASE OF THE "CITY POINT."

The meagre details of the detention of the Portland schooner "City Point" in Shelburne Harbor by the Canadian cruiser "Terror" indicate that her case is different from that of the "David J. Adams" or the "Ella M. Doughty," which were seized, or the "Joseph Story," which was simply visited for investigation. The "City Point" was not buying bait or taking on a crew, but procuring a supply of water, which is one of the four privileges expressly conceded to American fishing vessels under the Treaty of 1818. The reason why the Dominion officer boarded and detained her was, so far as can be learned, that she took on the water before reporting at the Custom House.

Little by little we find various points of potential and actual difficulty arising under the Treaty of 1818, which was once said to be quite good enough for living under in peace and harmony. It does not now seem probable that much trouble will be made for the

* No. 114.

† No. 110.

"City Point," as the repairs and water for which she put into Shelburne Harbor made her presence there legitimate, even under the narrowest construction of the Dominion statutes. Nevertheless, her experience shows that the Canadian fishery officers are disposed to insist on policing their waters according to their own revenue laws.

The difficulty is that, wholly apart from the central question in dispute as to the right of our coasting vessels to commercial privileges in Canadian harbors when provided with an American Collector's touch-and-trade permit, some of them pay little regard to customs regulations. The "Doughty," for example, considered that she had a right to buy bait under her permit; but it does not appear that she proceeded to report to the authorities and conform to the regulations for vessels desiring to trade before actually trading. Foreign vessels are required, in local waters, to put themselves under the superintendence of the customs authorities. If they wish to put off a part of their cargo, or to take on cargo, they report and secure permission, and in departing, take a clearance. Buying a few barrels of bait seems an insignificant transaction for much red tape; but it must be remembered that it is our own diplomats who are elevating the purchase of bait to a commercial transaction above and beyond the restrictions of the Treaty of 1818. In this way, however, it is carried into the province of ordinary revenue and maritime law, in which penalties for landing or taking on merchandise without a local permit are considered lawful enactments. We should hardly allow foreign vessels to undertake commerce, of however simple a character, in our ports, without report and entry; and to a certain extent even what are called the rights of hospitality allowed under the Treaty of 1818, which the "City Point" sought, may be affected by customs regulations.

In short, while our Government will presumably defend the commercial rights of its people, it can hardly undertake to call in question revenue regulations of another country, established in conformity with the usages of nations. Perhaps the Canadians will claim that all of the few seizures and all of the few boardings and brief detentions for inquiry thus far made this year have been in cases where American fishing vessels had proceeded on their business, ignoring the customs authorities as no regularly registered trader would have ignored them. This method on the part of the fishermen may result in some cases from a spirit of audacity, due to an honest belief that they are purposely and needlessly annoyed and persecuted by the Dominion vessels—a belief that may arouse a pugnacious disposition to worry and defy in turn. In other cases it may result from a knowledge that the main purpose of the visit, however reasonable, such as buying bait, is one which would not be permitted by the customs authorities, so that there is no use in reporting to them, it being better to run the chances, as many have successfully done, of escaping without detection. But besides, during their long freedom under the reciprocity treaties, the fishing vessels did not need to study the commercial attributes they now assume and the technical regulations governing them. The case of the Nova Scotia schooner "Sisters," seized at Portland, shows how easily Canadian coasters as well as American can be tripped up for unintentional violations of revenue rules, and no doubt the "City Point," if she violated any local regulation at all, did so without intent.

None the less clear is it that until some way out of the present trouble is found, American fishing vessels will do well to observe strict conformity to all lawful rules governing ordinary commercial privileges in Canadian ports in order to avoid annoyance as well as to secure the successful support of the Government.

Enclosure 2 in No. 120.

WASHINGTON,
July 4, 1886.

Treaty, No. 62.

MY LORD,

In connection with recent seizures and detention of American fishing vessels by the Canadian authorities, I have the honour to enclose to your Lordship herewith, a further article from the "New York Times."

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

The Earl of Rosebery,
&c., &c., &c.

Extract from the "New York Times" of July 4, 1886.

MORE SEIZURES AT SHELBURNE.

The Canadian authorities are pursuing American fishermen with renewed zeal. Three more Portland vessels have been in trouble. The cases of the "G. W. Cushing" and the "C. B. Harrington," just seized at Shelburne, seem to be like that of the "City Point," boarded in the same harbor. The experience of the mackerel seining steamer "Novelty" is of a little different sort. She put into Pictou on Thursday night for coal and ice and was promptly warned away by the collector of Customs. As it is a short run from Portland to Pictou her conduct seems strange, but is explained by the statement that her Captain purposely left the former port with very little coal in his bunkers, intending to fill them in Pictou, where coal is cheap, "as he believed the fishery trouble to be in a fair way of settlement." He considers the conduct of the Canadians "inhospitable," but has resolved to take a full supply of coal on his next voyage.

We can hardly suppose that any of the three Shelburne seizures, if correctly reported, will result in more than temporary detention for minor violations of port regulations, while the "Novelty" will hardly claim damages. The Portland mackerel steamers can probably carry coal enough for their purposes, and the mistake of the "Novelty's" Captain was that of trusting to the recent report that the Ottawa Government had so modified its policy as to allow American vessels to get coal, bait, and ice. At least, however, he had the discretion to refrain from taking on supplies at once, without consulting the customs authorities, and so was only warned off, instead of finding his vessel seized.

The practical course for American fishermen seems to be simple. There is no need of experimenting further to see what encroachments on the Canadian customs laws are safe. The Gloucester fishermen at the outset represented to Congress, and no doubt with good faith, that they preferred the old treaty of 1818 in all its restrictions, with a duty imposed on Canadian fish in American markets, to a renewal of the reciprocity treaty in which freedom to enter Canadian ports should be bought by the admission of Canadian fish without duty. The treaty of 1818, as they were presumably aware, expressly limits the right of entry of American fishing vessels into Canadian ports to the four purposes of shelter, repair of damages, purchasing wood, and obtaining water, and if we do not err a Treasury circular to this effect was issued in Washington in 1870 ordering all Collectors to so instruct masters of fishing vessels.

Since then our Government has taken the ground that the right to procure supplies like bait and ice for fishing vessels in Canadian ports is an ordinary commercial right, depending not at all on the treaty of 1818, but on the mutual opening of British and American ports by the legislation of Congress and Parliament thirty years later. This, however, is at present merely a contention. Our Government may have every reason to hope that it will prove a successful contention, and that it will be best in the end for the Nova Scotians also, who sell supplies to our fishermen. But meanwhile the Ottawa Government does not admit the validity of this contention, and it is therefore folly for our fishermen to keep on acting as if it were admitted, and then becoming indignant at each experience of their mistake.

The local authorities must carry out the views of their own Government in this matter, and surprise that our views are not followed instead is rather out of place. In the North Pacific we have seal fishery interests of importance, and our notions of what international hospitality and comity demand there are quite different from Canadian notions; but we properly expect ours to prevail until a different arrangement is agreed to.

Of course, too, we have a legitimate leverage in our power in the shape of retaliation, and this appliance has been furnished to the President by Congress, at the present session, in the act empowering him to exclude from privileges in our ports the vessels of countries that exclude our vessels from like privileges in theirs. The President, however, thus far does not use this authority, presumably because he thinks that an arrangement to be permanent must be amicable. The Canadian fishery quarrel is no invention of yesterday, but is older in one form or another than our Government itself, and will not be settled by the parade of popguns on Gloucester fishing craft. There is good ground for believing that in due time bait, ice, and other supplies can be freely bought in Canadian ports by our fishermen, but until such a settlement is effected persistent attempts to purchase them without even reporting to the customs authorities will continue to subject the experimenters to seizure.

13,387.

No. 121.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
July 26, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, an extract from the "New York Herald" relative to the North American Fisheries Question.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 121.

Extract from the "New York Herald" of July 9, 1886.

DEPARTMENT OF STATE, WASHINGTON,
June 30, 1886.

Captain Jesse Lewis, owner of the schooner "David J. Adams," Gloucester, Mass. :—

SIR,

I have your letter dated the 26th inst., stating the severe loss to you occasioned by the summary seizure, by the Canadian authorities, in Annapolis basin, Nova Scotia, of your fishing schooner, the "David J. Adams," which, as you say, is all the property you possess and constituted your "only support."

It is proper that I should inform you that demand was made upon the government of Great Britain for the release of the vessel, coupled with a notification that that government would be held answerable for all loss and damage caused by her seizure and detention. Your case commands my sincere sympathy, and ever since it was brought to my knowledge has had the constant consideration of this department and of the consular officers of the United States in the dominion of Canada.

Mr. William L. Putnam, of Portland, Me., in conjunction with Mr. George W. Biddle, of Philadelphia, has been engaged by this government as its legal counsel in respect of its rights and duties which may be brought in question by reason of the seizure of your vessel. If you will communicate with Mr. Putnam he will no doubt give you all information in his power in relation to the laws under which your property was so seized, and suggest what steps should be taken to protect your private interest in the premises.

Moreover, I suggest that you should carefully secure evidence of all the facts connected with the presence of your vessel in Annapolis Basin, and of the absence of any unlawful act or intention on the part of her master, crew or owner, as well as proof of the actual loss and injury sustained by you by reason of this harsh, and, as I believe, wholly unwarranted action by the Canadian officials—such evidence to be obtained and preserved as the basis of claims for your remuneration.

More than one year ago I sought to protect our citizens engaged in fishing from the results which might attend any possible misunderstanding between the governments of Great Britain and the United States as to the measure of their mutual rights and privileges in the territorial waters of British North America, after the termination of the fishery articles of the Treaty of Washington in June last. It seemed to me then, and seems to me now, very hard that differences of opinion between the two governments should cause loss to the honest citizens whose line of obedience might be thus rendered vague and uncertain and their property be brought into jeopardy. Influenced by this feeling, I procured a temporary arrangement which secured our fishermen full enjoyment of all the Canadian fisheries, free from molestation during a period which would permit discussion of a just international settlement of the whole fishery question. but other counsels prevailed, and my efforts further to protect the fishermen from such trouble as you now suffer were unavailing.

To secure for them full protection in the enjoyment of all their just rights and privileges is still my earnest intent and object, and for all losses to which they may be

unlawfully subjected at the hands of the authorities of foreign governments I shall seek and expect to obtain full redress. I regret exceedingly the disturbance in the long customary pursuits and the serious loss and inconvenience attendant upon a disputed construction of laws and treaties by two separate governments, and I trust that I shall soon be enabled to secure such a clear and comprehensive declaration of agreement between those charged with the administration of the two governments as will define the line of their rights and secure from molestation those American fishermen who, obeying the injunctions of their government respecting subordination to the laws of foreign governments, keep within the laws of their own country.

Reparation for all losses unlawfully caused by foreign authority will be made the subject of international presentation and demand.

I am, Sir,
T. F. BAYARD.

62.—Secret.

No. 122.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
July 26th, 1886.

SIR,

With reference to your letter of the 17th inst.,* I am directed by Earl Granville to transmit to you, to be laid before the Earl of Rosebery, a copy of a telegraphic correspondence with the Governor-General of Canada relative to the detention by the Dominion Authorities of the American schooner "City Point."

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

The Under-Secretary of State,
Foreign Office.

13,535.

No. 123.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
July 27, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, copy of a despatch from Her Majesty's Minister at Washington and of Lord Rosebery's reply relative to communications to the United States' Government concerning the North American Fisheries Question.

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

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 123.

(Treaty, No. 65.)

WASHINGTON,
July 8, 1886.

MY LORD,

His Excellency the Governor-General of Canada has forwarded to me a copy of a minute of his Privy Council covering a report of the Minister of Marine and Fisheries commenting on Mr. Bayard's notes of the 10th and 20th of May last respecting the seizure of American fishing vessels in Canadian territorial waters, but in view of your Lordship's instructions that I should make no communication from the Governor-General of Canada to the United States' Government without your Lordship's sanction, I have taken no action.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

The Earl of Rosebery,
&c., &c., &c.

* No. 110.

† Nos 114 and 119.

Enclosure 2 in No. 123.

FOREIGN OFFICE,
July 27, 1886.

(Treaty, No. 39.)

SIR,

I have received your Despatch Treaty, No. 65, of the 8th instant, relative to the North American Fisheries Question, and in reply I desire particularly to impress on you to be careful not to act in this matter upon instructions from any one except Her Majesty's Secretary of State for Foreign Affairs; and to make no communication from the Governor-General of Canada to the United States' Government on this subject without the sanction and authority of the Secretary of State.

I am, &c.,
(Signed) ROSEBERY.

The Honourable

Sir L. S. S. West, K.C.M.G.,
&c., &c., &c.

12,773.

No. 124.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Honourable the Marquis of Lansdowne, G.C.M.G.

Secret.

DOWNING STREET,
28th July, 1886.

MY LORD,

I have the honour to transmit to you, for confidential communication to your Lordship's Government, a copy of a letter* with its enclosures from the Foreign Office respecting the case of the United States schooner "City Point" on which my telegram of the 21st instant† was founded.

I have, &c.,
(Signed) GRANVILLE.

The Marquis of Lansdowne.

13,552.

No. 125.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
July 28th, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you two despatches from Her Majesty's Chargé d'Affaires at Washington, containing protests of Mr. Bayard against the action of the Canadian authorities in regard to the United States' fishing vessels, and I am to suggest that, if Earl Granville sees no objection, a Report on the cases mentioned should be obtained from the Dominion Government with as little delay as possible.

I am, &c.,
(Signed) J. PAUNCEFOTE.The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 125.

WASHINGTON,
July 12th, 1886.

(Treaty, No. 67.)

MY LORD,

I have the honour to transmit, herewith, to your Lordship copy of a note received to-day from the Secretary of State protesting against the action of the Canadian

* No. 110.

† No. 114.

Customs' authorities at Pictou, Nova Scotia, in denying to the steamship "Novelty," of the United States, the right to take in steam coal, purchase ice, or transship fish in bond to the United States.

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

The Earl of Rosebery,
&c., &c.

DEPARTMENT OF STATE, WASHINGTON,
July 10th, 1886.

SIR,

I have the honour to inform you that I am in receipt of a Report from the Consul-General of the United States at Halifax, accompanied by sworn testimony, stating that the "Novelty," a duly registered merchant steam vessel of the United States, has been denied the right to take in steam coal, or purchase ice, or transship fish in bond to the United States, at Pictou, Nova Scotia.

It appears that having reached that port on the 1st instant, and finding the Customs' Office closed on account of a holiday, the master of the "Novelty" telegraphed to the Minister of Marine and Fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above; that he received in reply a telegram reciting with certain inaccurate and extended application the language of Article I. of the Treaty of 1818, the limitations upon the significance of which are in pending discussion between the Government of the United States and that of Her Britannic Majesty; that on entering and clearing the "Novelty" on the following day at the Custom House, the collector stated that his instructions were contained in the telegram the master had received; and that, the privilege of coaling being denied, the "Novelty" was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage on a dangerous coast.

Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the Treaty by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty will be held liable.

I have, &c.,
(Signed) T. F. BAYARD.

The Hon. Sir L. S. West, K.C.M.G.

Enclosure 2 in No. 125.

(Treaty, No. 68.)

WASHINGTON,
July 12, 1886.

MY LORD,

With reference to my preceding despatch, No. 67 Treaty, of to-day, I have the honour to enclose to your Lordship herewith copy of a further note addressed by the Secretary of State to Sir L. West, protesting against the interference of the Dominion cruiser "Middleton" in preventing American boats from visiting St. Andrew's, New Brunswick, for the purpose of there purchasing herring for canning.

In reply I have merely acknowledged the receipt of his note, and stated that I would acquaint your Lordship with his views on this subject.

I have also the honour to transmit to your Lordship an extract from the "National Republican" of to-day's date, giving the full text of Mr. Bayard's reply to Representative Boutelle of Maine, together with a statement made by the captain of one of the American boats in question, whose masters complain of the violation of their commercial rights.

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

The Earl of Rosebery,
&c., &c., &c.

DEPARTMENT OF STATE, WASHINGTON,
July 10, 1886.

SIR,

On the 2nd of June last I had the honour to inform you that despatches from Eastport in Maine had been received, reporting threats by the Customs' officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters in the pursuance of legitimate trade.

To this note I have not had the honour of a reply.

To-day Mr. C. A. Boutelle, M.C., from Maine, informs me that American boats visiting St. Andrew's, New Brunswick, for the purpose of there purchasing herring from the Canadian weirs for canning, had been driven away by the Dominion cruiser "Middleton."

Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it in order that the commercial rights of citizens of the United States may not be thus invaded and subjected to unfriendly discrimination.

I am, &c.,
(Signed) T. F. BAYARD.

The Honourable
Sir L. S. West, K.C.M.G.

Extract from the "National Republican" of July 12, 1886.

THE EXPELLED SARDINE BOATS.

An alleged violation of commercial rights will be asserted.

Representative Boutelle, of Maine, has received the following reply to his request that the State Department give immediate attention to the statement telegraphed him from Eastport that American boats were driven away from St. Andrews, N.B., on Friday by a Dominion cruiser:

DEPARTMENT OF STATE,
July 10, 1886.

Hon. C. A. Boutelle, House of Representatives.

DEAR SIR,

I have just received your telegram of this date stating that you had a dispatch from Eastport, Me., that American boats after herring for sardines at St. Andrews, N.B., were driven away by the Dominion cruiser Middleton with the announcement that no American boats will be allowed to take herring for any purpose. And to this you invoke the immediate attention of this department.

On the 2nd of June last you called at this department, in company with Senator Hale, of Maine, and then drew my attention to a similar threat of interference with the purchase of small herring for canning as sardines from the Canadian weirs. On the same day I made representation of the alleged threats to the British minister at this capital, and drew his attention to the alleged violation of lawful commercial intercourse between British subjects in Canada and the citizens of the United States.

I will assist materially in all such cases of alleged violation of commercial rights if accurate and full statements of all the facts in each case are procured and forwarded to this department, accompanied by affidavits.

A great deal of loose rumour and sensational statement would be thus disposed of, and a tangible basis be laid for claim for compensation by the injured parties.

I have the honor to be,
Very respectfully yours,
T. F. BAYARD.

Mr. Boutelle has telegraphed to Eastport requesting that full and accurate sworn statements of the interference complained of be prepared and forwarded at once to the Department of State.

STATEMENT TELEGRAPHED TO WASHINGTON.

EASTPORT, ME.,
July 11.

Captain Balkam, in charge of one of the American boats which were at St. Andrew's, N.B., Friday night, and which were driven away by the Dominion cruiser Gen. Middleton, in command of Lieut. Kent, makes the following statement: "I was lying in St. Andrew's harbor waiting for the fishermen to seine their weirs, when the Gen. Middleton came into port. Lieut. Kent, of the Middleton, came on board my boat, and inquired if she was an American boat and if I was an American citizen. I told him I did not know whether my boat was American or not, but as for myself I was an American citizen. 'It makes no difference,' he replied, 'whether your boat is American or English, you have no right to purchase fish in this port, and if you do not leave, or if you attempt to buy fish, your boat will be seized.' He also notified the other boatmen. Not wishing to have any trouble with the Dominion government we all set sail and blowing our fog horns in derision of the Gen. Middleton, who steered for the American shore. Collector Nutt has taken my statement and telegraphed to Washington."

10,107.

No. 126.

The Right Honourable the Earl Granville, K.G., to Governor Sir G. W. des Vœux, K.C.M.G. (Newfoundland).

TELEGRAPHIC.

29th July. Referring to your telegram of 10th June,* newspaper reports warning notice has been given to American fishing-boat by Customs officer Bonne Bay. Send explanation by telegraph.

Newspaper reports many thousand deaths Labrador. Can you take or suggest any further measures for relief?

12,860.

No. 127.

Colonial Office to Admiralty.

DOWNING STREET,
July 29th, 1886.

Confidential.

SIR,

I am directed by Earl Granville to transmit to you for the information of the Lords Commissioners of the Admiralty a copy of a correspondence with the Governor-General of Canada on the subject of issuing fresh instructions to the Naval Commander-in-Chief on the North American Station, with reference to the Fisheries question.

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

The Secretary of the Admiralty.

13,552.

No. 128.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

No. 175.

DOWNING STREET,
29th July, 1886.

MY LORD,

I have the honour to transmit to you a copy of a letter† from the Foreign Office, enclosing two despatches from Her Majesty's Chargé d'Affaires at Washington, containing protests of Mr. Bayard against the action of the authorities of the Dominion, in regard to United States' fishing vessels.

I have to request that your Government will, with as little delay as possible, furnish Her Majesty's Government with a report on the cases referred to.

I have, &c.,
(Signed) GRANVILLE.

The Marquis of Lansdowne.

* No. 61

† Nos. 99 and 117.

‡ No. 125.

13,621.

No. 129.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
July 29, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, a copy of a Despatch from Her Majesty's Minister at Washington reviewing the present situation of the Fisheries question, and stating the points to be borne in mind in case of negotiations.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 129.

Sir L. West to the Earl of Rosebery. (Received July 29.)

(No. 64. Treaty. Confidential.)

WASHINGTON,
July 7, 1886.

MY LORD,

In the absence of instructions from your Lordship on the present phase of the Fisheries question, and in view of the tenour of Mr. Bayard's notes on the detention of American fishing-vessels by the Canadian authorities, I have avoided all conversation with him on the subject. These notes are written in order to establish the contention that the operation of the Treaty of 1818 is virtually suspended by the spirit of subsequent commercial legislation on both sides, and that the action taken by the Canadian authorities under it is therefore unjustifiable.

It must be borne in mind, however, that the commercial legislation upon which so much stress has been laid by the opponents in the Senate to the appointment of a Commission may be said to have auspiciously culminated in the reciprocity [treaty] of 1854, which, together with the policy which it inaugurated, was nevertheless denounced by the United States' Government, and that all endeavours on the part of the Dominion Government to renew it have failed.

The freedom of intercourse, therefore, which, in so far as the fisheries are concerned, may be said to have been repudiated by Congress by the denunciation of the instruments which established it, can scarcely now be claimed as a right, in view of the repeated declarations both in Congress and outside, that the fishing interests were content to abide by a Treaty which expressly denies it. It was preferred to return to the Treaty of 1818 sooner than to admit the principle of "free fish and free fishing," for it was argued that, since the fish had left the Canadian shores, American fishing-vessels had no reason for resorting to Canadian waters, and the right of free intercourse for inshore fishing operations was therefore no longer of any value.

In dealing with the situation thus created by the Senate for the sole purpose of thwarting the policy of the present Administration, two points at once present themselves which are of importance in the event of any proposal being made on either side for negotiation:—

1. The probable refusal of the Dominion Government to suspend action under the Treaty of 1818 pending negotiation.

2. The probable refusal of the Senate to sanction any agreement come to between Her Majesty's Government and President Cleveland's present Cabinet.

Mr. Bayard is fully aware of the difficult position in which he has been placed, and it is therefore very likely that he is endeavoring to conciliate the Senate in view of possible negotiation, by writing notes in the sense of the speeches of the Maine Senators, and in order thus to be enabled to give satisfactory assurances of the disposition of that body to agree to an arrangement which could scarcely be reached without some such understanding, for he is aware that Her Majesty's Government would not be disposed to enter into engagements which the Senate might again refuse to allow the President to carry out. He feels also that Her Majesty's Government can only look to the United States' Government, and not to the circumstances in which he has been placed, and he is evidently now seeking the means of escape from this dilemma. That such is the case

appears from a letter which he has addressed to the owner of the schooner "D. J. Adams," copies of which, as published in the newspapers, I have the honour to enclose, as well as copies of an article from the "New York Herald," commenting thereon. The allusion to "the mistake in not having taken his advice" is significant of the difficulty he now finds in securing a clear and comprehensive "declaration" of an agreement.

I have, &c.,
(Signed) L. S. SACKVILLE WEST.

Extract from the "New York Herald" of July 6, 1886.

SECRETARY BAYARD'S SYMPATHY.—A LETTER TO THE OWNER OF THE SEIZED SCHOONER
"D. J. ADAMS."

[By Telegraph to the "Herald."]

GLOUCESTER,
July 5, 1886.

Secretary of State Bayard has written a letter to Captain Jesse Lewis, of Gloucester, Mass., the luckless owner of the schooner "D. J. Adams," now in durance alongside the wharf at Digby, Nova Scotia.

Secretary Bayard's letter begins by saying that Captain Lewis has his sincere sympathy, and ever since the seizure was brought to his knowledge has had the constant consideration of the Department and of the Consular Offices of the United States in the Dominion of Canada. He also says:—"It is proper that I should inform you that demand was made upon the Government of Great Britain for the release of the vessel, coupled with a notification that the Government would be held responsible for all loss and damage caused by her seizure and detention."

Secretary Bayard then refers to his recommendation for a Fishery Commission, and says:—"It is now, in my opinion, a mistake not to have taken my advice in the matter, as such trouble as you suffer would have been avoided."

The letter closes as follows:—"I trust I shall be enabled to secure such a clear and comprehensive declaration of an agreement between those charged with the administration of the two Governments as will define the line of their rights, and secure from molestation those American fishermen who, obeying the injunctions of their Government respecting subordination to the laws of foreign Governments, keep within the laws of their own country."

Extract from the "New York Herald" of July 6, 1886.

MR. BAYARD'S LETTER TO THE SKIPPER.—Our correspondent at Gloucester, Mass., sends us a summary of a letter of condolence written by Secretary Bayard to the skipper of the schooner "Adams," the first of the fishing-vessels seized by the Canadians. We have other information from Gloucester which indicates that in the opinion of the fishermen there it implies persistence on the part of the State Department in that scheme for an International Fishery Commission which was negotiated with the British Minister last summer and commended to Congress by the President in December, but disapproved by the Senate on the 13th April by the emphatic vote of 35 to 10. This seems to us, however, too improbable an inference for the public to accept. But the suspicious temper of the Gloucester men confirms opinions we have previously expressed of the inexpediency of so sedulous a concealment of the nature and progress of the pending negotiations as the State Department is practising.

This temper is not likely to be appeased by the extract from Lord Rosebery's speech at the recent Imperial Federation banquet in London, which was cabled yesterday to the Toronto "Globe," that when the Blue Books are read respecting the Fishery question it will be found that the British Government has upheld colonial interests. Nor is there anything in our despatches this morning from Halifax and Ottawa to allay it. On the contrary, there is much to aggravate. The Canadian Minister of Marine is reported to be on his way to the "scene of action" in Nova Scotia, to press seizures with vigour, and the Minister of Justice to be bound for the same locality to direct prosecutions; and the unmerciful fines levied on our three fishing schooners at Shelburne, for the trivial irregularity of taking water on board, or letting men go ashore before entering at the custom-house, indicate a generally vexatious disposition strongly in contrast with the liberal treatment recently shown by our Treasury Department to the Canadian schooner "Sisters," which landed fish at Portland without a manifest.

13,642.

No. 130.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received July 30, 1886.)

CASCADEPEDIA RIVER,
NEW RICHMOND, P.Q.,
12th July, 1886.

(Confidential.)
A.

MY LORD,

On receipt of your Lordship's telegram of the 6th instant,* stating that the United States' Minister asserted that American fishing vessels had been warned by the Collector of Customs at Canso, Nova Scotia, to keep three miles outside a line from Canso to St. Esprit, and also from North Cape to East Point in Prince Edward Island, and requesting that Her Majesty's Government should be informed at once whether the Government of Canada desired to modify the view with respect to the Headland Question taken in the Confidential Instructions of the 23rd March, I caused enquiries to be made through the Department of Customs in order to ascertain whether there was any foundation for the statement made by the American Minister.

2. I now enclose copies of a telegram addressed by the Honourable Mackenzie Bowell, my Minister of Customs, to the sub-Collector at Canso, and of that official's reply.

3. Your Lordship will observe that no formal warning was issued by Mr. Young other than that which has been issued generally by direction of my Government, and which your Lordship has already seen. Mr. Young's observation to the effect that in his opinion the Headland Line of Chedabucto Bay should be considered as running from Cranberry Island to St. Esprit, was made entirely on his own responsibility and without any authority or instruction from his superiors, no claim having been made by my Government to have such a line laid down either between the points mentioned or between North Cape and East Cape, Prince Edward Island, the other points referred to in your Lordship's telegram.

4. I shall have an opportunity during the course of the next two or three days of explaining to Sir Lionel West, who had also called my attention privately to the warning alleged to have been given, the circumstances under which this report originated.

5. Your Lordship is aware that it has been from the first the wish of my Government to avoid complicating the issues already raised by taking any measures adverse to American fishermen which might have the effect of provoking a discussion of the Headlands Question. The information which I receive makes it, however, evident that it may prove impossible to prevent that question from being forced upon our consideration. Large shoals of mackerel have during the last few weeks appeared upon the coast of the Maritime Provinces and are entering into the Bays and Inlets by which it is indented. Into these the shoals are being so closely followed by American fishing vessels that some steps to obtain a determination of the limits of our territorial waters may become inevitable.

6. I shall keep your Lordship informed in regard to this matter.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosure 1 in No. 130.

The Honourable M. Bowell to Mr. J. W. Young, Sub-collector of Customs at Canso, Nova Scotia.

TELEGRAM.

Have you warned American vessels to keep three miles outside line from Canso to St. Esprit? Answer and report full particulars.

Enclosure 2 in No. 130.

Mr. J. W. Young, Sub-collector of Customs at Canso, Nova Scotia, to the Honourable M. Bowell.

TELEGRAM.

July 8th, 1886.

I have not warned any American vessels to keep out of the three miles limit anywhere except by furnishing them with the official warning. In answer to the question in a general conversation asked by Charles Lee, Master of the Schooner "Orient," "What do you," meaning people here, "consider the headland of Chedabucto Bay?" I replied, "Cranberry Island on the West, St. Esprit on the East."

(Signed) J. W. YOUNG.

13,643.

No. 131.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received July 30th, 1886.)

CASCAPIEDIA RIVER, NEW RICHMOND, P.Q.,
July 14th, 1886.

Confidential.

MY LORD.

I had the honour of telegraphing to you on the 10th instant*, to enquire whether any instructions had been issued to officers in command of Her Majesty's Ships on the Halifax Station, in accordance with the request conveyed in my despatch of the 30th of March last.†

2. I have not yet received from your Lordship any intimation whether that request would be granted, and if so, to what extent. I may remind you that after the expiration of the Reciprocity Treaty of 1854, and the failure of the arrangements under which American vessels were subsequently permitted to fish in Canadian waters on taking out a license from the Canadian Government, valuable assistance was rendered to the Dominion in the protection of its fishery rights by the Imperial Navy.

3. The moral effect of this support was very great, and its absence, if it is withheld under present circumstances, will be seriously felt.

4. I may mention that a fast steamer will shortly be commissioned for the service of the Departments of Customs and Marine and Fisheries in addition to the police vessels already employed. Captain Scott has called the attention of my Government to the inadequacy of the force now on the fishing grounds in the face of the determined encroachments of United States fishermen.

I have, &c.,
(Signed) LANSDOWNE.

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

13,657.

No. 132.

Governor Sir G. W. des Vœux, K.C.M.G. (Newfoundland), to the Right Honourable the Earl Granville, K.G. (Received 30th July, 1886)

TELEGRAPHIC.

30th July. Despatch by mail explaining that fishery notice merely to maintain protest (against) action will not be taken this year in any case not at all without Order in Council under Act of Parliament 59 Geo. III, chapter 38. Attorney-General in England will explain.

Reason to believe that report starvation Labrador absolutely without foundation.

13,684.

No. 133.

Foreign Office to Colonial Office.

Confidential.

FOREIGN OFFICE,
July 30th, 1886.

SIR,

I am directed by the Earl of Rosebery to acknowledge the receipt of your letter of the 21st instant,* in which you suggest that the Governor of Newfoundland should be informed that after a careful consideration of their proposal that an Order in Council should be issued under the Act 59 George III, cap. 38, Her Majesty's Government are of opinion that it would be better not to take such action at the present time.

In reply I am to request you to state to Earl Granville that Lord Rosebery considers the question of policy involved to be the same in this case and also in the applications of the Canadian and Newfoundland Governments for Her Majesty's assent to Bills dealing with the question of the sale of bait to foreigners, and that it will therefore be desirable to decide on all three points collectively.

In view of the gravity of the issues involved Lord Rosebery is, however, of opinion that the question should stand over for the present.

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

The Under-Secretary of State,
Colonial Office.

13,714.

No. 134.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
July 31st, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Earl Granville, Extracts from American Newspapers concerning the North American Fisheries Question.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure 1 in No. 134.

Extract from the "New York Herald" of July 13, 1886.

SECRETARY BAYARD TO MR. WILLARD.

The following letter from Secretary Bayard to Mr. E. G. Willard was made public to day:—

DEPARTMENT OF STATE, WASHINGTON, D. C.,
July 9, 1886.

To E. G. Willard, Esq., Portland, Me. :—

SIR,

Your telegram of the 3rd and your letter of the 7th instant, stating the seizure at Shelburn, N. S., by the local authorities of that port, of the schooner George W. Cushing, were duly received. Before the receipt of either, news of this seizure had been received by this department and instructions had been sent to the Consul-General at Halifax to proceed to Shelburn and obtain full knowledge of all the facts and make full reports to this department of the cause of such seizure and the nature of the complaint upon which such proceedings were founded. In the absence of such authentic information it is impossible for this department to take any action or give you advice.

The contents of your telegram and letter disclose, you are well aware, that questions

are now pending between this Government and that of Great Britain in relation to the justification of the rights of the American fishing vessels in the territorial waters of British North America. I shall relax no effort to arrive at a satisfactory solution of the difficulty, and in the meantime it is the duty and manifest interest of all American citizens entering Canadian jurisdiction to ascertain and obey the laws and regulations there in force. For all unlawful deprivation of property or commercial rights this Government will expect to procure redress and compensation for the innocent sufferers.

Very respectfully yours,
T. F. BAYARD.

Enclosure 2 in No. 134.

Extract from the "National Republican" of July 14, 1886.

THE FISHERIES TROUBLES.

Representative Boutelle's second letter to Secretary Bayard, the disrespect of our flag, violations of our own commercial rights.

Representative C. A. Boutelle has addressed the following letter to the Secretary of State:—

SIR,

I have received your letter of the 10th instant, in reply to my telegram from the House calling your attention to the arbitrary proceedings of the Dominion cruiser Middleton in driving American citizens with their boats away from the harbor of St. Andrews, N.B., where they were prosecuting a lawful commerce in the purchase of herring from the Canadian weir-fishermen for canning purposes, and announcing that no American boat will be permitted to purchase in that port for any purpose, to which violation of commercial rights I earnestly invoked the immediate attention of the State Department.

I am pleased to learn, by your letter, that in response to the representations made by me at our interview on June 2 last you, on the same date, drew the attention of the British minister to the alleged threats of such interference by Dominion officials with the purchase of herring for American sardine factories, and that you were in hopes that further interference with a recognized and legitimate trade between British subjects in Canada and citizens of the United States would be prevented.

You do not state whether any assurances were obtained from the British government that measures would be taken to prevent such violations of commercial intercourse, but the increased aggressiveness with which the Dominion authorities are denying to our citizens the ordinary privileges of trade in their ports would indicate that no adequate guarantee of the protection of the commercial rights of our citizens in Canadian waters has yet been secured. I note that you promised to again address the British minister on the subject, and I should be more hopeful that this second notification of the wrongs would be effectual, if the course of events did not seem to show the inattention of the British government to the representations made by you to the minister more than a month ago.

In accordance with your expressed desire for full and accurate attested statements of all the facts in each case of complaint, I have requested that such affidavits in regard to the occurrence at St. Andrews be promptly prepared and forwarded to your department. It seems to me, however, that such information as that conveyed to you by my telegram, supplemented by the narrations in the current reports of the daily press, furnish a basis upon which our government may readily obtain from its own officers on the frontier and all Canadian ports such authoritative knowledge of these violations of international rights as may be requisite for a prompt, firm, and effective protest on the part of the United States. Although no accurate estimate can be formed at present of the direct and indirect losses entailed upon citizens of the United States through the damage to our fishery interests by the harassing seizures and other interferences and indignities to which our vessels have been subjected during the past year by the authorities of the British provinces, that the losses will be very heavy and result in great hardship to a most worthy class of our citizens does not admit of doubt. Our government certainly should be able to secure for our fishermen and other citizens who may seek Canadian ports the ordinary rights and privileges of commercial intercourse that prevail among civilized nations, and it is not strange that many of our people are becoming impatient of delay in the application of a remedy for the evils so justly complained of.

It is humiliating to our national pride that our hardy fishermen and citizens engaged in legitimate trade should be chased out of the ports of a neighbouring country, and have their vessels captured on frivolous pretexts by so-called "cruisers" of a British colony; and this mortification becomes a substantial grievance when important industries are obstructed, and vessels thus seized are condemned or subjected to heavy exactions in the shape of penalties and fines, while the operations of large fleets are abandoned or paralyzed by the uncertainty whether their country's flag will afford them any protection in the pursuit of their arduous and honorable calling. And this, notwithstanding the fact that Canadian fishermen are permitted to find in the United States a principal and profitable market for many million dollars' worth of their catch.

There is abundant reason to believe that the rumors growing more and more current in regard to the alleged pendency of negotiations looking to renewal in some form of the abrogated and one-sided treaty have created an impression among our people that adds greatly to the popular uneasiness upon this subject. There is also a strong belief that the prevalence of a similar impression among the Canadians has largely stimulated an aggressive policy, intended to bring us to terms satisfactory to them. This impression has not been lessened on either side of the border by the remarkable forbearance maintained by our government in the face of the systematic and exasperating crusade against our fishermen by the Canadian authorities, and the public demand for some effective assertion of the commercial rights of the people of the United States is fast becoming unanimous and imperative.

I think there can be no mistake as to the very general feeling among our people that ample occasion has been furnished for the President to exercise the powers conferred upon him by the act of June 19 last to withhold from the vessels of a foreign power the privileges which it persistently denies to ours. And if the President is not already clothed with sufficient authority, there is no doubt that Congress will be disposed to promptly strengthen his hands in any way that may be shown to be necessary to render effective our protest against the disrespect to our flag and the violations of our own commercial rights.

13,552.

No. 135.

The Right Hon. the Earl Granville, K.G., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

August 2. Send full particulars as to United States' fishing vessels seized or warned off; ground of seizure or warning; and exact locality, including distance from shore of such vessels.

13,893.

No. 136.

Foreign Office to Colonial Office.

(Confidential.)

FOREIGN OFFICE,
August 2, 1886.

SIR,

I am directed by the Earl of Rosebery to transmit to you a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington inclosing a copy of a note from Mr. Bayard protesting against the action of Captain Kent of the Dominion cruiser "General Middleton," in refusing Stephen R. Balkam permission to buy fish from Canadians; and I am to suggest that Earl Granville should obtain a report on the subject from the Dominion Government.

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

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 136.

WASHINGTON,
July 17, 1886.

(Treaty, No. 71.)

MY LORD,

With reference to my despatch, No. 68, of this series of the 12th instant, I have the honour to transmit herewith to your Lordship copy of a note which I have received from Secretary Bayard protesting against the action of Captain Kent of the Dominion cruiser "General Middleton" in expelling Stephen R. Balkam from the harbour of St. Andrews, New Brunswick, and in refusing to permit him to purchase fish, caught and sold by Canadians, for the purpose of canning as sardines.

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

The Earl of Rosebery,
&c., &c., &c.

WASHINGTON,
July 16, 1886.

SIR,

I have just received, through the Hon. C. A. Boutelle, M.C., the affidavit of Stephen R. Balkam, alleging his expulsion from the harbour of St. Andrews, N. B., by Captain Kent of the Dominion cruiser "Middleton," and the refusal to permit him to purchase fish, caught and sold by Canadians, for the purpose of canning as sardines.

The action of Captain Kent seems to be a gross violation of ordinary commercial privileges against an American citizen proposing to transact his customary and lawful trade, and not prepared or intending in any way to fish or violate any local law or regulation or treaty stipulation.

I trust instant instructions to prevent the recurrence of such unfriendly and unlawful treatment of American citizens may be given to the offending officials at St. Andrews, and reparation be made to Mr. Balkam.

I have, &c.,
(Signed) T. F. BAYARD.

The Hon.
C. Hardinge,
&c., &c., &c.

13,387.

No. 137.

The Right Hon. Edward Stanhope, M.P., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

(No. 179.)

DOWNING STREET,
4th August, 1886.

MY LORD,

I have the honour to transmit to you, for the information of your Lordship's Government, a copy of a letter* from the Foreign Office, enclosing an extract from the "New York Herald" relative to the North American Fisheries Question.

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

The Marquis of Lansdowne.

13,954.

No. 138.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received August 5th, 1886.)

TELEGRAPHIC.

Your telegram 2nd.† Full particulars by to-morrow's mail.

13,893.

No. 139.

The Right Hon. Edward Stanhope, M.P., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

(Secret.)

DOWNING STREET,
5 August, 1886.

MY LORD,

I have the honour to transmit to your Lordship a copy of a letter* from the Foreign Office with a copy of a note from Mr. Bayard protesting against the action of Captain Kent of the Dominion cruiser "General Middleton" in refusing Stephen R. Balkam permission to buy fish from Canadians, and I have to request that you will obtain a report from your Government in reference to this case.

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

The Marquis of Lansdowne.

No. 140.

13,552.

Colonial Office to Foreign Office.

DOWNING STREET,
5th August, 1886.

SIR,

With reference to your letter of the 28th ult.,† and to previous correspondence respecting the action of the Canadian authorities in regard to United States' fishing vessels, I am directed by the Secretary of State for the Colonies to transmit to you, for the information of the Secretary of State for Foreign Affairs, copies of a despatch and of a telegram,‡ which have been addressed to the Governor-General of the Dominion on the subject.

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

The Under-Secretary of State,
Foreign Office.

13,387.

No. 141.

Colonial Office to the High Commissioner for Canada.

DOWNING STREET,
August 6, 1886.

SIR,

I am directed by the Secretary of State for the Colonies to transmit to you for your information a copy of a letter§ from the Foreign Office enclosing an extract from the "New York Herald," relative to the North American Fisheries Question.

These papers have been communicated to the Governor-General of Canada.

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

The High Commissioner
for Canada.

14,306.

No. 142.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
August 9th, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copy of a despatch and inclosure from Her Majesty's Chargé d'Affaires at Washington, relative to the North American Fisheries Question.

I am, &c.,
(Signed) J. PAUNCEFOTÉ.

The Under-Secretary of State,
Colonial Office.

* No. 136.

† No. 125.

‡ No. 128 and 135.

§ No. 121.

Enclosure in No. 142.

WASHINGTON,
July 26th, 1886.

Treaty, No 73.

MY LORD,

I have the honour to transmit, herewith, an extract from the Congressional Record giving the text of the resolutions proposed to the Senate by Senator Edmunds regarding the rights of American vessels in British waters. These resolutions were brought before the Senate on Saturday the 24th inst., and were agreed to.

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

The Earl of Rosebery,
&c., &c., &c.

Extract from the Congressional Record.

RIGHTS OF AMERICAN VESSELS IN BRITISH WATERS.

MR. EDMUNDS. I offer a resolution, but as it may possibly be discussed a little, I object to it myself so it will go over until to-morrow.

The resolution was read, and ordered to be printed, as follows:—

Resolved. That the Committee on Foreign Relations be, and it hereby is, instructed to inquire into the rights of American fishing vessels and merchant vessels within the North American possessions of the Queen of Great Britain, and whether any rights of such vessels have been violated, and, if so, to what extent; that said committee report upon the subject and report whether any and what steps are necessary to be taken by Congress to insure the protection and vindication of the rights of citizens of the United States in the premises; and that said committee have power to send for persons and papers, to employ a stenographer, and to sit during the recess of the Senate, either as a full committee or by any sub-committee thereof, and that any such sub-committee shall for the purposes of such investigation be a committee of the Senate to all intents and purposes.

Resolved. That the necessary expenses of said committee in said investigation be paid out of the appropriation for the miscellaneous items of the contingent fund of the Senate, upon vouchers to be approved by the chairman thereof.

The resolutions were ordered to be printed.

13,954.

No. 143.

Colonial Office to Foreign Office.

DOWNING STREET,
August 9th, 1886.

SIR,

With reference to the letter from this Department of the 5th instant,* which enclosed a copy of a telegram sent to the Governor-General of Canada requesting full particulars with regard to the United States' fishing vessels seized or warned off by the Canadian authorities, I am directed by the Secretary of State for the Colonies to transmit to you, for the information of the Earl of Iddesleigh, a copy of a telegram† received in reply to that telegram from the Marquis of Lansdowne.

I am, &c.,
(Signed) EDWARD WINGFIELD.

The Under-Secretary of State,
Foreign Office.

14,526.

No. 144.

Governor Sir G. W. Des Vœux, K.C.M.G. (Newfoundland), to the Right Hon. the Earl Granville, K.G. (Received August 12, 1886.)

(No. 83.)

GOVERNMENT HOUSE, NEWFOUNDLAND,

August 2, 1886.

MY LORD,

With reference to your Lordship's telegram,* received by me on the 29th ultimo, requesting explanation as to a newspaper report of a warning notice having been served on American fishermen at Bonne Bay (to which message I replied on the following day),† I have the honour to report that a circular, with form of notice enclosed (copy of each of which is annexed), has been forwarded to the various public officers stationed on the coasts of this island.

2. In so far as has at present been reported, the warning has as yet been served on only one vessel, which left at once on its receipt.

3. As stated in my telegraphic message, there is no intention on the part of this Government to follow up the notice by an action this year in any case, or at any time without the sanction of Her Majesty's Government, conveyed by Order in Council, as referred to in my despatch No. 67, of 17th June.‡

4. The Government believe that the notice will act to a certain extent as a deterrent, and will serve as evidence that this colony does not acquiesce in the assumption by American fishermen of a privilege to which they have no right.

5. This being the sole object of the notice, the subject did not strike me as of sufficient importance to deserve a separate report. Now, however, that a newspaper account of the matter has, I find, caused apprehension of serious results, I take blame to myself for not having supplied your Lordship with early information.

I have, &c.,

(Signed) G. WILLIAM DES VŒUX.

The Right Honourable
Earl Granville, K.G.,

&c. &c. &c.

Enclosure in No. 144.

COLONIAL SECRETARY'S OFFICE,

ST. JOHN'S, NEWFOUNDLAND,

17th June, 1886.

SIR,

In view of the attempts of United States' fishermen to obtain fishery supplies on our coasts, contrary to the provisions of the Convention of 1818, the Government have ordered that the various Customs Officers, immediately upon hearing of the arrival of any United States' fishing vessel in ports within their jurisdiction, shall serve the master thereof with a letter warning him of his infraction of the Treaty.

To facilitate you in this matter I enclose you printed copies of a letter which it will be only necessary to date, sign, and address.

You will please report to me the names of all captains, with the names and tonnage and port of their vessel, to whom you may send this letter.

I have, &c.,

(Signed) J. W. WITHERS,
pro Colonial Secretary.

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SIR,

I am instructed to give you notice that the presence of your vessel in this port is in violation of the articles of the International Convention of 1818 between Great Britain and the United States, in relation to fishery rights on the coast of Newfoundland,

* No. 126.

† No. 132.

‡ No. 92.

and of the laws in force in this country for the enforcement of the articles of the Convention, and that the purchase of bait or ice, or other transaction in connection with fishery operations, within three miles of the coasts of this Colony, will be in further violation of the terms of said Convention and laws.

I am, &c.,

Officer of Customs at

Captain _____

Schooner _____

14,567.

No. 144A.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received August 13, 1886.)

(No. 238.)

CITADEL, QUEBEC,

29th July, 1886.

MY LORD,

I have the honour to forward herewith a copy of an approved Report of a Committee of the Privy Council, in reference to the Act entitled "An Act further to amend the Act respecting fishing by foreign vessels," which was passed at its last Session by the Parliament of Canada, and which, as your Lordship will remember, was reserved by me for the signification of Her Majesty's pleasure thereon.

2. Your Lordship will observe that, for the reasons offered by the Minister of Justice, my Government recommends that the attention of Her Majesty's Government may be drawn to the necessity for having the Royal Assent given at as early a day as possible to the Act above referred to. Your Lordship has already been fully informed of the circumstances under which this Bill was originally introduced, and which are again recurred to in the Report now submitted.

3. I understood that you questioned the expediency of such legislation mainly upon the ground that it was calculated to embarrass negotiations, which were in progress at the time between Her Majesty's Government and that of the United States. My Government is not aware whether these negotiations are still in progress, and if so, of the stage at which they have arrived. It is, however the case, as urged by the Minister of Justice, that since the date at which the Bill was reserved by me, Congress has had resort to legislation of a similar kind to that proposed by the Dominion Parliament.

4. I enclose herewith copy of Clause 17 of the Act No. 85 mentioned by the Minister, and I apprehend that there can be no doubt that should the President at any time determine to issue a proclamation such as that contemplated in the clause, Canadian vessels would become liable to seizure and forfeiture in consequence of acts for which—as the law now stands—it might not be possible to enforce the same penalties against vessels of the United States.

I have, &c.,

(Signed) LANSDOWNE.

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

Enclosure 1 in No. 144A.

Certified copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 21st July, 1886.

On a Report dated 17th July, 1886, from the Hon. Mr. Thompson, for the Minister of Marine and Fisheries, submitting the following observations in reference to the Act entitled "An Act further to amend the Act respecting Fishing by Foreign Vessels," which was passed at its last Session by the Parliament of Canada, and which has been reserved by your Excellency for the Assent of Her Majesty the Queen.

A full and careful consideration of the subject with which the act deals made

apparent the necessity for such a measure for the enforcement, within Canadian waters, of the Statutes which have been already passed in the Imperial and Canadian Parliaments for carrying out the provisions of the Treaty of 1818, between Great Britain and the United States.

The Statute 59 Geo. 3. cap. 38, provides the penalty of forfeiture as to any foreign fishing vessels found fishing, or to have been fishing, or preparing to fish, within three marine miles of any of the coasts, bays, creeks or harbours in any part of Her Majesty's Dominions in America, &c.

The Canadian Act of 1868 (chap. 61) entitled "An Act respecting fishing by "foreign vessels," and its amendments followed the Imperial Act and established the same penalty for the same offences. For all other offences against the Treaty and against the Imperial Act above referred to the only penalty now provided by statute is that mentioned in section 4 of the Imperial Act, viz., the penalty of two hundred pounds to be recovered in the superior courts.

The Minister has had his attention called to the fact that the ordinary common law remedy for violation of a statute, viz., indictment as for a misdemeanour, is an unsuitable one for such cases, because it would involve long personal imprisonment, even before trial (as the defendants would generally be foreigners without available security to offer for their appearance) and would after conviction be followed, in nearly all cases, by a further term of imprisonment, as the persons on whom the penalties would fall would probably be unable to bear a considerable fine.

It is obvious that the mere right to bring a suit against the masters of offending fishing vessels is a remedy of little or no avail. Before judgment for the two hundred pounds could be obtained the persons sued would be almost certain to be out of the jurisdiction of the Dominion Courts, and the enforcement of the judgment would for that reason become in most cases impossible, even if the defendants possessed the means from which the judgment could be realized.

The Minister submits that the penalty of forfeiture applied by the second section of the Imperial Statute, and by the Canadian Act, to the offence of fishing, &c., would be a suitable and most available penalty for the infringement of the statutes.

It cannot be claimed by the United States Government to be an excessive or an unreasonable penalty because, by Statute No. 85 of the United States Congress, lately assented to by the President of the United States, the same penalty is established against foreign vessels whose masters, officers, or agents do any act which may be contrary to any proclamation issued under that statute.

The Committee, concurring in the foregoing Report, and considering the great value of the Canadian fishing grounds and the necessity which exists for their protection from encroachments by foreign fishermen, in order that these natural resources may be made available to our own people, recommends that the attention of Her Majesty's Government be drawn to this subject, and that representations be made as to the necessity for having the Royal assent given at as early a day as possible to the Act of last Session which is before referred to.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

Enclosure 2 in No. 144A.

Section 17 of Bill No. 85 passed by the United States Congress, 1886.

That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbours, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorised to issue his Proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of

any commercial privileges, shall do any act prohibited by said proclamation in the ports, harbours, or waters of the United States for or on account of such vessel, such vessel and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this Act, or aiding and abetting any other person in such opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years. *

63.—Secret.

No. 145.

The Right Hon. Edward Stanhope, M.P., to Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G.

TELEGRAPHIC.

13th August 1886. Referring to your despatch, Confidential, 12th July,* Fisheries, Her Majesty's Government earnestly desire that your Government should proceed with great caution in regard to Bays and Headland question, and take no action for asserting British rights over any waters more than three miles from land without previously ascertaining, by full communication with Her Majesty's Government, that they will be able to uphold such action.

13,642.

No. 146.

Colonial Office to Foreign Office.

DOWNING STREET,
August 13, 1886.

SIR,

With reference to the letter from this Department of the 16th ultimo,† and to previous correspondence respecting the warnings stated to have been issued by the Canadian authorities in regard to American fishing-vessels, I am directed by the Secretary of State for the Colonies to transmit to you, for communication to the Earl of Iddesleigh, a copy of a despatch* from the Governor-General of Canada with its enclosures on the subject.

Mr. Stanhope is disposed to think, with reference to the 5th paragraph of this despatch, that it may be well to suggest to the Dominion Government the importance of proceeding with great caution in regard to this question of the bays and headlands, and to take no action for asserting British rights over any waters more than three miles from land without previously ascertaining by full communication with Her Majesty's Government, that they will be able to uphold such action, reminding the Dominion Government that Her Majesty's present advisers have not yet had an opportunity of considering all the bearings of the Fisheries Question.

If Lord Iddesleigh concurs in this suggestion, Mr. Stanhope will be prepared to address a despatch to the Officer Administering the Government in this sense.

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

The Under-Secretary of State,
Foreign Office.

14,644.

No. 147.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received August 16, 1886.)

(Confidential.)

CITADEL, QUEBEC,
4th August, 1886.

MY LORD,

I have the honour to acknowledge receipt of your Lordship's despatch, secret, of the 15th July,‡ enclosing Sir J. Pauncefote's letter of June 30th, with which were

* No. 130.

† No. 104.

‡ No. 102.

transmitted the enclosures noted in the margin, relative to the points raised in Mr. Bayard's note to Sir Lionel West dated 14th July, 1886.

2. In my confidential despatch of the 12th ultimo,* I had the honour of stating to your Lordship the facts elicited by the Minister of Customs in regard to the warnings alleged to have been given to American fishing vessels by the sub-collector at Canso. I observe, however, that in Mr. Bayard's note it is stated that "the same authority" had informed the masters of the vessels referred to that they would not be permitted to enter the Bay des Chaleurs. No reference was made to the latter Bay in the enquiries addressed by the minister to the sub-collector, no allusion to it having been made in your Lordship's telegram to me. You will, however, have observed that the collector in his report states positively that he has not given any "warning" to American vessels except the usual official warning issued by the Department of Marine and Fisheries and already seen by your Lordship. I shall call the attention of the Minister to the further statements contained in Mr. Bayard's note and request him to obtain a report upon them.

3. I desire, however, at once to point out to your Lordship the inaccuracy of the language in which Mr. Bayard has described "such warnings," including it is presumed the alleged warning which had reference to the Bay des Chaleurs, as "wholly unwarranted pretensions of extra territorial authority and usurpations of jurisdiction by the provincial officials," constituting "an interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within three marine miles of the shores, and within the defined limits as to which renunciation of the liberty to fish was expressed in the Treaty of 1818."

4. My Government will be prepared, at the proper moment and whenever it becomes necessary to raise the question formally, to uphold by sufficient arguments the contention which has, from the time that these matters first engaged the attention of the Governments interested, been maintained by that of the Dominion in regard to the interpretation which should be placed upon that portion of Article I of the Convention of 1818 which describes the limits within which the liberty of fishing was renounced by the United States.

5. It is not necessary upon the present occasion that I should recur to the past history of the "Headlands Question," or that I should do more than state that Mr. Bayard's suggestion that the Bay des Chaleurs does not form a part of the waters from which United States' fishermen are excluded is one in which my Government cannot acquiesce. Throughout the negotiations which have at different times taken place in regard to these matters no such admission has ever been made on the part of the Dominion, or, as far as I am aware, by the Imperial Government. It is therefore wholly incorrect of Mr. Bayard to speak of the question as one which should be included amongst those "which have been long since settled between the United States and Great Britain."

6. I shall ascertain whether any statement according with that referred to in the first paragraph of Mr. Bayard's note was made by the Collector at Halifax in regard to the landing of fish at that point for transportation in bond across the province. It will, however, be evident to your Lordship that the landing of fish for the above purpose is not one of the objects for which entrance to Canadian harbours is permitted within the terms of the Convention of 1818.

I have, &c.,
(Signed) LANSDOWNE.

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

14,645.

No. 148.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received August 16th, 1886.)

CITADEL, QUEBEC,
August 4th, 1886.

Secret.

MY LORD,

I had the honour of receiving your Lordship's telegram of the 2nd instant,† requesting me to supply you with full particulars of all United States' fishing vessels which had been seized or warned off by the Fisheries Police of the Dominion, of

* No. 130.

† No. 135.

grounds for such seizures or warnings, and of the exact locality in which they had taken place with especial reference to the distance from the shore of such vessels at the time when they were seized or warned.

2. In regard to seizures, I have ascertained that the only cases have been the following :—

- i. The "David J. Adams," seized at Digby, Nova Scotia, on the 7th of May last.
- ii. The "Ella M. Doughty," of Portland, Maine, seized at Englishtown, Nova Scotia, on the 17th of May last.
- iii. The "City Point," seized at Shelburne, Nova Scotia, on the 2nd of July last.
- iv. The "George W. Cushing" and the "C. B. Harrington," both of which vessels were seized at Shelburne on the 3rd July. Copies of the Seizure Reports, which contain all the information of which my Government is possessed relative to these seizures are enclosed herewith.

3. The circumstances under which the "D. J. Adams" was seized have been already explained at some length in my previous despatches. This vessel is still detained, and awaits trial before the Vice-Admiralty Court.

4. Particulars with regard to the "Ella M. Doughty" were given in my Despatch, No. 167, of the 26th of May.* This vessel has been released, her owners having deposited the sum of \$3,000.

5. The "City Point," "George W. Cushing" and "C. B. Harrington," were released upon deposit of \$400 each, that being the amount of the penalty to which they were liable under Section 29 of the Customs Act of 1883, which they had contravened.

6. I also enclose for your Lordship's information copies of the Boarding Books of the Government Fisheries Protection vessels, "Lansdowne," "Critic," "F. E. Conrad," "Terror," "General Middleton," and "L. Howlett." In the large majority of cases where vessels have been warned or ordered to leave Canadian waters the vessel was boarded in harbour, and it has been thought sufficient to give the name of the harbour by way of a description of the locality. In the few cases in which vessels appear to have been boarded outside a port or harbour, in which cases no seizure was made or attempted, and a simple warning given in accordance with the terms of the circular of which your Lordship has already seen a copy, it has, I understand, not been thought necessary to instruct the officers in command of the police vessels to mark the locality with greater exactness than by giving the name of the port or harbour off or near which the vessel was boarded.

7. Your Lordship will recollect that in the confidential instructions issued to Captain Scott, of the Government steamer "Lansdowne," of which I had the honour to send you a copy in my despatch, secret and confidential, of the 25th of March†, that officer was expressly directed to "confine the exercise of his authority within the limit "of three marine miles of any of the coasts, bays, creeks, or harbours of Canada," and "in the case of bays, creeks, or harbours more than six geographical miles in width at "their mouth or entrance to consider the line of demarcation to be drawn between the "first points from the mouth or entrance to such bay or harbour at which the width "shall not be more than six geographical miles." It may therefore be assumed that in all cases where United States' fishing vessels have been boarded this has been done within the limits above indicated.

8. In the case of vessels actually seized, the reports contain much fuller information as to the locality.

9. I may mention in explanation of the fact that the returns of some of the police vessels have not been brought down to a more recent date, that these vessels are ordered not to come into port more than once a week, and then only if they can be spared from their cruising ground.

10. I have given directions that your Lordship is to be from time to time supplied with further information in regard to any seizures or warnings which may hereafter take place.

I have, &c.,
(Signed) LANSDOWNE.

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

Enclosures in No. 148.

PORT OF DIGBY, N.S.

On the 7th day of May, 1886, I, Botsford Viets, a Collector in Her Majesty's Customs, duly appointed and sworn as such, did detain the following described vessel, to wit:—The fishing schooner "David J. Adams," of Gloucester in the United States of America, of the burden of 66 tons, or thereabouts, commanded by Captain Allen Kenney, owner not known, of the probable value of \$3,000⁰⁰/₁₀₀, for an infraction of the Revenue Laws of the Dominion of Canada, that is to say, for having come from a port out of Canada and entered Digby Gut and anchored in the Annapolis Basin, near Digby, in the Province of Nova Scotia, not making a report in writing to the proper officer of the arrival and voyage of the vessel, as required by section 25; wherefore the said vessel became liable to detention for a penalty under the provisions of the Act 46 Vic., 12 chap., 25 and 29 secs. The said vessel being to the best of my knowledge and belief the property (unknown), whose Post Office address is unknown, and at the time of this detention in the possession or custody of Allen Kenney, at Digby, in the County of Digby, N.S., whose Post Office address is unknown. The circumstances which led to the detention were the following, viz.:—On or about the 5th inst., the "David J. Adams" entered Digby Gut, and on the 6th inst. bought four barrels fresh herrings, on the 7th anchored off Bear Island at a place known as the Half-tide Weir. Afterwards the vessel changed her berth and sailed further along the shore. On the 7th inst., Captain P. A. Scott, R.N., of Dominion Government s.s. "Lansdowne," boarded her, and she subsequently, on the same day, came to anchor off Digby. Information was derived from a person or persons not connected with the Customs service in Canada.

Assistance was rendered in making said detention by other officers in Her Majesty's Customs, viz.:—

Delivery made of the said detention to the Collector of Customs at Digby on the 7th day of May, 1886.

At the date hereof the said vessel has not been claimed.

(Signed) B. VIETS.

Dated at Digby, this 15th day of May, 1886.

PORT OF SHELBURNE.

On the 2nd day of July, 1886, I, W. W. Atwood, a Collector of Customs in Her Majesty's Customs, duly appointed and sworn as such, did seize the following described vessel, to wit:—Schooner "City Point" of Portland, 59 tons, Stephen Keene, master, fishing schooner, of the probable value of \$5,000, for an infraction of the Revenue Laws of the Dominion of Canada, that is to say, for having filled water and allowing seamen to land at their homes with their luggage, &c., without first reporting inwards at Custom House; wherefore the said schooner "City Point" became liable to a penalty under the provisions of the Act 46 Vic., chap. 12, sec. 29. The said schooner "City Point" being to the best of my knowledge and belief the property of some person or persons to me unknown, whose Post Office address is Portland, Maine, and at the time of this seizure in the possession or custody of Stephen Keene, master, at Shelburne, Nova Scotia, whose Post Office address is Portland, Maine. The circumstances which led to the seizure were as follows, viz.:—The schooner was discovered by Captain Quigley, of Dominion cutter "Terror" at anchor six miles below Shelburne Town. The master had allowed part of crew to land at their homes taking their luggage, &c. with them, also had filled water, and failed to report at Custom House until after vessel brought up by captain of cutter. Information was the cause of seizure, and was derived from a person or persons connected with the Customs service of Canada.

Assistance was rendered in making said seizure by other officers in Her Majesty's Customs, viz., Captain Quigley, of Dominion cutter "Terror."

Delivery made of the said _____ to the Collector of Customs at
on the _____ day of _____ 1886

At the date hereof, the said vessel has been released, the amount of \$400 fine having been deposited with the Collector of Customs at Halifax.

(Signed) W. W. Atwood.
Collector.

Dated at Shelburne, this 16th day July, 1886.

PORT OF SHELBURNE.

On the 3rd day of July, 1886, I, W. W. Atwood, a Collector of Customs in Her Majesty's Customs, duly appointed and sworn as such, did seize the following described vessels, to wit:—American fishing schooner "George W. Cushing," 61 tons, C. B. Jewitt, Master, and the "C. B. Harrington," 21 tons, John Frellick, Master, both of and direct from Portland, of the probable value of \$7,000, for an infraction of the Revenue Laws of the Dominion of Canada, that is to say, for having allowed seamen to land, and masters on shore seeking to buy bait, without first reporting at Custom House; wherefore the said vessels became liable to a penalty under the provisions of the Act 46 Vic., chap. 12, sec. 29, the said vessels being, to the best of my knowledge and belief, the property of some person or persons to me unknown, whose Post Office address is Portland, Maine, and at the time of this seizure in the possession or custody of Captains C. B. Jewitt and John Frellick, at Shelburne, N.S., whose Post Office address is Portland, Maine. The circumstances which led to the seizure were as follows, viz.:—The vessels were discovered on the 2nd instant by Captain Quigley, of Dominion cutter "Terror," at anchor about eight miles below Shelburne Town, some of the men and the masters of vessels on shore seeking to buy bait. Masters did not report until vessels brought up next morning by Captain Quigley. Master of "Cushing" had also been at the port of Yarmouth, seeking bait before arriving here and failed to report at Custom House. Information was the cause of seizure, and was derived from a person or persons connected with the Customs service of Canada.

Assistance was rendered in making said seizure by other officers in Her Majesty's Customs, viz.:—Captain Quigley, of Dominion cutter "Terror."

Delivery made of the said _____ to the Collector of Customs at _____ on the _____ day of _____ 188 _____.

At the date hereof the said vessels have been released, the amount of penalty, \$400 for each vessel, having been deposited with the Collector of Customs at Halifax.

(Signed) W. W. Atwood,
Collector.

Dated at Shelburne, this 16th day of July, 1886.

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "CRITIC," CRUISING

BETWEEN AND

Vessels.	Name of Vessels and Owner.		Master.	Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.			Tons.	Men.		Date.	Place.		
Cecil H. Low	Benj. Low		A. McKenzie	75	16	Gloucester	1886. July 4th	Souris	Captain	Just from home. No fish. Lost seine boat.
Henrin Wood	Geo. Norwood and Son.		H. McEachern	84	16	"	"	"	"	Just from home. No fish.
A. H. Harding	A. C. Adams		A. C. Adams	61	16	"	"	"	"	"
Edward Rich	R. W. Freeman		Jno. Newell	74	16	Welfield	6th	Malpeque	"	"
R. S. Newcomb	Albt. E. Linnel.		A. E. Linnel	66	14	Provincetown	"	"	"	"
Nellie N. Howe	Ebin Lewis		Ebin Lewis	79	17	Gloucester	"	"	"	Caught no fish.
Orient	Chas. Lee		Chas. Lee	89	16	"	"	"	"	70bbbs.
Ellen W. Sawyer	J. W. Sawyer		J. Orchard	103	18	Portland	"	"	"	Cruising since June 21, 50bbbs.
William M. Gaffney	Jos. Smith		Jas. W. Thomas	70	16	Gloucester	"	"	"	Just from homo, no fish.
May Flower	Cunningham & Thompson		J. McKinnon	108	16	"	"	"	"	No fish.
Morning Star	T. L. Mayo		P. P. Smith	76	15	Boston	"	"	"	Caught 20 bbbs. fish.
Ossipee	Cunningham & Thompson		J. Johnston	69	14	Gloucester	"	"	"	Just arrived No fish.
Moro Castle	McKenzie and Harding		Edwin Joyce	88	17	"	"	"	"	Caught 35bbbs.
Martha C.	L. Whalen		T. Cunningham	75	16	"	"	"	"	" 80 "
Molly Adams	Sol. Jacobs		S. Jacobs	117	17	"	"	"	"	No fish, only arrived 2 days ago.
Andrew Barnham	Debutts and Dagggett		N. F. Blake	84	17	Boston	7th	Casumpeque	"	250bbbs. fish, caught in bay.
Fannie Belle	W. B. Coombs		F. Hall	82	17	Gloucester	"	"	"	Fishing 3 weeks. 120 bbbs.
Harry G. French	J. W. Campbell		J. W. Campbell	95	16	"	"	"	"	" 4 " 80 " Cape.
Charles H. Kelly	S. N. Mayo		G. Sprague	65	15	Boston	"	"	"	No fish yet.
Waterfall	J. W. Sawyer		Albt. Long	70	16	Portland	"	"	"	300 bbbs. fish.
Leona	W. G. Poole		W. G. Poole	95	16	Gloucester	"	"	"	275 " off North Cape.
G. P. Whitman	B. A. Williams		B. A. Williams	39	16	"	"	"	"	No fish. Cruising 2 days.
Julia Ella	Burns and Co.		J. Burns	43	14	Friendship	"	"	"	140 bbbs. off North Cape.
Martha Bradley	S. Smith		J. F. Vautier	72	17	Gloucester	"	"	"	15 days out. Caught 20 bbbs.
John S. McQuin	J. S. McQuin		Chas. Martin	77	16	"	"	"	"	4 weeks " 50 "
Savanel R. Craze	J. McDonald		Owen Whitman	74	17	"	"	"	"	2 " " 20 bbbs. fish.
Howard Holebrook	Oaks and Foster		Chas. Keese	90	16	"	"	"	"	1 " " 30 "
Edward E. Webster	Solomon Jacobs		S. Hudder	91	16	"	"	"	"	8 " " 800 "
Ebeaza Boynton	W. Parsons		Geo. Martin	84	16	"	"	"	"	Just arrived. No fish yet.
Pioneer	L. Whalen		J. F. Crichtett	62	15	"	"	"	"	70 bbbs. off North Cape.
A. R. Crittenden	Isaac Steele		J. Graham	81	16	Portland	"	"	"	12 " out 2 days.
Eliza Thompson	C. D. Thompson		E. S. Bibber	88	16	Gloucester	"	"	"	2 weeks out. 17 bbbs. fish.
Centennial	D. C. Babson		A. McRae	110	17	"	"	"	"	"

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "F. E. CONRAD," CRUISING
BETWEEN AND

Vessels.	Names of Vessels and Owner.		Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.		Date.	Place.		
Jennie Seaveas	Jos. J. Tupper ..	Jos. J. Tupper ..	107	16	Gloucester ..	1886. July 22nd	Miscoon Light ..	Mr. Smeltzer, Capt.	225 bbls. mackerel. Cautioned him not to enter Bay Chaleur.
Golden Hind	Rowe and Jordan ..	R. Cameron ..	82	16	" ..	"	"	"	397 bbls. mackerel. Cautioned him not to enter Bay Chaleur.
Alice C. Jordan	Rowe and Jordan ..	J. Warren ..	82	16	" ..	"	"	"	Do.
Phil. P. Frye	Sydney Smith ..	Sydney Smith ..	80	17	" ..	"	"	"	Do.
Novelty ..	Brown and Co. ..	Geo. Joyce ..	197	35	Portland ..	July 26th	"	"	300 bbls. Just from home on second trip. Cautioned as above.
Howard Helebrook	Oakes and Foster ..	Chas. A. Keene ..	93	16	Gloucester ..	June 26th	Port Hawkesbury ..	Capt. Smeltzer ..	Put in for water. Ordered her away after supplying. No fish.
Gertie May ..	Chas. A. Gutil ..	Isaac Dougherty ..	96	14	Portland ..	" 28th	Port Mulgrave ..	"	Put in for water. Ordered her away after supplying. No fish.
May Flower	Cunningham & Thompson ..	Jno. A. McKinnon ..	108	16	Gloucester ..	" "	"	"	Put in for water. Ordered her away after supplying. No fish.
Col. J. H. French ..	Jno. Chisholm ..	Wm. Harris ..	79	16	" ..	July 7th	Souris, P.E.I. ..	"	Put in for water. Ordered her away after supplying. No fish.
Pendragon ..	A. Mansfield ..	John Mason ..	68	14	" ..	"	"	"	Put in for water. Ordered her away after supplying. No fish.

NOTE.—All above vessels ordered off, left next day.

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "LANSDOWNE," CRUISING

BETWEEN AND

Vessels.	Name of Vessels and Owner.		Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.		Date.	Place.		
J. B. Putnam	David Crowell	Chas. Rudolf	76	14	Salem, Mass.	1886. March 26th	Pubnico	J. B. Hill	On fishing voyage. In for water, &c. Got his bait in Gloucester.
David	Jno. F. Wanson	Jas. L. Kenny	—	14	Gloucester, Mass.	"	Argyle	"	No one on board.
Frank William	W. E. Wanson	G. Malone	63	15	"	"	Barrington	"	For West Bank, had bait from home.
J. B. Putnam	D. Crowell	Chas. Rudolf	76	14	Salem	"	Shelburne	"	In for shelter and water.
Zenobia	Geo. Steele	D. Morrissy	76	14	Gloucester	"	Pubnico	"	In for shelter.
A. J. Doucan	Geo. Steele	W. E. Morrissy	83	14	"	"	"	"	Captain and crew belong to Pubnico.
Knight Templar	Geo. Steele	Leander Jamieson	69	14	"	"	"	"	Captain on shore.
Plymouth Rock	Geo. Steele	J. D. Morrissy	92	14	"	"	"	"	Came in for shelter. Had bait from home ordered out.
Satellite	E. Woodly	L. Hawkins	20	7	Eastport	April 15th	Beaver Harbour	"	In to change her Register. Owner belongs to Beaver Harbour.
Northern Light	Geo. E. Proctor	J. Patterson	53	12	Gloucester	"	Shelburne	"	Lost main-topmast, came in for repairs. Sail as soon as possible.
Electric Light	—	—	15	3	"	"	Clark's Harbour	"	Lobster smack.
Falcon	A. Taylor	Malone	68	14	"	"	St. Andrew's Bay	"	In seeking for bait. Owners ordered them to buy bait in Canadian waters. Ordered them off. They went left immediately.
Conie E. Jaywood	M. Saywood	W. Phillips	59	11	"	"	"	"	Say that owners gave them orders to buy bait in Canadian waters. Ordered them off. They went immediately.
Pioneer	C. Whalen	J. Crockett	62	12	"	"	"	"	Seized for a violation of the Customs Laws and Fishery Acts.
Athlockley	G. Norwood	A. Olsen	83	14	"	"	"	"	Ordered him to leave.
David J. Adams	Jesse Lewis	A. Kenny	66	13	"	May 7th	Digby	"	In for wood and water. Ordered her to sea.
Horse Albert	J. Smith	J. W. Rowe	65	12	"	"	"	"	Ordered her to sea.
Zenobia	Geo. Steele	D. Morrissy	75	14	"	"	Pubnico	"	Came in for repairs. Bound for Sand Banks.
Knight Templar	Geo. Steele	Leander Jamieson	69	14	"	"	"	"	In for water, had a sick man on board.
Conductor	T. Haskell	E. Chapman	69	14	"	June 2nd	"	"	Boarded when about on limits.
J. G. Craig	Cush and McKay	J. Webber	73	13	Portland	"	Liverpool	"	
Mollie Adams	Sol. Jacobs	S. Jacobs	117	17	Gloucester	July 3rd	Richmond Hrbr. P.E.I.	"	

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "LANSDOWNE," CRUISING

BETWEEN AND —(Continued.)

Vessels	Name of Vessels and Owner.		Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.		Date.	Place.		
R. T. Newcombe	S. Linell..	..	66	14	Gloucester	1886.	Richmond Hrbr. P.E.I.	J. B. Hill	All in for shelter.
Fanny Bell ..	W. B. Coome ..	..	31	17	"	July 3rd	"	"
H. G. Froxams	J. W. Campbell and Co.	..	95	16	"	"	"	"	
H. A. Woods	G. Norwood and Son ..	..	84	16	"	"	"	"
E. A. Thomas	C. D. Thomas ..	..	—	—	Portland	"	"	"
W. J. Crosby	F. Carroll ..	..	107	17	Gloucester	"	"	"
W. S. Smith	A. M. Smith ..	..	109	17	Portland	"	"	"
Mollie Adams	S. Jacobs ..	..	117	17	Gloucester	"	"	"
Nellie W. Long	E. Lewis ..	..	79	17	"	"	"	"
Martha O. ..	L. Whalen ..	..	75	16	"	"	"	"
M. Castle ..	..	..	—	—	Gloucester	"	"	"
Leona ..	..	..	—	—	"	"	"	"
C. H. Low ..	..	..	—	—	"	"	"	"
Orient ..	..	..	—	—	"	"	"	"
E. W. Sawyer	..	..	—	—	Portland	"	"	"
Mary Floor..	..	..	—	—	Gloucester	"	"	"

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "TERROR," CRUISING BETWEEN
SHELBURNE AND SHAG HARBOR.

Vessels.	Name of Vessels and Owner.		Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.		Date.	Place.		
Elisha Crowell ..	Dan Allan of Gloucester	Captain John Case	67	14	Gloucester ..	1886. July 27th	Sand Point ..	Captain Quigley	Called for stores and water. Ordered him to Shelburne to report to Customs, he did so, and immediately went to sea again.
John Wanson ..	Doty Wanson ..	— Wanson ..	55	10	" ..	June 16th	Shelburne ..	" ..	Ordered her to sea. She went and left one Dory and one man behind.
Northern Star ..	J. O. Proctor ..	F. J. Patterson ..	53	8	" ..	" 19th	Sand Point ..	" ..	Ordered her to sea. Son sick with Diphtheria.
J. G. Craig ..	Cushing and Mackenzie	Captain Webber ..	73	10	Portland, Maine	" 22nd	Liverpool ..	" ..	Ordered to sea. Sailed at 4 next morning.
Mary C. Gloster ..	C. Cunningham..	L. Whalan..	56	12	Gloucester ..	" 23rd	" ..	First Mate ..	Buying lobsters.
Sarah E. Lee ..	Pool and Gardner	— Thompson ..	74	14	" ..	" 28th	" ..	Captain Quigley	
City Point ..	—	—	—	—	Portland, Maine	July 3rd	Sand Point ..	" ..	
George W. Cushing	C. R. Jewett and H. Williams ..	—	—	—	Portland ..	" "	McNutt's Island	" ..	
C. B. Harrington ..	Chas. H. Day ..	— Fettens..	21	5	" ..	" "	Cape Roseway	" ..	
Thomas B. Rackett	Captain Rackett	— Rackett	35	6	Greenport, L.I..	" 7th	Sand Point ..	" ..	

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "GENERAL MIDDLETON,"
 CRUISING BETWEEN AND

Vessels.	Name of Vessels and Owner.			Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.	Date.		Place.			
Gracie Ann..	J. O. Grady	Captain Lewis	4	1	1886.	Eastport, Maine	Red Head Cove	W. H. Kent	Lobster boat bound for Eastport.	
Sarah E. Hyde	J. Murphy	J. Murphy	34	4	May 29th	Friendship, Maine	Wragton's Island	W. H. Kent	Lobster boat bound for Boston.	
Richard S. Newcomb	Captain Lemiell.	Captain Lemiell	94	16	June 18th	Provincetown	Little River Tusket..	W. H. Kent	A seiner. No fish. Bound to Bay Cialeur.	
Sto. Ploumet	..	Capt. G. H. Forbes	..	..	July 8th	Eastport, Maine	St. Andrew's Bay	..	Reported to be on trial trip.
Everitt Steele	..	..	..	..	June 30th	Gloucester	Pubnico	..	Called for water.

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "L. HOWLETT," CRUISING
BETWEEN AND

Vessels.	Name of Vessels and Owner.		Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.		Date.	Place.		
Ossipee ..	Cunningham & Thompson son	John Johanson	68	16	Gloucester	1886. July 6th ..	Malpeque ..	C. M. Lerway ..	In for shelter.
Morning Star ..	G. S. Mayo ..	F. P. Smith	76	15	Boston ..	" 7th ..	" ..	" ..	" ..
Robin Hood ..	A. Mansfield ..	A. C. Burnham	88	16	Gloucester	" 7th ..	" ..	" ..	" ..
Moro Castle ..	McKeuzie, Harding and Co.	E. Joyce ..	88	17	"	" 7th ..	" ..	" ..	" ..
S.S. Novelty ..	H. B. Joyce ..	H. B. Joyce	197	35	Portland	" 12th ..	Off Tignish ..	" ..	In for medical aid.
Samuel R. Crano ..	John McDonough ..	Owen Whitten	74	17	Gloucester	" 12th ..	" ..	" ..	In for water.
Hattie Evelyn ..	J. A. Cronwell ..	J. A. Cronwell	66	15	"	" 15th ..	" ..	" ..	" ..
S.S. Novelty ..	H. B. Joyce ..	H. B. Joyce	197	35	Portland	" 15th ..	" ..	" ..	Short of coal. In for wood.
Lizzie Smith ..	N. B. Rich ..	Thomas Newcome	77	16	Wellfleet	" 16th ..	Cascumpeque ..	" ..	In for shelter.
Cecil H. Low ..	Benj. Low ..	A. McKeuzie	75	16	Gloucester	" 6th ..	Malpeque ..	" ..	" ..
Eliza A. Thomas ..	C. D. Thomas ..	E. S. Bibber	88	16	Portland	" 6th ..	" ..	" ..	" ..
A. H. Harding ..	George Norwood ..	A. C. Adams	61	16	Gloucester	" 6th ..	" ..	" ..	" ..
Chas. H. Kelley ..	S. N. Mayo ..	C. E. Sprague	65	15	Boston ..	" 6th ..	" ..	" ..	" ..
Molly Adams ..	Sol. Jacobs ..	Sol. Jacobs	117	17	Gloucester	" 6th ..	" ..	" ..	" ..
Warren J. Crosby ..	Frank Carrol ..	Frank Carrol	107	17	"	" 6th ..	" ..	" ..	" ..
Nellie N. Rowe ..	E. Lewis ..	E. Lewis ..	79	17	"	" 6th ..	" ..	" ..	In for shelter and repairs.
Orient ..	Chs. Lee ..	Chs. Lee ..	89	16	"	" 6th ..	" ..	" ..	In for shelter.
W. Gafney ..	Joseph Smith ..	J. W. Thomas	70	16	"	" 6th ..	" ..	" ..	" ..
W. Gafney ..	Joseph Smith ..	J. W. Thomas	70	16	"	June 28th ..	Mulgrave ..	" ..	In for shelter and water.
Martha C. ..	L. Whalen ..	T. W. Cunningham	75	16	"	" 28th ..	" ..	" ..	" ..
Samuel R. Crane ..	John McDonough ..	Owen Whitten	74	17	"	" 29th ..	Souris, P. E. I ..	" ..	In for repairs.
Ossipee ..	Cunningham & Thompson son	John Johanson	68	16	"	" 29th ..	" ..	" ..	In for shelter.
Thomas F. Payard ..	J. McDonald ..	J. McDonald	96	14	"	July 1st ..	" ..	" ..	Seeking bait, and in for shelter.
H. G. French ..	J. W. Campbell ..	John Chisholm	95	16	"	" 6th ..	Malpeque ..	" ..	In for shelter.
Margaret S. Smith ..	A. M. Smith ..	L. W. Jewett	109	17	Portland	" 6th ..	" ..	" ..	" ..
Ellen W. Sawyer ..	J. W. Sawyer ..	John Orchard	103	16	"	" 6th ..	" ..	" ..	" ..
May Flower ..	Cunningham & Thompson son	J. A. McKinnon	108	16	Gloucester	" 6th ..	" ..	" ..	" ..

COPY OF BOARDING BOOK OF GOVERNMENT FISHERIES PROTECTION SCHOONER "L. HOWLETT," CRUISING

BETWEEN AND (Continued.)

Vessel.	Name of Vessel and Owner.		Tonnage.		Port of Registry.	When and Where Boarded.		By Whom Boarded.	Remarks.
	Owner.	Master.	Tons.	Men.		Date.	Place.		
Susie Hooper	D. Allan and Son	J. E. Signorth	73	12	Gloucester	1885.	Sand Point ..	G. M. Lorway ..	In for shelter.
Annie M. Jordan	Rowe and Jordan	A. Haynes..	91	14	"	May 29th ..	Canso..	"	"
G. F. Whitman	Andrew Leighton	B. A. Williams	89	16	"	June 11th ..	White Haven	"	"
W. D. Daisley	J. Gorman and Co.	J. Gorman..	93	16	"	" 15th ..	Hawkesbury..	"	"
William Tell	Ambrose White	J. H. Gilley	61	11	Bucksport	" 25th ..	"	"	In for repairs.
Girtie May ..	C. A. Gupta	J. Doughty	79	14	Portland	" 27th ..	Mulgrave ..	"	Seeking bait.
Nellie N. Rowe	E. Lewis	E. Lewis ..	96	17	Gloucester	" 28th ..	"	"	In for shelter and water.
Centennial ..	D. C. and H. Babson	— McGray	110	16	"	" 28th ..	"	"	"
Orient ..	Charles Lee	Charles Leo	89	16	"	" 28th ..	Hawkesbury..	"	"
John S. McQuin	John S. McQuin	Chs. Martin	77	16	"	" 28th ..	"	"	"

14,773.

No. 149.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
August 17, 1886.

SIR,

I am directed by the Earl of Iddesleigh to transmit to you a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, inclosing a copy of a note from Mr. Bayard, calling attention to alleged infractions of the Convention of 1818 by the authorities at Bonne Bay, Newfoundland, and at Port Amherst, Magdalen Islands, and I am to request that Mr. Secretary Stanhope will obtain reports on these cases from the Colonial Governments.

In connection with the complaint thus made by the United States' Government, I am to suggest that it might perhaps be desirable to recommend the Colonial Governments to issue special instructions to the local authorities at those places where the inshore fishery has been granted by the Convention of 1818 to United States' fishermen, calling their attention to the provisions of that Convention, and warning them that no action contrary thereto may be taken in regard to United States' fishing vessels.

I am, &c.,

The Under-Secretary of State,
Colonial Office.

(Signed) P. W. CURRIE.

Enclosure in No. 149.

(Treaty, No. 74.)

WASHINGTON,
July 31, 1886.

MY LORD,

I have the honour to transmit herewith to your Lordship copy of a note which I have received from Mr. Bayard, drawing my attention to an alleged infraction of the stipulations of the Treaty of October 20, 1818, by the Newfoundland authorities at Bonne Bay, in the case of the fishing vessel "Thomas F. Bayard," and by the Dominion authorities at Port Amherst, Magdalen Islands, in the case of the schooner "Mascot."

I have, &c.,

The Earl of Rosebery,
&c. &c.

(Signed) CHARLES HARDINGE.

&c.

DEPARTMENT OF STATE,
WASHINGTON.

SIR,

It is my duty to draw your attention to an infraction of the Treaty between the United States of America and Great Britain, concluded October 20, 1818.

By the provisions of Article I of that Convention, the liberty to take fish of every kind, for ever, in common with the subjects of His Britannic Majesty is secured to the inhabitants of the United States "on that part of the Southern Coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the Western and Northern Coast of Newfoundland; from the said Cape Ray to the Quirpon Island, on the shores of the Magdalen Islands," and on the other coasts and shores in the said article set forth.

Notwithstanding these plain provisions, I regret to be obliged to inform you that by the affidavit of the master of the American fishing-vessel "Thomas F. Bayard," that being at Bonne Bay, which is on the Western coast of Newfoundland, and within the limits specified in Article I of the Convention referred to, the master of the said vessel was formally notified by one N. N. Taylor, the Officer of Customs at that point, that his vessel would be seized if he attempted to obtain a supply of fish for bait, or for any other transaction in connection with fishing operations within three marine miles of that coast.

To avoid the seizure of his vessel, the master broke up his voyage and returned home.

I am also in possession of the affidavit of Alexander T. Vachem, master of the American fishing schooner "Mascot," who entered Port Amherst, Magdalen Islands, and

was there threatened by the Customs official with seizure of his vessel if he attempted to obtain bait for fishing or to take a pilot.

These are flagrant violations of treaty rights of their citizens for which the United States expect prompt remedial action by Her Majesty's Government, and I have to ask that such instructions may be issued forthwith to the provincial officials of Newfoundland and the Magdalen Islands, as will cause the treaty rights of citizens of the United States to be duly respected.

For the losses occasioned in the two cases I have mentioned, compensation will hereafter be expected from Her Majesty's Government when the amount shall have been accurately ascertained.

I have, &c.,
(Signed) T. F. BAYARD.

The Honourable
C. Hardinge,
&, &c., &c.

14,882.

No. 150.

Foreign Office to Colonial Office.

Secret.

FOREIGN OFFICE,
August 18th, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a report from the late Law Officers on various points connected with the North American Fisheries Question.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 150.

Law Officers to Foreign Office.

ROYAL COURTS OF JUSTICE,
August 5th, 1886.

MY LORD,

We were honoured with your Lordship's commands signified in Sir Julian Pauncefote's letter of the 5th June last, stating that he was to transmit to us a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from Mr. Bayard, the United States Minister for Foreign Affairs, relative to the Fishery Question between Canada and Newfoundland and the United States.

That the Fishery Articles of the Treaty of Washington had now expired in consequence of the denunciation of them by the United States Government, and that it was contended by Her Majesty's Government that the provisions of the Convention of the 20th October, 1818, had now revived in their integrity.

That our special attention was called to the terms of Article I. of that Convention.

That with regard to the question now immediately at issue, viz., the right of United States fishing-vessels to frequent Canadian ports for the purpose of buying bait, ice, or supplies, the literal interpretation of Article I. seems scarcely to be questioned by Mr. Bayard, but that the argument relied on appeared to be that the expansion given to trade between the United States and Canada by a series of laws and regulations adopted by both countries had effected by independent yet concurrent "action" a gradual enlargement of the provisions of the Convention of Commerce between Great Britain and the United States of the 3rd July, 1815, which was limited to Her Majesty's Dominions in Europe, so as practically to extend its operation to the British North American territories, and thus to override, as it were, the prohibition in Article I. of the Convention of 1818 against United States fishing vessels entering the bays and harbours of Canada for any purpose except the four purposes therein specified.

That your Lordship had asked to be furnished with the observations of the Canadian

Government on Mr. Bayard's note, but that, in the meanwhile, Sir J. Pauncefote was to request our opinion as to the validity of Mr. Bayard's contention, that Article I. of the Convention of 1818 could not be deemed to have revived in its integrity by reason of the existing conditions of the commercial relations between the two countries which had been brought about by concurrent and reciprocal legislation, and were inconsistent with the restrictions still sought to be imposed, under the terms of that Article, on United States fishing-vessels.

We are also honoured with a further letter from Sir J. Pauncefote, dated the 14th June last, stating that, with reference to his letter of the 5th June, he was to transmit to us a copy of a note from the United States Minister at this Court containing representations respecting recent seizures of American fishing-vessels in Canadian ports.

That, in connection with the arguments contained in that note, Sir J. Pauncefote, enclosed the printed Records of the Halifax Fishery Commission.

That, in Appendix L, pp. 1539 to 1588, would be found the arguments of Counsel on the question of purchasing bait, &c., and in Appendix P., pp. 3381 to 3398, a collection of judgments in Canadian Vice-Admiralty Courts respecting vessels seized for infractions of the Conventions of 1818, to No. 1 (the "White Fawn") and No. 5 (the "J. H. Nickerson"), to which our especial attention was directed.

That enclosed was a volume respecting the negotiations leading to the Convention of 1818, from the draft Articles at pp. 95 and 96 of which it appeared that the United States' proposal to include the obtaining of bait within the provisions of the Convention was refused.

That Sir J. Pauncefote was to request that we would favour your Lordship with any observations we might have to make on Mr. Phelps' note in connexion with that of Mr. Bayard, already submitted to us, it being understood that the case which was expected to contain a full presentment of Canadian views had not yet reached this country but that it would be submitted to us as soon as it arrived.

That in connexion with Mr. Bayard's note, Sir Julian Pauncefote was to transmit therewith a despatch since received from Her Majesty's Minister at Washington, enclosing observations by Mr. Calderon Carlisle, the Counsel of the British Legation, on the arguments in that note, which were founded on the reciprocal legislation of the two countries.

We have also the honour to acknowledge the receipt of a further letter from Sir Julian Pauncefote, dated the 21st June last, stating that with reference to the letters of the 5th and 14th June, he was to transmit to us a letter from the Colonial Office, enclosing a copy of a report by the Canadian Minister of Justice upon Mr. Bayard's notes of the 10th and 20th May last, relative to the North American Fisheries Question.

That a copy of the latter note was enclosed.

That we should observe that that report dealt only with the question of the construction to be placed upon the words of the Convention of 1818, taken in connection with the subsequent amendments in the Navigation Act, and that Sir Julian Pauncefote was to request, in the first instance, that we would furnish your Lordship with any suggestions we might have to make as to the nature of the reply which should be made by Her Majesty's Government to Mr. Bayard upon that point, leaving for further consideration the other question as to whether the seizure of the "D. J. Adams" was legally justified under the existing legislation (whether Imperial or Colonial) passed to enforce the observance of Article I. of the Convention of 1818, or was warranted under any other laws relating to the customs or otherwise.

That Sir J. Pauncefote was to add that the Canadian Government had been pressed for a report on the latter point.

We have also the honour to acknowledge the receipt of a further memorandum of Sir Julian Pauncefote, bearing date the 23th June, enclosing two further letters from the Colonial Office on the subject of the North American Fisheries.

We are also honoured with a further letter from Sir Julian Pauncefote, dated the 5th ultimo, stating that, with reference to his former letters he was to transmit to us two letters from the Colonial Office on the subject of the North American Fisheries, and requesting that, in taking those papers into consideration in connection with those upon the same subject already before us, we would furnish any suggestions we might have to offer as to the reply which should be made to the communications received from Mr. Bayard and Mr. Phelps, dated respectively the 20th May and 2nd June last, and transmitted to us in Sir J. Pauncefote's letters of the 5th and 14th June last.

That the principal points raised in these communications were:—

1. The strict interpretation of the Convention of 1818.

2. Whether that Convention can in any wise be held to be modified by subsequent legislation as regarded commercial facilities granted reciprocally in United States and Canadian ports.

3. As to the sufficiency of existing Imperial or Colonial Acts to carry out the stipulations of the Convention, and as to the penalties which could be legally enforced thereunder against United States fishing-vessels, especially in the particular cases to which attention was called in the correspondence.

That the first point was dealt with in Mr. Bayard's note of the 20th May, and Mr. Phelps' note of the 2nd June.

That the second point was dealt with in Mr. Bayard's note of the 20th May.

And that the third point was dealt with in Mr. Phelps' note of the 2nd June, and turned on the construction of the Imperial Act 59 Geo. III., cap. 38, and on the Canadian Acts referred to in Lord Lansdowne's despatch transmitting the new Canadian Bill reserved, which formed an enclosure to Sir Julian Pauncefote's letter of the 29th June.

That on that point Sir Julian Pauncefote was to call our attention to the conflicting decisions of the Canadian Admiralty Courts in the cases of the "White Fawn" and the "J. H. Nickerson" (Appendix P.), Halifax Commission proceedings.

In obedience to your Lordship's commands, we have the honour to report—

1. That we are of opinion that, according to the strict interpretation of the Convention of 1818, Article I., American fishermen are prohibited from entering the British bays and harbours therein mentioned for any purpose other than that of repairing damages, of purchasing wood, or of obtaining water; and that therefore the entry of an American fishing-vessel for the purpose of buying bait (although for the purpose of being used in the deep-sea fisheries) was a breach of the Convention.

2. We do not think that the Convention of 1818 can in anywise be held to have been modified by the subsequent legislation as regards commercial facilities granted reciprocally in United States and Canadian Ports referred to in Mr. Bayard's despatch of the 10th May, 1886.

Indeed, we regard his arguments as directed more to the spirit in which the Convention should be administered under existing circumstances than to its construction, and to point to the expediency of a revision of its provisions.

3. The only Statutes which appear to relate to the question are the Imperial Statute of 1819 and the Dominion Statute of 1868, which seem to be correctly quoted by Mr. Phelps.

By each of these Statutes a vessel is liable to forfeiture "if found fishing or preparing to fish, or to have been fishing" in British waters; but not for purchasing bait or any other infraction of the Convention.

The real question, as it seems to us, is—What is the proper construction of the words "preparing to fish," and whether the purchase of bait is a preparing to fish within the meaning of these Statutes.

We are of opinion that the words quoted do not include making preparations in British waters to fish outside, but mean only making preparations for illegal fishing in British waters.

We think that the purchase of bait may be evidence of such preparation for illegal fishing, but taken by itself is only slight evidence, particularly if (as is stated) bait is now used exclusively, or almost exclusively, in the deep-sea fisheries. We think that the judgment of Judge Hazen, in the case of the "White Fawn," proceeded on a substantially correct construction of the Statute, although his illustrations of what would be "preparing to fish" are not, in our opinion, exhaustive.

Your Lordship's reference includes the question of the sufficiency of present legislation to carry out the stipulations of the convention.

The Imperial Act imposes a fine of 200*l.* on persons refusing to conform with regulations or otherwise offending against the Act, and the Colonial Act imposes a penalty of 400 dollars on a master refusing to answer certain questions.

It is a question of policy what measures should be taken by municipal legislation in order to enforce the observance of the stipulations of the Convention, but we venture to suggest, for your Lordship's consideration, that such an offence as purchasing bait (if not by way of preparation for illegal fishing) would be adequately dealt with by a fine.

We have, &c.,
(Signed) C. RUSSELL
HORACE DAVEY.
J. PARKER DEANE

The Right Hon. the Earl of Iddesleigh,
&c. &c. &c.

14,931.

No. 151.

Foreign Office to Colonial Office.

Confidential.

FOREIGN OFFICE,
August 19, 1886.

SIR,

With reference to your letter of the 13th instant* on the subject of the North American Fisheries, I am directed by the Earl of Iddesleigh to state that His Lordship concurs in Mr. Secretary Stanhope's suggestion that a despatch should be addressed to the Dominion Government reminding them of the necessity of great caution in dealing with the Headland question, and of the desirability that British rights should not, without previous communication with her Majesty's Government, be actively asserted over any waters more than three miles from land.

I am, &c.,
(Signed) J. PAUNCEFOTE.The Under-Secretary of State,
Colonial Office.

13,643.

No. 152.

*Colonial Office to Foreign Office.*DOWNING STREET,
August 20th, 1886.

SIR,

With reference to your letter of the 19th ultimo,† relating to the question of the issue to the Commanders of Her Majesty's ships on the North American Station of instructions upon the subject of the Fisheries, consequent upon the termination of the Fishery Articles of the Treaty of Washington, 1871, I am directed by Mr. Secretary Stanhope to transmit to you, for the information of the Earl of Iddesleigh, a copy of a despatch‡ from the Governor-General of Canada, together with a copy of Earl Granville's despatch to the Governor-General "secret" of the 22nd of July last.§

As you are aware Lord Iddesleigh and Mr. Stanhope have now had the advantage of hearing Lord Lansdowne's views on this subject at their recent meeting at the Foreign Office, and I am to state that, with Lord Iddesleigh's concurrence, Mr. Stanhope proposes to acquaint the Officer administering the Government that Her Majesty's Government have since the date of his predecessor's despatch, and after consultation with Lord Lansdowne, further considered the subject and have arrived at the conclusion that it is not desirable, in the interests of a friendly and permanent arrangement of the Fishery question, that any of Her Majesty's ships should now be specially despatched to the coast for the short period that remains of the present fishing season.

If, unfortunately, some satisfactory settlement is not arrived at before the commencement of the next fishing season Her Majesty's Government will, after communication with the Dominion Government, issue instructions to the Admiral on the station in order to secure due support to the Dominion vessels engaged in the protection of her fishing interests.

I am, &c.,
(Signed) R. H. MEADE.The Under-Secretary of State,
Foreign Office.

64. Secret.

No. 153.

*The Right Honourable Edward Stanhope, M.P., to Administrator Lord
A. G. Russell, C.B.*

TELEGRAPHIC.

21st August, 1886. United States' Government complains schooner "Mascot" threatened by Customs, Port Amherst, Magdalen Islands, with seizure if attempting to obtain bait for fishing or take pilot. United States have right to fish Magdalen Islands under Treaty of 1818. Presume Customs officials there not instructed in same way as elsewhere on Canadian coasts.

* No. 146.

† No. 112.

‡ No. 131.

§ No. 117.

64. Secret.

No. 154.

The Right Honourable Edward Stanhope, M. P., to Governor Sir G. W. Des Vœux, K.C.M.G. (Newfoundland).

TELEGRAPHIC.

21st August 1886. United States' Government complains fishing-vessel "Bayard" threatened by Customs, Bonne Bay, with seizure if attempting to obtain bait or other transaction in connection with fishing operations within three miles of coast. United States have right to fish on certain coasts of Newfoundland, including west coast, under Treaty of 1818. Presume Customs officials in these places not instructed in the same way as on other parts of coasts.

66. Secret.

No. 155.

Governor Sir G. W. Des Vœux, K.C.M.G. (Newfoundland), to the Right Hon. Edward Stanhope, M.P. (Received August 24th, 1886.)

TELEGRAPHIC.

Mistake with regard to the American rights was, I find, committed, but corrected three weeks ago by order to discontinue notices on coasts referred to in Convention of 1818. Notices have been reported as served in only two cases. Details by mail.

14,773.

No. 156.

The Right Hon. Edward Stanhope, M.P., to Administrator Lord A. G. Russell, C.B.

(Secret.)

DOWNING STREET,

25 August, 1886.

Sir,

I have the honour to transmit to you a copy, received through the Foreign Office, of a despatch * from Her Majesty's Chargé d' Affaires at Washington, with a note from Mr. Bayard, calling attention to alleged infractions of the Convention of 1818 by the authorities of Canada and Newfoundland at the Magdalen Islands and Bonne Bay respectively.

In my telegram of the 21st instant,† I drew your attention to the case at the Magdalen Islands, and I pointed out that United States' fishermen have the right under the Convention of 1818 to fish off the coasts of the Magdalen Islands.

I have now to request that your Government will furnish me with a full report upon the subject of Mr. Bayard's complaint, so far as it relates to the action of the Canadian authorities.

Her Majesty's Government would recommend that special instructions should be issued to the authorities at those places where the inshore fishery has been granted by the Convention of 1818 to United States' fishermen, calling their attention to the provisions of that Convention, and warning them that no action contrary thereto may be taken in regard to United States' fishing vessels.

I have, &c.,

(Signed) EDWARD STANHOPE.

The Officer Administering the Government.

* Enclosure in No. 149.

† No. 153.

14,773.

No. 157.

*The Right Hon. Edward Stanhope, M.P., to Governor Sir G. W. Des Vœux, K.C.M.G.
(Newfoundland.)*

(Secret.)

DOWNING STREET,

August 25, 1886.

SIR,

With reference to your despatch, No. 83, of the 2nd instant,* I have the honour to transmit to you a copy, received through the Foreign Office, of a despatch† from Her Majesty's Chargé d'Affaires at Washington, with a note from Mr. Bayard, calling attention to alleged infractions of the Convention of 1818 by the authorities of Canada and Newfoundland at the Magdalen Islands and Bonne Bay respectively.

In my telegram of the 21st instant,‡ I drew your attention to the case at Bonne Bay, and I pointed out that United States' fishermen have the right under the Convention of 1818 to fish off certain parts of the coast of Newfoundland, including the west coast.

I have now received your telegram of the 24th instant,§ and shall be glad to receive the details which you promise to send by mail. In the meantime Her Majesty's Government would recommend that special instructions should be issued to the authorities at those places where the inshore fishery has been granted by the Convention of 1818 to United States' fishermen, calling their attention to the provisions of that Convention, and warning them that no action contrary thereto may be taken in regard to United States' fishing vessels.

I have, &c.,

(Signed) EDWARD STANHOPE.

Sir G. W. Des Vœux.

14,645.

No. 158.

Colonial Office to Foreign Office.

DOWNING STREET,

August 25th, 1886.

SIR,

With reference to the letter from this Department of the 5th inst.,|| respecting the action of the Canadian authorities in regard to fishing vessels of the United States, I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a copy of a despatch¶ from the Governor-General of Canada, giving the particulars relating to such vessels seized or warned which were asked for by the telegram a copy of which accompanied my letter above referred to.

I am, &c.,

(Signed) R. H. MEADE.

The Under-Secretary of State,
Foreign Office.

15,609.

No. 159.

Foreign Office to Colonial Office.

FOREIGN OFFICE,

August 26, 1886.

SIR,

I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, inclosing a copy of a protest by Mr. Bayard against alleged unfriendly treatment of the United States' fishing schooner "Rattler" in Shelburne harbour, and I am to request that a report on the subject may be obtained from the Dominion Government.

I am, &c.,

(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

* No. 144.

† Enclosure in No. 149.
‡ No. 140.§ No. 154.
¶ No. 148.

§ No. 155.

Enclosure in No. 159.

Treaty, No. 77.

WASHINGTON,
August 10, 1886.

MY LORD,

I have the honour to transmit herewith to your Lordship copy of a note which I have received from the Secretary of State drawing the attention of Her Majesty's Government to the alleged unwarrantable and unfriendly treatment experienced by the American fishing schooner "Rattler," on the 3rd inst., upon the occasion of her being driven by stress of weather to seek shelter in the harbour of Shelburne, Nova Scotia.

The Earl of Iddesleigh,
&c., &c., &c.

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

DEPARTMENT OF STATE,
WASHINGTON,
August 9, 1886.

SIR,

I regret that it has become my duty to draw the attention of Her Majesty's Government to the unwarrantable and unfriendly treatment, reported to me this day by the United States' Consul-General at Halifax, experienced by the American fishing schooner "Rattler," of Gloucester, Mass., on the 3rd inst., upon the occasion of her being driven by stress of weather to find shelter in the harbour of Shelburne, Nova Scotia.

She was deeply laden, and was off the harbour of Shelburne when she sought shelter in a storm, and cast anchor just inside the harbour's entrance.

She was at once boarded by an officer of the Canadian cutter "Terror," who placed two men on board.

When the storm ceased the "Rattler" weighed anchor to proceed on her way home, when the two men placed on board by the "Terror" discharged their pistols as a signal, and an officer from the "Terror" again boarded the "Rattler," and threatened to seize the vessel unless the captain reported at the Custom House.

The vessel was then detained until the captain reported at the Custom House, after which she was permitted to sail.

The hospitality which all civilized nations prescribe has thus been violated, and the stipulations of a Treaty grossly infringed.

A fishing vessel denied all the usual commercial privileges in a port has been compelled strictly to perform commercial obligations.

In the interests of amity, I ask that this conduct may be properly rebuked by the Government of Her Majesty.

The Hon. Chas. Hardinge,
&c., &c., &c.

I have, &c.,
(Signed) T. F. BAYARD.

15,495.

No. 160.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
August 26th, 1886.

SIR,

In reply to your letter of the 20th instant,* I am directed by the Earl of Iddesleigh to state that his Lordship concurs in the terms of the despatch which Mr. Stanhope proposes to address to the Dominion Government in regard to the issue of instructions to the Imperial cruisers on the subject of the North American Fisheries.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

14,773.

No. 161.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
August 28, 1886.

SIR,

I am directed by Mr. Secretary Stanhope to acknowledge the receipt of your letter of the 17th instant,* enclosing copy of a despatch from Her Majesty's Chargé d' Affaires at Washington, with a note from Mr. Bayard, calling attention to alleged infractions of the Convention of 1818 by the authorities of Canada and Newfoundland at the Magdalen Islands and Bonne Bay respectively.

On the receipt of your letter, Mr. Stanhope telegraphed to the officers administering the Governments of Canada and Newfoundland, calling attention to these cases, and explaining that under the treaty of 1818 United States' fishermen have the right to fish off the coasts of the Magdalen Islands and off certain coasts of Newfoundland, and stating that it was presumed that the Customs officials in those places had not been instructed in the same way as on other parts of the coast.

But from the enclosed despatch,† recently received from the Governor of Newfoundland, and from the enclosed telegraphic correspondence,‡ it would appear that such has been the case in that Colony.

I am now to enclose, for the information of the Earl of Iddesleigh, a copy of a despatch§ which has been addressed to the officers administering the Governments of Canada and Newfoundland respectively upon this subject.

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

The Under-Secretary of State,
Foreign Office.

14,644.

No. 162.

Colonial Office to Foreign Office.

(Confidential.)

DOWNING STREET,
28 August, 1886.

SIR,

With reference to your letter of the 30th of June last,|| and to the letters from this Department of the 10th of July and 13th of this month¶ relating to the North American Fisheries Question, I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a copy of a despatch** from the Governor-General of Canada on the subject, together with a copy of the telegram†† addressed to the Officer Administering the Government on the 13th instant.

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

The Under-Secretary of State,
Foreign Office.

15,609.

No. 163.

The Right Hon. Edward Stanhope, M.P., to Administrator Lord A. G. Russell, C.B.

TELEGRAPHIC.

September 1, 1886. Report should be made as to treatment United States' fishing boat "Rattler," alleged compelled report Customs when seeking Shelburne harbour. Despatch follows by mail.

* No. 149.

|| No. 89.

† No. 144.

¶ Nos. 98 and 146.

‡ Nos. 126 and 132.

** No 147.

§ Nos. 156 and 157.

†† No. 145.

15,609.

No. 164.

The Right Hon. Edward Stanhope, M.P., to Administrator Lord A. G. Russell, C.B.

(No. 195.)

DOWNING STREET,
1 September, 1886.

MY LORD,

I have the honour to transmit to you, for communication to your Ministers, a copy of a letter* from the Foreign Office, with its enclosures, respecting the alleged unfriendly treatment of the United States' fishing schooner "Rattler" in Shelburne harbour, and I request that you will obtain from your Government a report upon the case.

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

The Officer Administering the Government.

13,684.

No. 165.

*Colonial Office to Foreign Office.*DOWNING STREET,
September 1st, 1886.

SIR,

I am directed by Mr. Secretary Stanhope to acknowledge the receipt of your letter of the 30th July† respecting the application of the Government of Newfoundland for the issue of orders or instructions under the Imperial Act 59 Geo. III, cap. 38, sec. 4, to require American fishermen to depart from bays and harbours of Newfoundland, except in so far as their admission to Newfoundland waters is permitted by the Treaty of 1818.

Mr. Stanhope has given this matter his careful attention, and he concurs in the view expressed in the concluding paragraph of the letter from this Department of the 21st July,‡ to the effect that it would be advisable to inform the Governor of Newfoundland that after careful consideration of the suggestion Her Majesty's Governor are of opinion that it may be better not to take any such action at the present time.

Mr. Stanhope would be glad to be informed if the Earl of Iddesleigh concurs in this view.

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

The Under-Secretary of State,
Foreign Office.

15,874.

No. 166.

Governor-General the Most Hon. the Marquis of Lansdowne, G.C.M.G., to the Right Hon. the Earl Granville, K.G. (Received September 3rd, 1886.)

Secret.

CITADEL, QUEBEC,
August 5th, 1886.

MY LORD,

With reference to my secret despatch of yesterday's date,§ I have now the honour to forward for your lordship's information copies of the papers relative to the seizure of the United States' fishing schooner "Ella M. Doughty."

I have, &c.,
(Signed) LANSDOWNE.

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

* No. 159.

† No. 133.

‡ No. 113.

§ No. 148.

Enclosure in No. 166.

HALIFAX,
August 5th, 1886.

REG. vs. "ELLA M. DOUGHTY."

SIR,

I received your telegram to-day as follows:—

"Please send me to-day copy of Collector of Customs affidavit in re Doughty seizure."

The only affidavit made by the Collector of Customs is the affidavit to lead warrant which is very brief and contains no particulars of fact, the Admiralty rules only requiring that it should state the nature of the claim. I therefore forward in addition to this the other documents enumerated below as they may contain some information required by you. Enclosed herewith are:—

- 1st. Affidavit of Daniel G. McAskill and Donald J. Morrison, 18th May, 1886.
- 2nd. Affidavit of Angus Morrison, 31st May, 1886.
- 3rd. Affidavit of Donald McRitchie, 31st May, 1886.
- 4th. Statement of Torquell McLean.
- 5th. Statement of Donald J. Morrison, 31st May, 1886.
- 6th. Statement of Daniel G. McAskill, 31st May, 1886.
- 7th. Copy of Affidavit of Lauchlin G. Campbell to lead warrant, Reg. vs. "Ella M. Doughty."
- 8th. Copy of Plaintiff's petition, Reg. vs. "Ella M. Doughty."

Yours, &c.,
(Signed) WALLACE GRAHAM.

Geo. W. Burbidge, Esq.,
D.M.J., Ottawa.

We, Daniel G. McAskill and Donald J. Morrison, of Englishtown, do solemnly swear that we sold on the 12th day of March, 1886, 1,400 herring at 25 cents per 100, and on the 13th, 3 bbls. more or less at \$1.00 per bbl., to schooner "Ella M. Doughty."

(Signed) DAN. G. McASKILL.
D. J. MORRISON.

Sworn to before me this 18th day of May, 1886.

(Signed) D. McAULAY,
D. Coll.

I, Angus Morrison, Englishtown, make the following statements and say:—

That I was aboard schooner "Ella M. Doughty," with Torquell McLean, selling 500 herring for 30 cents per 100. I did not sell any myself. The captain and crew were warning us not to tell. The day before this day the crew were ashore wanting me to take herring aboard in night-time. They were talking about the trading licence, but they did not know whether it was good or not.

I, Angus Morrison, do solemnly swear that the above statements are true and correct in all their particulars.

(Signed) ANGUS MORRISON.

I the undersigned certify that the above Angus Morrison made the statements, and swore to them before me this 31st day of May, 1886.

(Signed) D. McAULAY,
D. Coll.

I, Donald McRitchie, went aboard schooner "Ella M. Doughty" on the 12th day of May, 1886, and took aboard with me 900 herring which the Captain bought from me and gave me \$2.25 for them.

Captain of schooner "Ella M. Doughty" wished me to keep it quite secret. While I was about leaving, Donald McInnes, Daniel G. McAskill and Donald J. Morrison came aboard. I solemnly swear that the above statements are correct, so help me God.

(Signed) DONALD McRITCHIE.

I the undersigned certify that the above statements were made before me and sworn to on the 31st day of May, 1886.

(Signed) D. McAULAY,
D. Coll.

I, Torquell McLean, and Angus Morrison went aboard schooner "Ella M. Doughty" on the 13th May and sold herring, and there was aboard Donald McInnes, Donald J. Morrison and Daniel G. McAskill.

This statement made in presence of Daniel Morrison and Daniel McLean.
Torquell McLean refuses to sign this or swear to it; says it is true.

(Signed) D. MCAULAY.
D. Coll.

I, Donald J. Morrison, was in the boat on the 12th day of May, 1886, with Dan. G. McAskill and Donald McInnes, when the dory of the schooner "Ella M. Doughty" met us coming home with nets and herring; the crew told us to clean nets and take herring aboard and Captain would buy them when we were in vessel. We saw aboard Torquell McLean and Donald McRitchie. They seemed to be very much afraid that they would be seized. Second day we went aboard, Torquell McLean and Angus Morrison (little) had left schooner "Ella M. Doughty" and they commenced cleaning net. The said Torquell McLean and Angus Morrison went aboard with herring when cleaned out of nets and we saw the herring taken out of boat into the vessel "Ella M. Doughty"; while aboard they saw some men ashore and they asked us if they were Customs Officers.

We got 25 cents. per 100 for 1,400 first day and \$3.00 for the lot which we had the second day, 13 inst., which was 3 bbls. more or less.

(Signed) DONALD X J. MORRISON.
his
mark

Englishtown, May 31, 1886.

I the undersigned certify that the above statement was made before me this 31st day of May, 1886.

(Signed) D. MCAULAY.
D. Coll.

When I, D. G. McAskill, and D. J. Morrison and Donald McInnes, were coming home on May 12th inst., 1886, with nets with herring in, and not taken out of net, a dory met us that came from the schooner "Ella M. Doughty" and asked us if we had herring to sell. D. McInnes told them we had about 1,000 herring. They told us to get herring out of nets and go aboard and they would buy them. They seemed to be afraid of being seized as they, the crew, of vessel told us not to report them ashore. When we were aboard Donald McRitchie, Eel Cove, was aboard. Torquell McLean was aboard after D. McRitchie left schooner "Ella M. Doughty." We were aboard when Torquell McLean put bait aboard said schooner "Ella M. Doughty."

Second day:—

We went to said schooner and had about 3 bbls. of herring more or less and Captain said he had no change but would give \$3.00 for the lot. Torquell McLean and Angus Morrison were then on board but let the vessel go and commenced taking herring out of net, and they went aboard again and sold the herring to Captain, but I did not see them receive any payment. When we counted herring first day we had 1,400 and we got 25 cents. per 100.

(Signed) DAN. G. McASKILL.

Englishtown, May 31.

I the undersigned do certify that the above statement was made in my presence.

(Signed) D. MCAULAY,
D. Coll.

No. 473.

IN THE VICE-ADMIRALTY COURT OF HALIFAX.

Her Majesty the Queen Plaintiff,

Against

The Ship or Vessel "Ella M. Doughty" and her Cargo.

Action for forfeiture of the said vessel and her cargo for violation of a certain convention between his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland of the one part, and the United States of America of the other part, made on the twentieth day of October, 1818, and for violation of the Act of

the Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter thirty-eight of the Acts of the said last-named Parliament made and passed in the said year.

Also for forfeiture of the said vessel and her cargo for violation of chapter sixty-one of the Acts of the Parliament of the Dominion of Canada, made and passed in the year 1868, and of chapter 15 of the Acts of the said Parliament, passed and made in the year 1870, and of chapter twenty-three of the Acts of the said Parliament, made and passed in the year 1871.

I, Lauchlin G. Campbell, of Baddeck, in the county of Victoria and province of Nova Scotia, Collector of Customs, make oath and say as follows:—

1st. That the Honourable John S. D. Thompson, Her Majesty's Attorney-General for the Dominion of Canada claims on behalf of Her Majesty the Queen to have the said ship or vessel "Ella M. Doughty" and her cargo condemned to Her Majesty the Queen for violation of a certain convention between his late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland of the one part, and the United States of America of the other part, made and signed at London, in Great Britain, on the twentieth day of October, in the year of our Lord, 1818, and also for violation of the Act of the Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter thirty-eight of the Acts of the said Parliament, made and passed in the said year, and being intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing of fish in certain parts of the coasts of Newfoundland and Labrador, and His said Majesty's other possessions in North America, according to a convention made between His Majesty and the United States of America."

The said Honourable John S. D. Thompson, Her Majesty's Attorney-General for the Dominion of Canada, also claims on behalf of Her Majesty the Queen, to have the said ship "Ella M. Doughty" and her cargo condemned as forfeited to Her Majesty the Queen for violation of chapter sixty-one of the Acts of the Parliament of the Dominion of Canada, made and passed in the year 1868, and intituled "An Act respecting fishing by foreign vessels" and for violation of chapter fifteen of the Acts of the Parliament of the Dominion of Canada, made and passed in the year 1870, and intituled "An Act to amend the Act respecting fishing by foreign vessels" and for violation of chapter twenty-three of the Acts of the Parliament of the Dominion of Canada made and passed in the year 1871 and intituled "An Act further to amend the Act respecting fishing by foreign vessels."

The said ship "Ella M. Doughty" is a foreign vessel, and not navigated according to the laws of the United Kingdom of Great Britain and Ireland or of the Dominion of Canada, and is registered in the United States of America, and is owned by foreigners residing in the said United States of America.

I further make oath and say that the aid of this Court is required to enforce the said claim.

I am the Collector of Customs at Baddeck aforesaid.

(Signed) LAUCLIN GEO. CAMPBELL,
Coll. of Customs.

On the 25th day of May A.D. 1886, the said Lauchlin George Campbell was duly sworn to the truth of this affidavit at Baddeck in the County of Victoria and Province of Nova Scotia, before me,

(Signed) ALEX. TAYLOR,

A Commissioner duly appointed to administer oaths in the Vice-Admiralty Court of Halifax.

No. 473.

IN THE VICE-ADMIRALTY COURT AT HALIFAX.

Her Majesty the Queen Plaintiff,

Against

The Ship or Vessel "Ella M. Doughty" and her Cargo.

Action for forfeiture of the said vessel and her cargo for violation of a certain convention between His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland of the one part, and the United States of America of the

other part, made on the twentieth day of October, 1818. And for violation of the Act of the Parliament of the United Kingdom of Great Britain and Ireland, made and passed in the fifty-ninth year of the reign of His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, being chapter thirty-eight of the Acts of the said last named Parliament, made and passed in the said year. Also for forfeiture of the said vessel and her cargo for violation of chapter sixty-one of the Acts of the Parliament of the Dominion of Canada, made and passed in the year 1868, and of chapter fifteen of the Acts of the said Parliament, passed and made in the year 1870, and of chapter twenty-three of the Acts of the said Parliament, made and passed in the year 1871.

Writ Issued on the 20th day of May, A.D. 1886.

1. A certain convention between His late Majesty George the Third King of the United Kingdom of Great Britain and Ireland, and the United States of America, was made and signed at London on the 20th day of October, 1818, and by the first Article thereof after reciting that differences had arisen respecting the liberty claimed by the said United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's Dominions in America, it was agreed between the High Contracting Parties that the inhabitants of the said United States should have forever in common with the subjects of His Britannic Majesty the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, creeks, and harbors from Mount Joly on the southern coast of Labrador to and through the Straits of Belle Isle and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen should also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland thereabove described and of the coast of Labrador; but so soon as the same or any portion thereof should be settled it should not be lawful for the said fishermen to dry and cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the said United States thereby renounce forever any liberty theretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Majesty's Dominions in America, not included within the above mentioned limits; provided however, that the American fishermen should be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood and of obtaining water, and for no other purpose whatever. But they should be under such restrictions as might be necessary to prevent their taking, drying or curing fish therein or in any other manner whatever abusing the privileges thereby reserved to them.

2. That a certain Act of the Parliament of the United Kingdom of Great Britain and Ireland was made and passed in the fifty-ninth year of the reign of His late Majesty King George the Third, being chapter thirty-eight of the Acts of the said Parliament, made and passed in the fifty-ninth year of the reign of his said late Majesty King George the Third, and being intituled "An Act to enable His Majesty to make regulations with respect to the taking and curing of fish on certain parts of the coasts of Newfoundland, Labrador, and His Majesty's other possessions in North America, according to a Convention made between His Majesty and the United States of America.

3. That on the 29th day of March A.D. 1867, a certain other Act of the Parliament of the United Kingdom of Great Britain and Ireland was made and passed, being chapter three of the Acts of the said Parliament passed in the thirtieth and thirty-first years of the reign of her present Majesty Victoria, Queen of the United Kingdom of Great Britain and Ireland, and being intituled "An Act for the union of Canada, Nova Scotia and New Brunswick and the Government thereof and for purposes connected therewith," which said Act is cited and known as "The British North America Act, 1867."

4. That a certain Act of the Parliament of Canada was made and passed in the thirty-first year of the reign of Her said Majesty Queen Victoria, being chapter sixty-one of the Acts of the said Parliament, made and passed in the year 1868, and being intituled "An Act respecting fishing by foreign vessels."

And a certain other Act of the Parliament of Canada was made and passed in the

thirty-third year of the reign of Her said Majesty Queen Victoria, being chapter fifteen of the Acts of the said Parliament, made and passed in the year 1870, and being intituled "An Act to amend the Act respecting fishing by foreign vessels." And in the thirty-fourth year of the reign of Her said Majesty Queen Victoria, a certain other Act of the said Parliament of Canada was made and passed, being chapter twenty-three of the Acts of the said Parliament, made and passed in the year 1871, and being intituled "An Act further to amend the Act respecting fishing by foreign vessels."

5. That the said Convention and the said several Acts hereinbefore mentioned were and are still in full force and effect.

6. The harbor of St. Anns, situate in the county of Victoria, in the province of Nova Scotia, together with its outlet to the Bay of St. Anns, and also the said Bay of St. Anns, all hereinbefore designated as the Bay and Harbor of St. Anns, are a portion of the Dominions in America, formerly of His late Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, and now of Her Majesty Queen Victoria, Queen of the United Kingdom of Great Britain and Ireland, not included or lying on that part of the southern coast of Newfoundland which extends to Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, or on the coasts, bays, harbors and creeks from Mount Joly, on the southern coast of Labrador to and through the Straits of Belle Isle and thence northwardly indefinitely along the coast.

7. That the said ship "Ella M. Doughty," whereof one Warren A. Doughty, who was not a natural born subject of Her Majesty, was or is master, is a foreign ship or vessel not navigated according to the laws of the United Kingdom of Great Britain and Ireland or according to the laws of Canada, but was and is a ship of the United States of America, owned by foreigners, that is to say, by persons residing in and being citizens of the United States of America, where the said ship or vessel was built and enrolled, and the said ship or vessel "Ella M. Doughty," was at the time hereinafter mentioned licensed and permitted to carry on the fisheries under and in pursuance of the Acts of the United States of America, and was engaged in the prosecution of the fisheries and on a fishing voyage, and was and is without a license to fish or any license whatsoever in that behalf from the Government of Canada or of Nova Scotia, under the Statutes of Canada or of Nova Scotia in that behalf.

8. Between the tenth and the seventeenth days of May, 1886, the said Warren A. Doughty, the master of the said ship or vessel, "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty" did in and with the said ship or vessel "Ella M. Doughty" enter into the Bay and Harbor of St. Anns aforesaid within three marine miles of the shores of the said Bay and Harbor of St. Anns, and within three miles of the coasts, bays, creeks and harbors of those portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention, and set out and recited in the first paragraph hereof, for the purpose of procuring bait, that is to say, herrings, wherewith to fish, and ice for the preservation on board said vessel, of bait to be used in fishing, and of fresh fish to be fished for taken and caught by and upon the said vessel and by the master, officers and crew thereof, and did procure such bait wherewith to fish, and such ice for the purposes aforesaid, and did so enter for other purposes than the purpose of shelter or repairing damages or of purchasing wood, or of obtaining water, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbour of St. Anns by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

9. The said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty" and the officers and crew of the said ship or vessel "Ella M. Doughty" did between the tenth and seventeenth days of May, 1886, and subsequently in the said ship or vessel "Ella M. Doughty," in the Bay and Harbor of St. Anns aforesaid, and while he and they and the said ship or vessel "Ella M. Doughty" were within three marine miles of the coasts or shores of the said Bay and Harbor of St. Anns, and within three marine miles of the coasts, shores, bays, creeks and harbors of those portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited

in the said first paragraph hereof, fish for fish and take fish, and did dry and cure fish and were preparing to fish within the meaning of the said Convention and of the said several Acts hereinbefore mentioned, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty," and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbor of St. Anns by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for violation of the said Convention and of the said several Acts.

10. The said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty," were between the said tenth and seventeenth days of May, 1886, and subsequently in the said ship or vessel "Ella M. Doughty" in the Bay and Harbor of St. Anns aforesaid, and while he and they and the said ship or vessel "Ella M. Doughty" were within three marine miles of the coasts or shores of the said Bay and Harbor of St. Anns, and within three marine miles of the coasts, shores, bays, creeks and harbors of those portions of the Dominions in America of His late Majesty King George the Third, being now the Dominions in America of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention, and set out and recited in the first paragraph hereof, preparing to fish within the meaning of the Convention and of the several Acts hereinbefore mentioned contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbor of St. Anns by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

11. Between the said tenth and seventeenth days of May, 1886, and subsequently, in the said Bay and Harbor of St. Anns within three marine miles of the shores thereof, and within three marine miles of the coasts, bays, creeks and harbors of those portions or parts of the Dominions in America of His late Majesty King George the Third, being now the Dominions in America of Her present Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the said first paragraph hereof, the said ship or vessel "Ella M. Doughty" was found to be fishing within the said distance of three marine miles of the said coasts, bays, creeks and harbors contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbor of St. Anns by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

12. Between the said tenth and seventeenth days of May, 1886, and subsequently thereto, in the said Bay and Harbor of St. Anns, within three marine miles of the shores thereof and within three marine miles of the coasts, bays, creeks and harbors of those parts or portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her present Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the said first paragraph hereof, the said ship or vessel "Ella M. Doughty" was found to have been fishing within the said distance of three marine miles of the said coasts, bays, creeks and harbors, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo was thereupon seized within three marine miles of the coasts or shores of the said Bay and Harbor of St. Anns by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

13. Between the said tenth and seventeenth days of May, 1886, and subsequently in the said Bay and Harbor of St. Anns within three marine miles of the shores thereof and within three marine miles of the coasts, bays, creeks and harbors of those parts or portions of the Dominions in America of His said late Majesty King George the Third, being now the Dominions in America of Her present Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the first paragraph hereof, the said ship or vessel "Ella M. Doughty" was found to be preparing to fish within the said distance of three marine miles of the coasts, bays, creeks and harbors contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella

M. Doughty" and her cargo was thereupon seized within three marine miles of the coasts or shores of the said Bay or Harbor of St. Anns by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for violation of the said Convention and of the said several Acts.

14. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty," did in the said ship or vessel "Ella M. Doughty" enter within three marine miles of the coasts, bays, creeks and harbors of the Province of Nova Scotia, being a portion of the Dominion of America of His said late Majesty King George the Third, and now of Her said Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the Convention and set out and recited in the first paragraph hereof, for the purpose of procuring bait, that is to say, herrings, wherewith to fish, and ice for the preservation on board said vessel of bait to be used in fishing and of fresh fish to be fished for, taken and caught by and upon the said vessel and by the master, officers and crew thereof, and did procure such bait wherewith to fish and such ice for the purposes aforesaid, and did so enter for other purposes than the purpose of shelter or repairing damages or of purchasing wood or of obtaining water contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Province of Nova Scotia by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

15. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty," did in the said ship or vessel "Ella M. Doughty," and while he and they and the said ship or vessel "Ella M. Doughty" were within three marine miles of the coasts, bays, creeks and harbors of the Province of Nova Scotia being a portion of the Dominions in America formerly of His said late Majesty King George the Third, and now of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention and set out and recited in the said first paragraph hereof, fish for fish, take fish, and dry and cure fish, and were preparing to fish within the meaning of the said Convention and of the several Acts hereinbefore mentioned, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Province of Nova Scotia by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for breach or violation of the said Convention and of the said several Acts.

16. During the months of April and May, 1886, the said Warren A. Doughty, the master of the said ship or vessel "Ella M. Doughty," and the officers and crew of the said ship or vessel "Ella M. Doughty," were in the said ship or vessel "Ella M. Doughty" and while he and they and the said ship or vessel "Ella M. Doughty" were within three marine miles of the coasts, bays, creeks and harbors of the Province of Nova Scotia, being a portion of the Dominions in America formerly of His late Majesty King George the Third, and now of Her Majesty Queen Victoria, not included within the limits specified and defined in the said first Article of the said Convention set out and recited in the first paragraph hereof, preparing to fish within the meaning of the said Convention and of the several Acts hereinbefore mentioned, contrary to the provisions of the said Convention and of the said several Acts, and the said vessel "Ella M. Doughty" and her cargo were thereupon seized within three marine miles of the coasts or shores of the said Province of Nova Scotia by Donald McAulay and Lauchlin G. Campbell, Officers of the Customs of Canada, as being liable to forfeiture for violation of the said Convention and of the said several Acts.

The Honourable John S. D. Thompson, Her Majesty's Attorney-General for the Dominion of Canada, on behalf of Her Majesty the Queen, claims the condemnation of the said ship and her cargo and her guns, ammunition, tackle, apparel, furniture and stores, for violation of the said Convention and of the said several Acts.

(Signed) WALLACE GRAHAM,
Solicitor for the Attorney-General of Canada.

15,495.

No. 167.

The Right Hon. Edward Stanhope, M.P. to Administrator Lord A. G. Russell, C.B.

Secret.

DOWNING STREET,
September 3rd, 1886.

MY LORD,

I have the honor to acknowledge the receipt of the Marquis of Lansdowne's despatch, marked confidential, of the 14th of July,* upon the subject of the question of the issue to Her Majesty's vessels on the North American Station of instructions relating to the Fisheries, consequent on the termination of the Fishery articles of the Treaty of Washington, 1871.

My predecessor addressed a despatch to Lord Lansdowne on this subject on the 22nd of July last.† Since that date, and after consultation with Lord Lansdowne, Her Majesty's Government have further considered this question, and have arrived at the conclusion that it is not desirable in the interests of a friendly and permanent arrangement of the Fishery question that any of Her Majesty's ships should now be specially despatched to the coast for the short period that remains of the present fishing season.

If, unfortunately, some satisfactory settlement should not be arrived at with the Government of the United States before the commencement of the next fishing season, Her Majesty's Government will, after communication with the Government of the Dominion, issue instructions to the Admiral on the station in order to secure due support to the Dominion vessels engaged in the protection of her fishing interests.

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

The Officer Administering the
Government.

15,905.

No. 168.

Foreign Office to Colonial Office.

Secret.

FOREIGN OFFICE,
September 3rd, 1886.

SIR,

With reference to your letter of the 26th of July last,‡ I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington relative to the case of the seizure of the United States' schooner "City Point."

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 168.

WASHINGTON,
August 18th, 1886.

Treaty, No. 79.

MY LORD,

I have the honour to enclose herewith to your Lordship copy of a despatch which, in conformity with the instructions contained in your Lordship's despatch, No. 40 of this series, of the 4th instant, I have addressed to the United States Government relative to the seizure of the American schooner "City Point," at Shelburne, N.S.

I have, &c.,
(Signed) L. S. S. WEST.

The Earl of Iddesleigh,
&c., &c., &c.

* No. 131.

† No. 117.

‡ No. 122.

WASHINGTON,
August 10th, 1886.

SIR,

With reference to your note of the 2nd ult., reporting to me the detention of the American schooner "City Point," of Portland, Maine, by the Canadian authorities at the Port of Shelburne, N.S., and protesting against their action in so doing, I have the honour to inform you, in accordance with instructions which I have received from Her Majesty's Government, that the master of the schooner "City Point" committed a breach of the Customs Laws of the Dominion by not reporting to Custom, and landing part of the crew and baggage. The vessel in question was subsequently released on deposit of \$400.

I have, &c.,
(Signed) L. S. S. WEST.

The Hon. T. F. Bayard,
&c., &c., &c.

15,938.

No. 169.

Administrator Lord A. G. Russell C.B., to the Right Hon. Edward Stanhope, M.P.
(Received September 4th, 1886.)

No. 18.

HALIFAX, NOVA SCOTIA,
August 21st, 1886.

SIR,

I caused to be referred to my Government a copy of Earl Granville's despatch No. 175, of the 29th ultimo,* addressed to the Marquis of Lansdowne, enclosing two despatches from Her Majesty's Chargé d'Affaires at Washington, containing protests of Mr. Bayard against the action of the authorities of the Dominion in regard to certain United States fishing vessels.

2. I now have the honour to transmit herewith a copy of an approved Report of a Committee of the Privy Council, to which is annexed a Report by the Minister of Marine and Fisheries relative to the circumstances under which the Secretary of State of the United States affirms that the American fishing steamer "Novelty" was not permitted to take in steam coal, purchase ice, or tranship fish in bond to the United States at Pictou, Nova Scotia.

3. You will observe that Mr. Foster's Report deals also with Mr. Bayard's note of the 10th ultimo, relating to the alleged threats by the Customs officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning as sardines.

I have, &c.,
(Signed) A. G. RUSSELL,
General.

The Right Hon. Edward Stanhope,
&c., &c., &c.

Enclosure in No. 169.

Certified Copy of a Report of a Committee of the Honourable the Privy Council for Canada, approved by His Excellency the Administrator of the Government in Council, on the 20th August, 1886.

The Committee of the Privy Council have had under consideration the despatch, dated 29th July last, from Her Majesty's Secretary of State for the Colonies, enclosing two notes from Mr. Secretary Bayard to the British Minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

The Committee respectfully submit the annexed report from the Minister of Marine and Fisheries, to whom the said despatch and its enclosures were submitted, and they advise that your Excellency be moved to transmit a copy thereof, if approved, to Her Majesty's principal Secretary of State for the Colonies.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

DEPARTMENT OF FISHERIES,
OTTAWA, August 14th, 1886.

The undersigned has the honor to submit the following in answer to a despatch from Lord Granville to the Governor-General, under date 29th July last, enclosing two notes from Mr. Secretary Bayard to the British Minister at Washington, and asking that Her Majesty's Government be furnished with a report upon the cases therein referred to.

In his first communication dated July 10th, Mr. Bayard says:—

"I have the honor to inform you that I am in receipt of a report from the Consul-General of the United States at Halifax, accompanied by sworn testimony stating that the 'Novelty,' a duly registered merchant steam vessel of the United States, has been denied the right to take in steam coal, or purchase ice, or tranship fish in bond to the United States, at Pictou, Nova Scotia."

"It appears that having reached that port on the 1st instant, and finding the Customs Office closed on account of a holiday, the Master of the 'Novelty' telegraphed to the Minister of Marine and Fisheries at Ottawa, asking if he would be permitted to do any of the three things mentioned above, that he received in reply a telegram reciting with certain inaccurate and extended application the language of Article 1 of the Treaty of 1818, the limitations upon the significance of which are in pending discussion between the Government of the United States and that of Her Britannic Majesty, that on entering and clearing the 'Novelty' on the following day at the Customs House, the collector stated that his instructions were contained in the telegram the Master had received, and that the privilege of coaling being denied, the 'Novelty' was compelled to leave Pictou without being allowed to obtain fuel necessary for her lawful voyage and a dangerous coast."

"Against this treatment I make instant and formal protest as an unwarranted interpretation and application of the Treaty by the officers of the Dominion of Canada and the Province of Nova Scotia, as an infraction of the laws of commercial and maritime intercourse existing between the two countries, and as a violation of hospitality, and for any loss or injury resulting therefrom the Government of Her Britannic Majesty would be held liable."

With reference to this, the undersigned begs to observe that Mr. Bayard's statement appears to need modification in several important particulars.

In the first place, the "Novelty" was not a vessel regularly trading between certain ports in the United States and Canada, but was a fishing vessel whose purpose was to carry on the mackerel seining business in the waters of the Gulf St. Lawrence around the coast of Prince Edward Island and Nova Scotia, that she had on board a full equipment of seines and fishing apparatus and men, that she was a steam vessel and needed coal not for purposes of cooking or warming but to produce motive power for the vessel, and that she wished to pursue her business of fishing in the above named waters, and to send her fares home over Canadian Territory to the end that she might the more uninterruptedly and profitably carry on her business of fishing. That she was a fishing vessel, and not a merchant vessel, is proved not only by the facts above mentioned, but also from a telegram over the signature of H. B. Joyce, the Captain of the vessel, a copy of which is appended. In his telegram Captain Joyce indicates the character of his vessel by using the words "American fishing steamer," and he signs himself "H. B. Joyce, Master, fishing steamer, 'Novelty.'"

There seem no doubt, therefore, that the "Novelty" was in character and in purpose a fishing vessel, and as such comes under the provision of the Treaty of 1818 which allows United States' fishing vessels to enter Canadian ports "for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever."

The object of the Captain was to obtain supplies for the prosecution of his fishing, and to tranship his cargoes of fish at a Canadian port, both of which are contrary to the letter and spirit of the Convention of 1818.

To Mr. Bayard's statement that in reply to Captain Joyce's inquiry of the Minister of Marine and Fisheries, "He received in reply a telegram reciting certain inaccurate and extended application of the language of Article 1 of the Treaty of 1818," the undersigned considers it a sufficient answer to adduce the telegrams themselves.

1st. Inquiry by the Captain of the "Novelty":—

OTTAWA,

July 1st, 1886.

Hon. Geo. E. Foster, Minister of Marine and Fisheries.
From Pictou, N.S.

Will the American fishing steamer now at Pictou be permitted to purchase coal or ice, or to tranship fresh fish in bond to United States' Markets. Please answer.

(Signed) H. B. JOYCE,
Master of Fishing Steamer, "Novelty."

2nd. Reply of the Minister of Marine and Fisheries thereto:—

OTTAWA,

July 1st, 1886.

To H. B. Joyce, Master American Steamer, "Novelty,"
Pictou, N.S.

By terms of Treaty, 1818, United States' fishing vessels are permitted to enter Canadian ports for shelter, repairs, wood, and water, and for no other purpose whatever. That Treaty is now in force.

(Signed) GEO. E. FOSTER,
Minister of Marine and Fisheries.

The undersigned fails to observe wherein any "inaccurate or extended application" of the language of the Treaty can be found in the above answer, inasmuch as it consists of a *de facto* citation from the Treaty itself, with the added statement for the information of the Captain that said Treaty was at that time in force. As to the "unwarranted interpretation and application of the Treaty" of which Mr. Bayard speaks, the undersigned has already discussed that phase of the question in his memorandum of June 14th, which was adopted by Council, and has been forwarded to Her Majesty's Government.

Mr. Bayard's second note is as follows:—

"On the 2nd of June last I had the honor to inform you that despatches from Eastport, in Maine, had been received reporting threats by the Customs' officials of the Dominion to seize American boats coming into those waters to purchase herring from the Canadian weirs for the purpose of canning the same as sardines, which would be a manifest infraction of the right of purchase and sale of herring caught and sold by Canadians in their own waters in the pursuance of legitimate trade."

"To this note I have not had the honor of a reply."

"To-day Mr. C. A. Boutelle, M.C., from Maine, informs me that American boats visiting St. Andrews, N.B., for the purpose of there purchasing herring from the Canadian weirs for canning had been driven away by the Dominion cruiser "Middleton."

"Such inhibition of usual and legitimate commercial contracts and intercourse is assuredly without warrant of law, and I draw your attention to it, in order that the commercial rights of the citizens of the United States may not be thus invaded and subjected to unfriendly discrimination."

With reference to the above, the undersigned observes that so far as his information goes, no collectors of Customs or captains of cruisers have threatened to "seize American boats coming into Canadian waters to purchase herring from Canadian weirs for the purpose of canning them as sardines."

Collectors of Customs have, however, in pursuance of their duties under the Customs Law of Canada, compelled American vessels coming to purchase herring to enter and clear in conformity to Customs Law.

With reference to the action of the Dominion cruiser, "Middleton," the undersigned cannot do better than quote from the official report of the Captain of that vessel as to the facts of the case referred to. In his report of date 9th July, 1886, Captain McLean of the "General Middleton" says:—

"At 9 A.M. made sail and drifted with the tide towards the bay, seeing a large number of boats of various sizes hovering around the fishing weirs. I ordered the boat in waiting and sent Officer Kent in charge, giving him instructions to row

"among the boats and see if there were any American purchasing fish. On the return of the boat, Chief Officer Kent reported the boats mentioned were Americans there for the purpose of getting herring. I immediately directed the Chief Officer to return and order the American boats to at once report themselves to the collector of the port, and get permits to load fish or leave without further delay. One of the boatmen complied with the request and obtained a permit to load fish for Eastport, the others were very much disturbed on receiving the above instructions and sailed away toward the American side of the river and commenced blowing their fog horns showing their contempt. Other boats at a greater distance seeing our boat approaching did not wait her arrival, but up sail and left for the American shore."

The above extract from the report of the Chief Officer of the "General Middleton" goes to show that it was not his object to prevent American boats from trading in sardines, but rather to prevent them from trading without having first conformed to the Customs Law of Canada.

The whole respectfully submitted.

(Signed) GEORGE E. FOSTER,
Minister of Marine and Fisheries.

15,939.

No. 170.

Administrator Lord A. G. Russell, C.B., to the Right Hon. Edward Stanhope, M.P.
(Received September 4th, 1886.)

HALIFAX, NOVA SCOTIA;
August 21st, 1886.

Secret.

SIR,

With reference to Earl Granville's despatch of the 15th of July last* marked secret, addressed to the Marquis of Lansdowne, requesting a report from my Government on the subject of an enclosed note from the Secretary of State of the United States to Her Majesty's Minister at Washington, relating to certain warnings alleged to have been given to United States fishing vessels by the Collector of Customs at Canso, I have the honour to forward herewith a copy of an approved report of a Committee of the Privy Council embodying a report by my Minister of Marine and Fisheries on the subject.

I have, &c.,
(Signed) A. G. RUSSELL,
General.

The Right Hon. Edward Stanhope,
&c., &c., &c.

Enclosure in No. 170.

Certified copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Administrator of the Government in Council, on the 16th of August, 1886 :—

The Committee of the Privy Council have had under consideration a despatch, dated July 15th, 1886, from the Secretary of State for the Colonies, in which he asks for a report from the Canadian Government on the subject of an enclosed note from Mr. Secretary Bayard to the British Minister at Washington, relating to certain warnings alleged to have been given to United States fishing vessels by the Sub-Collector of Customs at Canso.

Mr. Bayard states :—

1st. "That the masters of the four American fishing vessels of Gloucester, Mass., 'Martha C. Bradley' 'Rattler' 'Eliza Boynton' and 'Pioneer' have severally reported to the Consul-General at Halifax that the Sub-Collector of Customs at Canso had warned them to keep outside an imaginary line drawn from a point three miles outside Canso Head to a point three miles outside St. Esprit, on the Cape Breton coast.

2nd. 'That the same masters also report that they were warned against going "inside an imaginary line drawn from a point three miles outside North Cape in Prince Edward Island to a point three miles outside East Point on the same island.

3rd. "That the same authority informed the masters of the vessels referred to that "they would not be permitted to enter Bay Chaleur."

The Minister of Marine and Fisheries, to whom the despatch and enclosures were referred, observes that the instructions issued to Collectors of Customs authorized them in certain cases to furnish United States fishing vessels with a copy of the circular hereto attached,* and which constitutes the only official "warning" Collectors of Customs are empowered to give. It was to be presumed that the Sub-Collector of Customs at Canso, as all other Collectors, would carefully follow out the instructions as received, and that therefore no case such as that alleged by Secretary Bayard would be likely to arise.

The Minister states, however, so soon as the despatch above referred to was received he sent to the Sub-Collector at Canso a copy of the allegations, and requested an immediate reply thereto. The Sub-Collector in answer emphatically denies that he has ordered any American vessel out of any harbour in his district or elsewhere, or that he did anything in the way of warning except to deliver copies of the official circular above alluded to, and states that he boarded no United States' vessel other than the "Annie Jordan" and the "Hereward," and that neither the "Martha C. Bradley," "Rattler," or "Pioneer," of Gloucester have, during this season, reported at his port of entry. He with equal clearness, denies that he has warned any United States' fishing vessels to keep outside the line from Cape North to East Point alluded to by Secretary Bayard, or that they would not be permitted to enter Bay des Chaleurs.

The Minister has every reason to believe the statements made by the Sub-Collector at Canso, and taking into consideration all the circumstances of the case, is of the opinion that the information which has reached the Secretary of State does not rest upon a trustworthy basis.

With reference to the concluding portion of Mr. Bayard's note, which is as follows:—

"Such warnings are, as you must be well aware, wholly unwarranted pretensions "of extra-territorial authority and usurpations of jurisdiction by the Provincial "officials.

"It becomes my duty, in bringing this information to your notice, to request that "if any such orders for interference with the unquestionable rights of the American "fishermen to pursue their business without molestation at any point not within three "marine miles of the shores, and within the defined limits as to which renunciation of "the liberty to fish was expressed in the Treaty of 1818, may have been issued, the "same may at once be revoked, as violation of the rights of citizens of the United "States under Convention with Great Britain.

"I will ask you to bring this subject to the immediate attention of Her Britannic "Majesty's Government to the end that proper remedial orders may be forthwith "issued.

"It seems most unfortunate and regrettable that questions which have been long "since settled between the United States and Great Britain should now be sought to be "revived."

The Minister further observes that in his opinion the occasion of the present despatch, which has to deal mainly with questions of fact, does not render it necessary for him to enter upon any lengthened discussion of the question of headland limits. He cannot, however, do otherwise than place upon record the earnest expression of his entire dissent from the interpretation therein sought to be placed upon the Treaty of 1818 by the United States Secretary of State.

The Committee concur in the foregoing report of the Minister of Marine and Fisheries, and advise that your Excellency be moved to transmit a copy thereof to Her Majesty's Secretary of State for the Colonies.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

16,087.

No. 171.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
September 4th, 1886.

SIR,

I am directed by the Earl of Iddesleigh to acknowledge the receipt of your letter of the 1st instant* respecting the application of the Government of Newfoundland for the issue of orders or instructions under the Imperial Act 59 Geo. III, c. 38, s. 4, and I am to state to you in reply, for the information of Mr. Secretary Stanhope, that his Lordship concurs in the terms of the reply which it is proposed to return to the application.

I am, &c.,
(Signed) P. W. CURRIE.The Under-Secretary of State,
Colonial Office.

16,111.

No. 172.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
September 4th, 1886.

Confidential.

SIR,

With reference to my letter of the 3rd instant,† and to previous correspondence, I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a note which was addressed by the Earl of Iddesleigh to Mr. Phelps on the 1st instant, on the subject of the Fishery question between the United States and Canada.

I am, &c.,
(Signed) P. W. CURRIE.The Under-Secretary of State,
Colonial Office.

Enclosure in No. 172.

*The Earl of Iddesleigh to Mr. Phelps.*FOREIGN OFFICE,
September 1st, 1886.

SIR,

Her Majesty's Government have been anxiously considering what further action they can take in the present state of the Canadian Fisheries question to advance matters towards the friendly and equitable solution so much desired by both Governments, and I beg now to offer the following observations in order to explain the difficulties which present themselves.

There are two distinct issues involved. The one relates to the precise limits of the Treaty rights of American fishermen in Canadian waters; the other to the legality of the measures adopted by the Canadian authorities (having regard to the existing legislation) against certain American fishing-vessels for an alleged violation of Treaty.

Both those issues are at the present time *sub judice* in the Canadian Courts, and it is not improbable that they will be carried before the competent Tribunal of Appeal in this country.

If the ultimate decision should be favourable to the views of your Government as regards the interpretation of the Treaty of 1818 the principal question will be disposed of, and, if the decision should be adverse to those views, it will not preclude further discussion between the two Governments and the adjustment of the question by diplomatic action. But it is clearly right, and according to practice and precedent, that such diplomatic action should be suspended during the completion of the judicial inquiry.

In the present case, however, there is every reason to desire that the two Governments, without awaiting the result of the judicial proceedings, should allay the popular feeling which these differences have excited in both countries, by an attempt to effect such an equitable revision of the Treaty as may reconcile conflicting interests.

With this view my predecessor addressed a despatch to Her Majesty's Minister at Washington, containing a Report from the Canadian Government on all the points involved, and instructed him to communicate it to your Government, and to invite their friendly observations upon that document, in the hope that such an interchange of views might lead to some basis of negotiation.

No reply has been received by Her Majesty's Government to that communication, but assurances have repeatedly been exchanged between the two Governments of their desire to come to an arrangement.

The hopes which were entertained at one time of a settlement on a broad and comprehensive basis by means of a new Commercial Treaty were unfortunately frustrated by the rejection of the proposal for a Joint Commission.

It may be, however, that a more restricted basis might be acceptable to your Government, such, for instance, as an arrangement limited entirely to the fishery interests.

It is evident that the great desire of both Governments to arrive at an equitable arrangement cannot be attained unless they are both prepared to make some concessions.

The nature of the concessions which it would be in the power of this country to make with reference to the Canadian fisheries are well known; but Her Majesty's Government, who have naturally been in constant communication with the Dominion Government on this question, are quite unable to make any proposal to them of the nature contemplated, unless they are informed to what extent the United States Government are disposed to meet them in the way of concession.

Her Majesty's Government therefore earnestly hope that the Government of the United States may find themselves able to view the position in the light in which I have placed it before you, and by a frank declaration of the nature of the benefits which they are prepared to offer on their side, to facilitate the efforts of Her Majesty's Government to take some immediate action towards the settlement of this most important and urgent question.

I have, &c.,
(Signed) IDDESLEIGH.

16,083.

No. 173.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
September 4th, 1886.

SIR,

I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from the United States Secretary of State, calling attention to causes of complaint alleged by the masters of several United States fishing vessels against Captain Quigley, of the Canadian cruiser "Terror"; and I am to request that a report on the subject may be obtained from the Dominion Government.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 173.

Treaty No. 80.

WASHINGTON,
August 19th, 1886.

MY LORD,

I have the honour to transmit herewith to your Lordship copy of a note which I have received from the Secretary of State informing me of the causes of complaint alleged by the masters of several American fishing vessels against Captain Quigley of the Canadian cruiser "Terror."

I have, &c.,
(Signed) L. SACKVILLE WEST.

The Earl of Iddesleigh, G.C.B.,
&c., &c., &c.

WASHINGTON,
August 18th, 1886.

SIR,

Grave cause of complaint is alleged by the masters of several American fishing vessels, among which can be named the schooners "Shiloh" and "Julia Ellen," against the hostile and outrageous misbehaviour of Captain Quigley, of the Canadian cruiser "Terror," who upon the entrance of these vessels into the harbour of Liverpool, Nova Scotia, fired a gun across their bows to hasten their coming to, and placed a guard of two armed men on board each vessel, who remained on board until the vessels left the harbour.

In my note to your Legation of the 9th instant, I made earnest remonstrance against another unfriendly act of Captain Quigley against the schooner "Rattler" of Gloucester, Mass. which, being fully laden, and on her homeward voyage, sought shelter from stress of weather in Shelburne Harbour, Nova Scotia, and was there compelled to report at the Custom House, and have a guard of armed men kept on board.

Such conduct cannot be defended on any just ground, and I draw your attention to it in order that Her Britannic Majesty's Government may reprimand Captain Quigley for his unwarranted and rude act.

It was simply impossible for this officer to suppose that any invasion of the fishing privileges of Canada was intended by these vessels under the circumstances.

The firing of a gun across their bows was a most unusual and wholly uncalled for exhibition of hostility, and equally so was the placing of armed men on board the peaceful and lawful craft of a friendly neighbour.

I have, &c.,
(Signed) T. F. BAYARD.

The Hon. Sir Lionel West, K.C.M.G.,
&c., &c., &c.

16,255.

No. 174.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
September 6th, 1886.

SIR,

I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note from Mr. Bayard protesting against the action of the officer of the Canadian schooner, "E. F. Conrad," in forbidding the master of the United States' schooner, "Golden Hind," to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water at that place.

The warning off of the vessel, under the circumstances stated, would appear to be a distinct breach of the Convention of 1818, and Lord Iddesleigh would therefore suggest that the Canadian Government should be requested to furnish with the least possible delay a report on the case.

Lord Iddesleigh further suggests for the consideration of Mr. Stanhope, that in calling for the report in question it would be highly desirable to add that Her Majesty's Government earnestly hope the Dominion Government will take prompt steps to prevent any infractions of the Convention on their side, and that, if the facts stated by Mr. Bayard are correct, steps will be at once taken by the Dominion Government to reprimand the officials concerned.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 174.

WASHINGTON,
August 18th, 1886.

No. 78 Treaty.

MY LORD,

I have the honour to transmit herewith to your Lordship copy of a note which I have received from the Secretary of State protesting against the action of the officer of the Canadian schooner, "E. F. Conrad," in forbidding the master of the American schooner, "Golden Hind," to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water at that place.

I have, &c.,
(Signed) L. SACKVILLE WEST.

The Earl of Iddesleigh,
&c., &c., &c.

WASHINGTON,
August 17th, 1886.

SIR,

An affidavit has been filed in this Department by Reuben Cameron, master of the American schooner, "Golden Hind," of Gloucester, Mass., setting forth that on or about the 23rd of July ultimo, being out of water, he attempted to put into Port Daniel, Bay of Chaleur, to obtain a fresh supply; that at the entrance of the Bay, about four or five miles from land, the "Golden Hind" was boarded by an officer from the Canadian schooner, "E. F. Conrad," and by him ordered not to enter the Bay of Chaleur; that said officer furnished Captain Cameron with a printed "Warning" with this endorsement written thereon, "Don't enter the Bay of Chaleur, N.S.," and that in consequence of said act of the Canadian officer, the "Golden Hind" was obliged to go to Tignish, Prince Edward Island, to obtain water, whereby the fishing venture was interfered with, and loss and injury caused to the vessel and her owners.

I have the honour to protest against this act of the officers of Her Britannic Majesty as not only distinctly unfriendly and contrary to the humane usage of civilised nations, but as in direct violation of so much of Article I of the Convention of 1818 between the United States and Great Britain as secures for ever to American fishermen upon the British North American coast admission to the bays or harbours thereof, for the purpose of obtaining water. And for all loss or injury which may be shown to have accrued by reason of the act in question, the Government of Her Britannic Majesty will be held justly liable.

I have further the honour to ask with all earnestness that the Government of Her Britannic Majesty will cause steps to be forthwith taken to prevent and rebuke acts so violative of treaty and of the common rights of hospitality.

I have, &c.,
(Signed) T. F. BAYARD.

The Hon. Sir L. S. West, K.C.M.G.,
&c., &c., &c.

16,357.

No. 175.

Foreign Office to Colonial Office.

FOREIGN OFFICE,
September 8th, 1886.

SIR,

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope for his information, a copy of a despatch from Her Majesty's Minister at Washington enclosing a newspaper extract from an electioneering speech by Mr. Blaine with regard to the Fisheries Question.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 175.

WASHINGTON,
August 26th, 1886.

Treaty No. 81.

My LORD,

I have the honour to transmit herewith to your Lordship a cutting from the *New York Tribune* of yesterday, containing an extract from an electioneering speech by Mr. Blaine, attacking the policy pursued by the Secretary of State with regard to the Fisheries Question.

I have, &c.,
(Signed) L. S. S. WEST.The Earl of Iddesleigh,
&c., &c., &c.

The Fishery Question.

The fishery dispute between the United States and Great Britain has passed through many singular phases in the last seventy years, but never before, I think, was it surrounded with such extraordinary circumstances as we find existing at this moment. Before discussing the merits of the American case it may be interesting to recall the process by which the question has been placed in its present attitude.

On the 31st day of January, 1885, several months before the fishing season of that year began, President Arthur issued a proclamation giving notice to the people that the fishery articles of the Treaty of Washington (1871) had, according to the conditions of the treaty, been formally terminated. The President made the results that would flow from this action plain and unmistakable by warning all citizens of the United States that "none of the privileges secured to them by these articles will exist after July 1, 1885." This termination of the treaty had been decreed by an overwhelming vote of both branches of Congress, and was now made final and effective by the President's proclamation. This course had been earnestly desired by the American fishermen, was fully understood by them, and was completed without protest from a single citizen of the United States.

Five weeks after President Arthur's proclamation was issued, his term closed, and with the new Administration Mr. Bayard became Secretary of State. In three or four days after he had been installed in office, the British Minister, the Hon. Sackville West, submitted a proposal to continue the reciprocal fishing arrangements until January 1, 1886. After a brief correspondence Mr. Bayard accepted the offer. In other words Mr. West and Mr. Bayard made a treaty of their own by which American fishermen were to be allowed to fish in British waters six months longer, and British fishermen would freely fish in American waters for the same period. When Mr. West first proposed this extension of time, in his note of March 12, he based his suggestion solely upon the generous ground that as the treaty would terminate during the fishing season "considerable hardship might be occasioned to American fishermen if they were compelled to desist fishing at that time." This exact point had been foreseen, had been carefully considered by Congress, by the President, by the State Department, and by the American fishermen themselves. In popular parlance they had "discounted it" and were fully prepared for it, when, to their exceeding surprise, the British Minister seemed to be moved with compassion for their possible sufferings. Apparently without other motive than disinterested benevolence, Mr. West was anxious to allow them six months more of that precious time which the Halifax Commission had declared to be worth to American fishermen a half million dollars per annum.

But reading a little further in this remarkable diplomatic correspondence, we find that Mr. West, instead of acting from motives of pure generosity toward American fishermen, was really paving the way for a shrewd trade and a new treaty. A regular understanding between himself and Mr. Bayard was reduced to writing, showing that he received a large consideration for leaving the British waters open to American fishermen six months longer. The consideration was a pledge from Mr. Bayard, under date of June 19, 1885, that the President would at the next session of Congress "recommend the appointment of a Commission in which the Governments of "the United States and Great Britain shall be respectively represented, charged with "the consideration and settlement upon a just, equitable and honorable basis of the "entire questions of the fishing rights of the two Governments and of their respective

"citizens on the coasts of the United States and British North America." The stipulation was definite and reduced to writing that "*in view and in consideration of such promised recommendations by the President*" the British would for the ensuing six months enforce no restrictive regulations against American fishermen. In addition to all this Mr. Bayard gave significant intimation to Mr. West that the refunding of duties meanwhile collected under our customs laws upon Canadian fish might be brought before the commission thus promised.

Accordingly, in the following December, six and a half months after Mr. Bayard's memorandum pledge that the President would make the recommendation to Congress, the President actually did incorporate it in his annual message and gave it in language which was a transcript verbatim of the words which Mr. Bayard gave to Mr. West. It would certainly be apart from my desire to pass any personal criticism upon the President, of whom I wish at all times to speak in terms of respect, but, viewing this as a public question and speaking only with the freedom of a private citizen, I must express my belief that this transaction was throughout most extraordinary and unprecedented. It was extraordinary and unprecedented and altogether beyond his proper power for a Secretary of State in the recess of Congress to revive any part of a treaty which Congress had expressly terminated; it was extraordinary for a Secretary of State to begin negotiations for the renewal of a treaty which every department of Government had just united in annulling; it was extraordinary for a Secretary of State to enter into a trade with a foreign minister for a present benefit to be paid for by the future action of the Government; and most of all was it extraordinary that a pledge should be given to a foreign Government that the President of the United States should in the future—more than a half year distant—make a specific recommendation, on a specific subject, in specific words, to the Congress of the United States. That pledge was given and was held in the British Foreign Office in London, and it took from the President all the power of reconsideration which the lapse of time and the change of circumstances might suggest and impose. It robbed the President *pro hac vice* of his liberty as an Executive. He was no longer free to insert in his annual message of December what might then seem expedient on the question of the Fisheries, but was under honorable obligations to insert word for word, letter for letter, the exact recommendation which the Secretary of State in the preceding month of June had promised and pledged to the British Ministry. The matter presents a curious speculation in the working of our Government. What, for instance, could or should the President have done, if before the date of his annual message he had become convinced, as a large majority of the Senate were convinced, that it was not expedient to organize an International Commission on the fisheries. He would then have found himself embarrassed between this pledge given to a foreign Government in June and his convictions of duty to the citizens of the United States in the ensuing December.

Congress could not be induced to concur in the President's recommendation for an International Commission on the fisheries, and so the scheme for which Mr. Bayard and Mr. West had made such extraordinary preparations came to naught. It would have been strange indeed if any other result had been reached. Congress had for several years been diligently endeavoring to free the country from the burden of the treaty provisions respecting the fisheries, and it could not be expected that they would willingly initiate measures for a new treaty that would probably in the end be filled with provisions as odious and burdensome to the American fishing interests as those from which they had just escaped.

As soon as it became evident that Congress would not accept the proposal for a new Commission, the Government of the Dominion of Canada, with the presumed approval of the Imperial Government, began a series of outrages upon American fishing vessels and fishing crews—seeking in every way to destroy their business and to deprive them of their fishing rights. That course continues to this day and is adopted by the Canadian Government with the deliberate intention and obvious expectation of forcing concessions from this Government. A few facts in the long controversy over the Fishery Question may be pertinently recalled as bearing on the present situation.

Let us frankly admit at the outset that we are governed in this matter by the terms of the Treaty of 1818. Of the injustice of which this country was made the victim before that treaty was ratified, we need not here and now speak. We accepted the Treaty of 1818 in good faith, and though it largely curtailed privileges which were the birthright of American fishermen, those hardy men went to work under it and by their enterprise largely expanded their business—increasing in an amazing ratio the number of their vessels, their aggregate tonnage, and the number of men engaged in the

hazardous calling. This rapid progress alarmed the Canadians, and with the view of repressing rivalry and crippling American fisherman, a new construction was applied to the treaty nearly a quarter of a century after it had been in peaceful operation.

From 1841 to 1845 it was for the first time contended by Great Britain that the American right to fish within three miles from shore meant three miles from the headlands which marked the entrance to bays, and on this new and strained construction of the treaty they sought to exclude American fishermen even from the Bay of Fundy, which is sixty miles wide at its mouth. After a long diplomatic discussion, maintained with signal ability by Edward Everett, our Minister at London, Lord Aberdeen—a name identified with justice and magnanimity in more than one generation,—then at the head of the British Foreign Office, acknowledged that the ground taken by England in regard to the Bay of Fundy was indefensible, the Canadian position was reversed, and the bay was re-opened to American fisherman.

But the design of coercing the United States into opening her markets to Canadian fishermen was not abandoned. In 1852 a fresh and determined series of hostilities was begun against American fishermen. A naval force was sent out from England, and the whole coast of Nova Scotia was guarded by the guns of the Royal Navy—thirteen war vessels patrolling the fishing grounds. It was again proclaimed that the three-mile limit of the Treaty of 1818 was not three miles from the shore, but three miles outside of a line from headland to headland of bays. This construction of the treaty would place the American fishermen in many places thirty miles from shore, instead of three, as provided by treaty. Mr. Everett had pertinently reminded the British Government that by this construction “the waters which wash the entire south-eastern coast of Nova Scotia, from Cape Sable to Cape Canso—a distance of nearly 300 miles—might constitute a bay from which United States fishermen would be excluded.” In other words, the argument of Mr. Everett showed that the British construction, if admitted, would destroy all American rights intended to be guarded and guaranteed under the provisions of the treaty.

When the attempt of 1852 was made to enforce the “headland” construction of the treaty, Mr. Webster was Secretary of State in the Administration of Mr. Fillmore. In an official paper over his own signature, Mr. Webster recorded his opinion that the British construction of the treaty “is not conformable to the intentions of the contracting parties.” Those are weighty words, and spoken by Mr. Webster they give an almost authoritative construction to the treaty. It is certainly not discourteous or invidious to say that in legal ability, especially on points both of constitutional and international law, Mr. Webster’s opinion is entitled to more weighty consideration than that of any British official who was then dealing or who has since dealt with the Fishery Question.

Mr. Webster’s official proclamation, from which I have quoted, was issued on the 6th of July, 1852. A fortnight later he addressed a large audience from the front door of his house at Marshfield, and then he spoke with entire freedom. “The Treaty of 1818,” said Mr. Webster, “was made with the Crown of England. If an American fishing vessel is captured by one of her vessels of war, the Crown of England is answerable; but it is not to be expected that the United States will submit their rights to be adjudicated in the petty tribunals of the Provinces, or that we shall allow our own vessels to be seized by constables and other petty officers, and condemned by the municipal courts of Quebec, Newfoundland, New Brunswick, and Canada. . . . In the meantime be assured that the fishing interest will not be neglected by this Administration under any circumstances. The fishermen shall be protected in all their rights of property and in all their rights of occupation. To use a Marblehead phrase, they shall be protected ‘hook and line, bob and sinker.’”

Mr. Webster fell ill very soon after these vigorous expressions, and the negotiations passed into other hands and were adjusted finally by the Reciprocity Treaty of 1854. The operation of that treaty was highly injurious to American fishermen. Before its termination in 1866, our Government refused to renew it and our fishing interest immediately began to revive, and immediately the Canadians began to agitate for another treaty by which they could reach the markets of the United States. Their wishes were gratified, and by the strangest of all diplomatic juggles the United States paid five and a half millions of dollars for a treaty which it did not want and which the other party earnestly desired. Time has passed and the Treaty of 1871 has expired. The Canadians again come back to their old tactics, to harass and worry and outrage American fishermen, until by sheer weariness, after the manner of the unjust judge in Scripture, our Government may give them what they want, even to the injury of our own people.

The humiliation of our situation has been gratuitously increased by the vote of a majority of the Democratic party in the House of Representatives to throw open the markets of the United States to British and Canadian fishermen, without duty or charge, and without securing to American fishermen the right to fish in British and Canadian waters. This is an act of such unaccountable, rancorous hostility to the fishing interest of New England that it is difficult even to comprehend its motive. John Randolph so hated the wool tariff that he felt like walking a mile to kick a sheep. Do the Northern Democrats feel such determined hostility to the fishermen of New England that they would sacrifice a great national interest in order to inflict a blow upon them.

It would certainly be refreshing if we could hear Mr. Webster's words repeated from official sources to-day. It would be refreshing if it could once more be asserted with the strength and dignity of Webster that "the United States will not submit their rights to be adjudicated in the petty tribunals of the Provinces," that "American fishermen shall be protected in all their rights of property and in all their rights of occupation." Mr. Webster did not expect and did not intend that his position would lead to war. He simply expected that a firm decided tone would bring English officials to their senses and make them feel the responsibility and danger of transgressing the rights and touching the sensibilities of a proud and powerful people. Mr. Webster knew, as those who learned from him have since known, that England could even less than the United States afford to go to war about the fisheries. Mr. Webster knew, as those who have learned in his school have since known, that England and the United States can never go to war except upon some point that touches the imperial integrity of the one or the other—and even an offence of that magnitude we agreed in 1871 to settle by arbitration and not by gage of battle. But the country is weary of hearing in Mr. Webster's phrase that Canadian constables are arresting American crews, and that Canadian gunboats are capturing vessels on the high seas floating the American flag. And all this on the assumption of a treaty power which the United States denies and upon a technical construction put forward a quarter of a century after the treaty went into operation and had received a peaceful and fair construction. We shall await the publication of Mr. Bayard's correspondence with Great Britain on the subject of the seizure of American fishing vessels with deep interest—shall wait with the hope if not the expectation that he will leave his country in a better position at the close of the negotiation than he has thus far maintained for her.

16,255.

No. 176.

The Right Hon. Edward Stanhope, M.P., to Administrator Lord A. G. Russell, C.B.

DOWNING STREET,
September 9th, 1886.

No. 202.

MY LORD,

I have the honor to transmit to you herewith a copy of a letter* from the Foreign Office enclosing a copy of a despatch from Her Majesty's Minister at Washington, with copy of a note from Mr. Bayard protesting against the action of the commander of the Canadian schooner, "E. F. Conrad," in forbidding the master of the United States' schooner, "Golden Hind," to enter the Bay of Chaleur for the purpose of renewing his supply of fresh water.

I have to request that you will obtain from your Government with the least possible delay a report in reference to this matter; and that you will direct their special attention to the last paragraph of the letter from the Foreign Office.

I have, &c.,

(Signed) EDWARD STANHOPE.

The Officer Administering the
Government.

16,083.

No. 177.

The Right Hon. Edward Stanhope, M.P., to Administrator Lord A. G. Russell, C.B.

DOWNING STREET,
September 9th, 1886.

No. 203.

MY LORD,

I have the honour to transmit to you a copy of a letter* from the Foreign Office, enclosing a copy of a despatch from Her Majesty's Minister at Washington with copy of a note from the United States Secretary of State calling attention to causes of complaint alleged by the masters of several United States fishing vessels against the Captain of the Canadian cruiser "Terror."

I request you to obtain from your Government a report upon the subject of this complaint.

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

The Officer Administering the Government.

16,470.

No. 178.

Governor Sir G. W. Des Vœux, K.C.M.G. (Newfoundland), to the Right Hon. Edward Stanhope, M.P. (Received September 10th, 1886.)

GOVERNMENT HOUSE,
August 31st, 1886.

No. 89.

SIR,

Referring to your telegram† received by me on the 21st instant, and replied to on the 24th August,‡

I have the honour to report as follows :—

On enquiry, I find that in issuing the notices to be served on American fishermen as reported in my despatch No. 83 of 2nd August,§ this Government by an oversight omitted in the first instance to make exception with regard to that portion of the coast on which the United States have fishing rights under the Convention of 1818.

The mistake, however, was discovered and corrected by amended instructions to the officers concerned about three weeks before the receipt of your telegram.

So far there has been reported to me service of the notice on only two vessels, one of which (as appears from the enclosed letter of the sub-inspector at Bay of Islands), afterwards secured a cargo, and did not therefore probably suffer any detriment.

The other vessel (if a statement is correct which I observe in one of the American newspapers) went away empty, and therefore, I fear, may become the subject of reclamation.

I have however, no official information on the subject, and the above report is therefore very possibly erroneous.

I have, &c.,
(Signed) G. WILLIAM DES VŒUX.

The Right Hon. Edward Stanhope, M.P.,
&c., &c., &c.

Enclosure in No. 178.

Mr. Laurence Barrow to Colonial Secretary.

BAY OF ISLANDS.
August 4th, 1886.

SIR,

I have the honor to acknowledge the receipt of your telegram of the 2nd instant, saying, "Discontinue serving notices on American fishermen, (sent 17th June) until "further instructed."

* No. 173.

† No. 154.

‡ No. 155.

§ No. 144.

I beg to state that I served a notice on the master of one United States fishing schooner only, she was called the "Velocipede," 64 tons, registered at Gloucester. This vessel I hear has since then sailed for the United States, after having done well with halibut fishing.

I shall not serve any more notices upon United States fishermen agreeably to your respected telegram, above mentioned.

I have, &c.,
(Signed) LAURENCE BARROW.
Sub-Collector.

16,087.

No. 179.

*The Right Hon. Edward Stanhope, M.P., to Governor Sir G. W. Des Vœux, K.C.M.G.
(Newfoundland).*

DOWNING STREET,
September 14th, 1886.

No. 38.

SIR,

Her Majesty's Government have had before them your despatch No. 67 of the 17th of June,* respecting the desire of your Government that orders or instructions might be issued under the Act of Parliament 59 Geo. III, cap. 38, sec. 4, to require American fishermen to depart from those bays and harbours of Newfoundland to which they are not admitted (except for certain purposes) under the Convention with the United States Government of 1818.

Her Majesty's Government have every hope that the difficult questions now pending with the United States Government connected with the fisheries of British North America may ere long be adjusted, and after having given careful consideration to the application of your Government they have come to the conclusion that it would not be expedient for them at the present time to take any such action as that suggested.

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

Sir G. W. Des Vœux.

16,705.

No. 180.

*Administrator Lord A. G. Russell, C.B. to the Right Hon. Edward Stanhope, M.P.
(Received 15th September, 1886.)*

TELEGRAPHIC.

14th September. Referring to your telegram of 1st September,† relative to fishing-boat "Rattler," facts are as follows: On morning of 4th August her captain called on Collector of Customs, Shelburne, accompanied by chief officer fishery police cutter, and reported his arrival inwards, laden with mackerel, for shelter. Afterwards chief officer informed Collector of Customs fishing-boat found previous evening at anchor 5 miles down harbour; two men from fishery police cutter put on board, and master required to report custom-house in the morning. Master attempted put to sea at night, but prevented by fishery police officers.

15,938.

No. 181.

Colonial Office to Foreign Office.

DOWNING STREET.
September 16th, 1886.

SIR,

With reference to your letter of the 28th of July, and to the reply from this office of the 5th of August last,‡ relating to protests by Mr. Bayard against the action of the Canadian authorities in regard to United States fishing vessels, I am directed by Mr.

Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a copy of a despatch* from the Officer Administering the Government of Canada on the subject.

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

The Under-Secretary of State,
Foreign Office.

15,939.

No. 182.

Colonial Office to Foreign Office.

DOWNING STREET,
September 16th, 1886.

SIR

With reference to the letter from this Department of the 10th of July last,† and to previous correspondence relating to warnings alleged to have been given to United States fishing vessels by the Collector of Customs at Canso, I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a copy of a despatch‡ from the Officer Administering the Government of Canada with its enclosures on the subject.

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

The Under-Secretary of State,
Foreign Office.

16,470.

No. 183.

Colonial Office to Foreign Office.

DOWNING STREET,
September 16th, 1886.

SIR,

With reference to the letter from this Department of the 28th ult.,§ and to previous correspondence respecting certain notices alleged to have been issued to American fishermen at the Magdalen Islands and at Bonne Bay, in Newfoundland, I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a copy of a despatch || from the Governor of Newfoundland on the subject.

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

The Under-Secretary of State,
Foreign Office.

17,357.

No. 184.

Governor Sir G. W. Des Vaux, K.C.M.G. (Newfoundland) to the Right Hon. Edward Stanhope, M.P. (Received September 24th, 1886).

GOVERNMENT HOUSE, NEWFOUNDLAND,
September 15th, 1886.

Extract.
Confidential.

Mr. Thorburn, the Premier of this Colony, has expressed a desire that I should inform you that in the event of it being contemplated to appoint a Commission to settle any of the fishery questions now pending between Great Britain and the United States, there will be no objection on the part of this Government to the selection of Sir Ambrose Shea as Commissioner on behalf of this Colony. I apprehend that Mr. Thorburn fears political trouble as likely to result from the presence of Sir A. Shea, and would not be sorry on this account alone that he should be thus employed elsewhere, especially as the duty in question is one for which he is peculiarly fitted.

* No. 169.

† No. 98.

‡ No. 170.

§ No. 161.

|| No. 178.

17,552.

No. 185.

*Foreign Office to Colonial Office.*FOREIGN OFFICE,
September 27th 1886.

SIR,

With reference to my letter of the 4th instant,* I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a note from the United States' Minister at this Court, in reply to Lord Iddesleigh's note of the 1st instant and Lord Rosebery's note of the 23rd of July last, on the subject of the North American fisheries question.

I am also to enclose a minute by Sir Julian Pauncefote on Mr. Phelps' note.

In laying these papers before Mr. Stanhope I am to request that you will inform him that Lord Iddesleigh agrees generally with the arguments in Sir Julian Pauncefote's minute, and would propose to embody them in a note in reply to Mr. Phelps' note above referred to.

But before taking any action in the matter, his Lordship would be glad to be furnished with the opinion of Mr. Stanhope on the proposals contained in the concluding paragraphs of the minute.

As the time for the meeting of the United States Congress is rapidly approaching, I am to request that Mr. Stanhope will cause an answer to be returned to this communication at his earliest convenience.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

Enclosure in No. 185.

Mr. Phelps to the Earl of Iddesleigh.

Confidential.

LEGATION OF THE UNITED STATES, LONDON,
September 11th, 1886.

MY LORD,

I have the honour to acknowledge the receipt of your note of the 1st September on the subject of the Canadian fisheries.

I received also on the 16th August last from Lord Rosebery, then Foreign Secretary, a copy of a note on the same subject, dated the 23rd July, 1886, addressed by his Lordship, through the British Minister at Washington, to Mr. Bayard, the Secretary of State of the United States, in reply to a note from Mr. Bayard to the British Minister of the 10th May, and also to mine addressed to Lord Rosebery under date of the 2nd June. The retirement of Lord Rosebery from office immediately after I received his note prevented a continuance of the discussion with him. And in resuming the subject with your Lordship, it may be proper to refer both to Lord Rosebery's note and to your own. In doing so I repeat in substance considerations expressed to you orally in recent interviews.

My note to Lord Rosebery was confined to the discussion of the case of the "David J. Adams," the only seizure in reference to which the details had then been fully made known to me. The points presented in my note, and the arguments in support of them need not be repeated.

No answer is attempted in Lord Rosebery's reply. He declines to discuss the questions involved, on the ground that they are "now occupying the attention of the Courts of Law in the Dominion, and may possibly form the subject of an appeal to the Judicial Committee of Her Majesty's Privy Council in England."

He adds :—

"It is believed that the Courts in Canada will deliver Judgment in the above cases very shortly; and until the legal proceedings now pending have been brought to a conclusion, Her Majesty's Government do not feel justified in expressing an

opinion upon them, either as to facts or the legality of the action taken by the Colonial authorities."

And your Lordship remarks, in your note of the 24th August, "It is clearly right, according to practice and precedent, that such diplomatic action should be suspended pending the completion of the judicial inquiry."

This is a proposition to which the United States' Government is unable to accede.

The seizures complained of are not the acts of individuals claiming private rights which can be dealt with only by judicial determination, or which depend upon facts that need to be ascertained by judicial inquiry. They are the acts of the authorities of Canada, who profess to be acting, and in legal effect are acting, under the authority of Her Majesty's Government. In the Report of the Canadian Minister of Marine and Fisheries, which is annexed to and adopted as a part of Lord Rosebery's note, it is said:—

"The Colonial Statutes have received the sanction of the British Sovereign, who, and not the nation, is actually the party with whom the United States made the Convention. The officers who are engaged in enforcing the Acts of Canada, or the laws of the Empire, are Her Majesty's officers, whether their authority emanates directly from the Queen or from her Representative the Governor-General."

The ground upon which the seizures complained of are principally justified is the allegation, that the vessels in question were violating the stipulations of the Treaty between the United States and Great Britain. This is denied by the United States' Government. The facts of the transaction are not seriously in dispute, and if they were could be easily ascertained by both Governments, without the aid of the judicial Tribunals of either. And the question to be determined is the true interpretation of the Treaty, as understood and to be administered between the High Contracting Parties.

The proposition of Her Majesty's Government amounts to this: that before the United States can obtain consideration of their complaint, that the Canadian authorities, without justification, have seized, and are proceeding to confiscate, American vessels, the result of the proceedings in the Canadian Courts, instituted by the captors as the means of the seizures, must be awaited, and the decision of that Tribunal on the international questions involved obtained.

The interpretation of a Treaty when it becomes the subject of discussion between two Governments is not, I respectfully insist, to be settled by the judicial Tribunals of either. That would be placing its construction in the hands of one of the parties to it. It can only be interpreted for such a purpose by the mutual consideration and agreement which were necessary to make it. Questions between individuals arising upon the terms of a Treaty may be for the Courts to which they resort to adjust. Questions between nations as to national rights secured by Treaty are of a very different character, and must be solved in another way.

The United States' Government is no party to the proceedings instituted by the British authorities in Canada, nor can it consent to become a party. The proceedings themselves are what the United States complain of, as unauthorized, as well as unfriendly. It would be inconsistent with the dignity of a Sovereign Power to become a party to such proceedings, or to seek redress in any way in the Courts of another country for what it claims to be the violation of Treaty stipulations by the authorities of that country.

Still less could it consent to be made indirectly a party to the suits by being required to await the result of such defence as the individuals whose property is implicated may be able and may think proper to set up. Litigation of that sort may be indefinitely prolonged. Meanwhile, fresh seizures of American vessels upon similar grounds are to be expected, for which redress would in like manner await the decisions of the local Tribunals, whose jurisdiction the captors invoke and the United States' Government denies.

Nor need it be again pointed out how different may be the question involved between the Governments from that which these proceedings raise in the Canadian Courts. Courts in such cases do not administer Treaties. They administer only the Statutes that are passed in pursuance of Treaties. If a Statute contravenes the provisions of a Treaty, British Courts are, nevertheless, bound by the Statute. And if, on the other hand, there is a Treaty stipulation which no Statute gives the means of enforcing, the Court cannot enforce it.

Although the United States' Government insists that there is no British or Colonial Act authorising the seizures complained of, if the British Courts should, nevertheless,

find such authority in any existing Statute, the question whether the Statute itself, or the construction given it, is warranted by the Treaty, would still remain ; and also the still higher question, whether, if the strict technical reading of the Treaty might be thought to warrant such a result, it is one which ought to be enforced between Sovereign and friendly nations, acting in the spirit of the Treaty.

The United States' Government must, therefore, insist that, irrespective of the future result of the Canadian legal proceedings, the authority and propriety of which is the subject of dispute, and, without waiting their conclusion, it is to Her Majesty's Government it much look for redress and satisfaction for the transactions in question, and for such instructions to the colonial authority as will prevent their repetition.

While, as I have observed, Lord Rosebery declines to discuss the question of the legality of these seizures, the able and elaborate Report on the subject from the Canadian Minister of Marine and Fisheries, which is made a part of it, attempts in very general terms to sustain their authority. He says :—

“ It is claimed that the vessel (the ‘ David J. Adams ’) violated the Treaty of 1818, and consequently the Statutes which exist for the enforcement of the Treaty.”

It is not clear from this language whether it is meant to be asserted that if an act, otherwise lawful, is prohibited by a Treaty, the commission of the act became a violation of a Statute which has no reference to it if the Statute was enacted to carry out the Treaty ; or whether it is intended to say that there was in existence prior to the seizure of the vessel in question, some Statute which did refer to the act complained of, and did authorise proceedings or provide a penalty against American fishing vessels for purchasing bait or supplies in a Canadian port to be used in lawful fishing. The former proposition does not seem to require refutation. If the latter is intended, I have respectfully to request that your Lordship will have the kindness to direct a copy of such Act to be furnished to me. I have supposed that none such existed ; and neither in the Report of the Canadian Minister, nor in the Customs Circulars or Warnings thereto appended, in which attention is called to the various legislation on the subject, is any such Act pointed out.

The absence of such Statute provision, either in the Act of Parliament (59 Geo. III, cap. 38) or in any subsequent Colonial Act, is not merely a legal objection, though quite a sufficient one, to the validity of the proceedings in question. It affords the most satisfactory evidence that, up to the time of the present controversy, no such construction has been given to the Treaty by the British or by the Colonial Parliament as is now sought to be maintained.

No other attempt is made in the Report of the Canadian Minister to justify the legality of these seizures. It is apparent from the whole of it that he recognizes the necessity of the proposed enactment of the Act of the Canadian Parliament already alluded to in order to sustain them.

This remark is further confirmed by the communication from the Marquis of Lansdowne, Governor-General of Canada, to Lord Granville, in reference to that Act, annexed by Lord Rosebery to his second note to the British Minister of the 23rd July, 1886, a copy of which was sent me by his Lordship, in connection with his other note of same date above referred to.

I do not observe upon other parts of the Minister's Report not bearing upon the points of my note to Lord Rosebery. So far as they relate to the communications addressed to the British Minister by Mr. Bayard, the Secretary of State will doubtless make such reply as may seem to him to be called for.

In various other instances American vessels have been seized or driven away by the provincial authorities when not engaged or proposing to engage in any illegal employment. Some of these cases are similar to that of the “ Adams ;” the vessels having been taken possession of for purchasing bait or supplies to be used in lawful fishing, or for alleged technical breach of Custom-house regulations, where no harm was either intended or committed, and under circumstances in which, for a very long time, such regulations have been treated as inapplicable.

In other cases, an arbitrary extension of the 3-mile limit fixed by the Treaty has been announced, so as to include within it portions of the high sea, such as the Bay of Fundy, the Bay of Chaleur, and other similar waters, and American fishermen have been prevented from fishing in those places by threats of seizure. I do not propose, at this time, to discuss the question of the exact location of that line, but only to protest against its extension in the manner attempted by the provincial authorities.

To two recent instances of interference by Canadian Officers with American fishermen, of a somewhat different character, I am specially instructed by my Govern-

ment to ask your Lordship's attention—those of the schooners “Thomas F. Bayard” and “Mascot.”

These vessels were preparing to fish in waters in which the right to fish is expressly secured to Americans, by the terms of the Treaty of 1818, the former in Bonne Bay, on the north-west coast of Newfoundland, and the latter near the shores of the Magdalene Islands. For this purpose the “Bayard” attempted to purchase bait in the port of Bonne Bay, having reported at the Custom-house and announced its object. The “Mascot” made a similar attempt at Port Amherst, in the Magdalene Islands, and also desired to take on board a pilot. Both vessels were refused permission by the authorities to purchase bait, and the “Mascot” to take a pilot, and were notified to leave the ports within twenty-four hours on penalty of seizure. They were therefore compelled to depart, to break up their voyages, and to return home, to their very great loss. I append copies of the affidavits of the masters of these vessels stating the facts.

Your Lordship will observe upon reference to the treaty, not only that the right to fish in these waters is conferred by it, but that the clause prohibiting entry by American fishermen into Canadian ports, except for certain specified purposes, which is relied on by the Canadian Government in the cases of the “Adams” and of some other vessels, has no application whatever to the ports from which the “Bayard” and the “Mascot” were excluded. The only prohibition in the Treaty having reference to those ports is against curing and drying fish there, without leave of the inhabitants, which the vessels excluded had no intention of doing. The conduct of the provincial officers towards these vessels was therefore not merely unfriendly and injurious, but in clear and plain violation of the terms of the Treaty. And I am instructed to say that reparation for the losses sustained by it to the owners of the vessels will be claimed by the United States' Government on their behalf as soon as the amount can be accurately ascertained.

It will be observed that interference with American fishing-vessels by Canadian authorities is becoming more and more frequent, and more and more flagrant in its disregard of Treaty obligations and of the principles of comity and friendly intercourse. The forbearance and moderation of the United States' Government in respect to them appear to have been misunderstood, and to have been taken advantage of by the Provincial Government. The course of the United States has been dictated not only by an anxious desire to preserve friendly relations, but by the full confidence that the interposition of Her Majesty's Government would be such as to put a stop to the transactions complained of, and to afford reparation for what has already taken place. The subject has become one of grave importance, and I earnestly solicit the immediate attention of your Lordship to the question it involves, and to the views presented in my former note, and in those of the Secretary of State.

The proposal in your Lordship's note, that a revision of the Treaty stipulations bearing upon the subject of the fisheries should be attempted by the Governments upon the basis of mutual concession, is one that under other circumstances would merit and receive serious consideration. Such a revision was desired by the Government of the United States before the present disputes arose, and when there was a reasonable prospect that it might have been carried into effect. Various reasons, not within its control, now concur to make the present time inopportune for that purpose, and greatly to diminish the hope of a favourable result to such an effort. Not the least of them is the irritation produced in the United States by the course of the Canadian Government, and the belief thereby engendered that a new Treaty is attempted to be forced upon the United States' Government.

It seems apparent that the questions now presented and the transactions that are the subject of present complaint must be considered and adjusted upon the provisions of the existing Treaty, and upon the construction that is to be given to them.

A just construction of these stipulations, and such as would consist with the dignity, the interests, and the friendly relations of the two countries, ought not to be difficult, and can doubtless be arrived at.

As it appears to me very important to these relations that the collisions between the American fishermen and the Canadian officials should terminate, I suggest to your Lordship whether an *ad interim* construction of the terms of the existing Treaty cannot be reached, by mutual understanding of the Governments, to be carried out informally by instructions given on both sides, without prejudice to ultimate claims of either, and terminable at the will of either, by which the conduct of the business can be so regulated for the time being as to prevent disputes and injurious proceedings until a more permanent understanding can be had.

Should this suggestion meet with your Lordship's approval, perhaps you may be able to propose an outline for such an arrangement. I am not prepared nor authorised to present one at this time, but may hereafter be instructed to do so if the effort is thought advisable.

I have, &c.,
(Signed) E. J. PHELPS.

Statement of James Macdonald.

United States of America, Commonwealth of Massachusetts.

I, James Macdonald, of Gloucester, on my oath do say:—

"I am master and part owner of the schooner 'Thomas F. Bayard,' a licensed vessel of the United States; that she sailed with a permit to trade from Gloucester the 22nd June on a trip for halibut. We fished on the north-west coast of Newfoundland, near Bonne Bay, where my supply of bait being exhausted I ran into the port the 12th July, and reported at the Custom House, stating to the Collector that my purpose was to buy bait. The Collector immediately served me with the notice hereto appended, and made part of this affidavit. I had with me a copy of the Canadian warning of the 5th March, 1886, which contained the clause 2 of the Treaty of 1818. This I showed to the Collector, and argued that I had the rights under the Treaty there set out. In substance, his reply was that he had an official duty to perform, and would not permit me. Fearing that my vessel would be seized, should I remain or should I buy bait or take it, I determined to return to Gloucester, as my trip was broken up by these threats in the notice, and the action of the Collector in refusing to recognise the rights secured my vessel by the Treaty.

"I arrived in Gloucester the 26th July: I say great losses and damages have ensued to said vessel, her owners, and crew, by reason of being warned off said coast and said Bonne Bay as will be duly made to appear.

(Signed) "JAMES MACDONALD."

Commonwealth of Massachusetts, Suffolk, s.s.

Then personally appeared the above-named James Macdonald, and made oath that this foregoing statement by him subscribed is true.

Before me,
(Signed) CHARLES G. CHICK,
Justice of the Peace.

Boston, July 28th, 1886.

Mr. Taylor to Captain Macdonald.

BONNE BAY,
July 12th, 1886.

SIR,

I am instructed to give you notice that the presence of your vessel in this port is in violation of the Articles of the International Convention of 1818 between Great Britain and the United States in relation to fishery rights on the coast of Newfoundland, and of the laws in force in this country for the enforcement of the Articles of the Convention, and that the purchase of bait or ice, or other transaction in connection with fishery operations, within three miles of the coasts of this Colony, will be in further violation of the terms of said Convention and laws.

I am, &c.,
(Signed) N. N. TAYLOR,
Officer of Customs at

Statement of Alex. McEachern.

State of Massachusetts, County of Essex.

Be it known that, on this 27th day of July, in the year of our Lord 1886, before me, Aaron Parsons, a Notary Public, duly commissioned and sworn, and dwelling at

Gloucester, in county and State aforesaid, personally appeared Alex. McEachern, master of the schooner called "Mascot," of this port, who deposes and says:—

"That on the 10th day of June, 1886, A.D., I went into Port Amherst, Magdalene Islands, for the purpose of buying bait, but as soon as I went ashore I was met by the Custom House officials, who forbid me from so doing, stating that they would seize my vessel, and I had no right to enjoy any privileges here except to get wood and water. I informed him that I wanted to take a pilot, as I could find a spot where I was informed that the fishing was good. He also said if I shipped such pilot or laid in port over twenty-four hours he would seize my vessel.

(Signed) "ALEX. MCEACHERN

"Gloucester, July 27th, 1886."

Before me,

(Signed) AARON PARSONS,
Justice of the Peace.

Enclosure 2 in No. 185.

Minute by Sir J. Pauncefote on Mr. Phelps' Letter of September 11th, 1886.

This is a reply to Lord Iddesleigh's note to Mr. Phelps of the 1st September (Print, Part II, p. 59), and also to Lord Rosebery's note of the 23rd July, containing a copy of the very able and conclusive Report of the Canadian Minister of Marine, which was communicated to the United States' Government in July last (Print, Part II, p. 20), but of which the latter have as yet taken no notice.

Mr. Phelps' note is not as conciliatory as might have been expected in view of the friendly overtures to which it is an answer.

He first complains that Lord Rosebery declined to discuss the case of the "David J. Adams," on the ground that it was still *sub judice*; and, further, that Lord Iddesleigh, in his note of the 1st September [he gives by mistake the date of the private note of the 23rd August, and this should be rectified], states that, according to practice and precedent, diplomatic action in relation to that case should be suspended pending the completion of the judicial inquiry.

To this proposition, he says, the United States' Government is unable to accede. But he has forgotten, or was not aware, that this very proposition was not only acceded to by his Government in 1870, but distinctly asserted by them under precisely similar circumstances, that is to say, in relation to the seizure of American fishing vessels in Canadian waters for alleged violation of the Treaty of 1818.

This may be seen from Mr. Fish's despatch No. 126 of the 29th October, 1870, to Mr. W. A. Dart, United States Consul-General at Montreal, which is printed at p. 431 of the volume for that year of the "Foreign Relations of the United States," and which formed part of the Correspondence of 1870, referred to by Mr. Bayard in his note of the 20th May (Print, Part I, p. 141).

On the termination of the Treaty of Reciprocity of 1854 by the United States' Government in 1866, the Treaty of 1818 had revived, and with it all the old disputes connected with it. These disputes were suspended by the Treaty of Washington in 1871; and the Correspondence of 1870 is most instructive and important as showing what was the *status quo* at that period, as well as the mode in which these questions were treated.

As regards Mr. Phelps' complaint that his letter of the 2nd June, on the seizure of the "David J. Adams" (Print, Part I, p. 165), has not been specifically answered on the ground that the case is still *sub judice*, it is to be observed that there are three points to investigate in that case:—

1. What were the acts committed which led to the seizure of the vessel?
2. Was her seizure for such acts warranted by any existing Laws?
3. If so, are those Laws in derogation of the Treaty rights of the United States?

It is evident that the first two questions must be the subject of a judicial inquiry before the third can be profitably discussed.

It is manifest that those points can only be satisfactorily ascertained by a judicial inquiry, and far from claiming that the United States' Government would be bound by the construction which British Tribunals might place on the Treaty, we expressly stated the very contrary.

Mr. Phelps' argument is therefore founded on false premises.

But what was the attitude of Mr. Fish in 1870 on this question? In his despatch above referred to, with reference to the seizure of American vessels for violation of the Fishery Laws of the Dominion, he expressed himself as follows:—

“It is the duty of the owners of the vessels to defend their interests before the Courts at their own expense, and without special assistance from the Government at this stage of affairs. It is for those Tribunals to construe the Statutes under which they act. If the construction they adopt shall appear to be in contravention of our Treaties with Great Britain, or to be (which cannot be anticipated) plainly erroneous in a case admitting of no reasonable doubt, it will then become the duty of the Government—a duty which it will not be slow to discharge—to avail itself of all necessary means for obtaining redress.”

Mr. Phelps returns to the charge about the seizure of the “David J. Adams.” The vessel was really seized for buying bait, and he challenges us to produce any Imperial or Canadian Statute under which buying bait is prohibited and made punishable. He says that this is not a technical objection, for the absence of any such Statute shows that the treaty was never intended to prohibit the purchase of bait for the purposes of lawful fishing outside of the 3-miles limit.

But it cannot seriously be disputed that the Treaty prohibited American fishing-vessels from entering Canadian waters for any but the four purposes specified (*viz.*, shelter, repairs, wood, and water)—exceptions dictated by motives of humanity, and which, in practice, would extend to any circumstances of *vis major*. There can be no doubt that, by the Treaty of 1818, the United States' Government bound themselves to these stringent conditions, and renounced the rights which they now claim, in consideration of the rights of inshore fishery in common with British subjects, secured to them by the same Article of the Treaty, on the coasts of Newfoundland and Labrador and the Magdalen Islands.

The United States' Government, in support of their claim to use Canadian ports for the purpose of buying bait and other purposes connected with lawful fishing outside of the 3-miles limit, appeal to the negotiations which preceded the Treaty of 1818, during which the United States' negotiators declined to accept a clause proposed by the British Commissioners, to the effect that American fishing-vessels should carry no merchandize—from which they say it is to be inferred that the liberty to trade was insisted on and reserved. This argument was used in the annual Message of the President of the United States for 1870 (“Foreign Relations,” p. 11). It is repeated again in Mr. Bayard's note of the 10th May.

But it is shown in the Report of the Canadian Minister of Marine (Print, Part II, p. 27) that this argument is founded on an entire mistake; for the proposal of the British Commissioners, which was rejected, had no reference to American vessels resorting to the Canadian coasts, but to those exercising the right of inshore fishing and of landing for the drying and curing of fish on the coasts of Newfoundland and Labrador and the Magdalen Islands. The Report of the Canadian Minister, on the other hand, recalls the most important fact that during the same negotiations the United States' Commissioners proposed that *the right of procuring bait* should be added to the four objects for which exception is made in the Treaty to the prohibition against entering Canadian waters, and that such proposal was rejected by the British Commissioners, showing that there could be no doubt in the minds of the negotiators as to the meaning of the prohibition.

It is pointed out, moreover, that at the Halifax Commission the United States' Commissioners in the case submitted on behalf of their Government, distinctly admitted that the privilege of traffic and of purchasing bait and other supplies in Canadian ports could not be claimed by United States' fishing-vessels as of right; that they had only been enjoyed on sufferance, and might be stopped at any time.

Our own Law Officers have advised to the same effect (Print, Part II, p. 42); but they are of opinion that by the existing law a vessel is only liable to forfeiture if “found fishing or preparing to fish, or to have been fishing” and not for “purchasing bait,” which act taken by itself is only slight evidence of “preparing to fish,” especially as it is stated that bait is used almost exclusively for deep-sea fishing.

The seizure of the “David J. Adams” will therefore probably be held by the Canadian Courts to have been unwarranted by law.

But as the purchase of bait is a violation of the Treaty, the vessel will escape punishment only on technical grounds, by reason of the insufficiency of the law to enforce the obligations of the Treaty.

I now come to the practical part of Mr. Phelps's note.

He declines negotiations on the basis of "mutual concessions."

He proposes an *ad interim* construction of the existing Treaty, without prejudice, and terminable at will; to be carried out informally by instructions on either side, so as to prevent further disputes, "until a more permanent understanding can be had."

At first sight, this proposal does not seem calculated to advance matters, for it amounts in point of fact to an invitation to us to consider to what extent we will make concessions (without prejudice) to the United States' Government pending some future understanding.

Looking, however, between the lines, it may mean that the United States' Government cannot at the present time make concessions on their side, owing to the state of public feeling in America created by the continuous seizures of their fishing-vessels, and the general attitude of the Canadian authorities, but that if we will do what was suggested by Mr. Bayard in his note of the 20th May (Print, Part I, p. 140), that is to say, agree to restore the *status quo* as it existed in 1870, when the questions in dispute were suspended by the Treaty of Washington, the United States' Government on their side will endeavour to come to a permanent understanding with us, "such as would consist with the dignity and interests and the friendly relations of the two countries." It is important, therefore, to examine the Correspondence of 1870 which, as before stated, is contained in the volume for that year of the "Foreign Relations of the United States," pp. 407-434.

The *status quo* at that period was regulated by the instructions of Her Majesty's Government to the British Admiral on the Canadian Station, and those instructions were officially communicated to the United States' Government at the time, and were discussed with them in a friendly spirit. Indeed, Mr. Fish, in a note to Sir E. Thornton of the 30th June, 1870 (p. 421), says:—"The President is pleased to recognise in the tenour of the despatches and instructions which have been addressed by Her Majesty's Government to the Canadian authorities and to Admiral Wellesley a generous spirit of amity, which is reciprocated by the United States."

The fact is that those instructions were not based on the exaction of our strict rights under the Treaty, but only on securing the substantial rights of the colonial fishermen.

Accordingly, the instructions laid down that "the transshipment of fish and the obtaining of supplies by American fishing-vessels cannot be regarded as a substantial invasion of British rights, and those vessels, therefore, are not to be prevented from entering British bays for such purposes" (Colonial Office Confidential Print, 1871, p. 128. Mr. Oakes' Memorandum, Foreign Office Print, Part I., p. 152).

As regards "preparing to fish" or other proceedings in British waters, the instructions were, not to seize any American fishing-vessels "unless it were evident, and could be clearly proved, that the offence of fishing had been committed and the vessel itself captured within three miles" (Correspondence, "United States' Foreign Relations, 1870," p. 416. Mr. Bayard's note of the 20th May, Foreign Office Print, Part I, p. 142).

As regards the "headlands" question, the instructions were, not to interfere with American vessels unless found "within three miles of the shore, or within three miles of a line drawn across the mouth of a bay or creek which is less than 10 geographical miles in width, in conformity with the arrangements made with France in 1839. (Hertslet, Vol. V, p. 89, Convention of the 2nd August, 1839, Articles IX and X.)

Those instructions also stated that Her Majesty's Government did not desire to insist generally on the prohibition to enter British bays, except there were reason to apprehend some substantial invasion of British rights, and in particular they did not desire to exclude American vessels from the Strait of Canso (although they might insist on doing so as a matter of right) unless "the permission should be used to the injury of colonial fishermen or other improper objects." ("United States' Foreign Relations, 1870," p. 419.)

What has angered the Americans is that, instead of reverting to the state of things established by the instructions of 1870, the Canadian authorities, on the abrogation of the Fishery Articles of the Treaty of Washington, insisted on exacting the British Treaty rights of 1818 to their fullest extent, and the Dominion Government is charged with adopting this unfriendly course with the object of forcing a Reciprocity Treaty on the United States. This charge was also brought during the previous disputes (see Consul-General Dart to Mr. Fish, 3rd November, 1870; "United States' Foreign Relations," p. 433).

I confess that I am unable to see why the instructions of 1870, which were thought sufficient for the substantial protection of British rights, should not be held sufficient for that purpose in 1886.

It is admitted, I believe, that the present enforcement of the full measure of Treaty rights by the Dominion Government is resorted to for the purpose of putting pressure on the United States' Government to negotiate a new Reciprocity Treaty.

In maintaining this attitude they offend the American people and they deprive themselves of a remunerative trade in bait and ice and other supplies to American fishing-vessels.

I venture, therefore, to submit for consideration whether it would not be desirable to agree to revert temporarily, as proposed by Mr. Bayard and by Mr. Phelps, to the instructions of 1870, if by doing so we can obtain a distinct promise that the United States' Government will meet us in the same spirit, and do their utmost, in return, to promote a commercial or fishery arrangement which shall be satisfactory to both nations.

(Signed) JULIAN PAUNCEFOTE.

Foreign Office, September 20th, 1886.

P.S.—I have not referred to the cases of the "Bayard" and "Mascot," mentioned in Mr. Phelps' note, as they are dealt with in letters lately ~~received~~ from the Colonial Office. See Nos. 71 and 82 of Print, Part II, pp. 55 and ~~53~~.

J. P.

17,553.

No. 186.

Foreign Office to Colonial Office.

FOREIGN OFFICE
September 27th. 1886.

SIR,

I have laid before the Earl of Iddesleigh your letter of the 18th instant,* inclosing a copy of a telegram from the Officer Administering the Government of Canada respecting the United States' fishing boat "Rattler," and I am to acquaint you in reply for the information of Mr. Secretary Stanhope, that his Lordship proposes to defer taking any action in this matter until full particulars are received by despatch from Canada. His Lordship would be glad to be informed when the despatch may be expected.

I am, &c.,
(Signed) P. W. CURRIE.

The Under-Secretary of State,
Colonial Office.

* Not printed (L. F.)

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